

## **CONSULTATION ON MEDIA OWNERSHIP RULES**

### **Draft Comment**

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## **WE MUST CREATE TO COMPETE**

### **Introduction**

The consultation paper says on one hand :

- “We want UK industries to be able to compete in a changing global market”. (para 3.5)
- “We must ensure that the environment we create allows companies to grow, to reduce costs,, attract new investment and develop new improved and cheaper products”
- “The increasing convergence of technologies should bring about greater convenience and choice”
- “It may remove barriers to market entry” (para3.6)

And then the paper says later:

- Some form of ownership rules will remain the best means of tempering commercial logic to need of democracy and citizenship (para 6.0.3)
- Competition law will not guarantee plurality and diversity
- Upholds the principle of refusing non-EC-EEA membership because ownership has an important role in ensuring that European consumers continue to receive high quality EU content

### **Competition hand in hand with plurality and diversity ?**

- It is important to praise the consultation document for its insistence on plurality and diversity as not only a foundation of citizenship but also of a strong competitive industry
- It is important to underline the limits to the effectiveness of traditional competition policy in the audiovisual sector
- Greater competition with the advent of cable and satellite channels has produced £400 million deficit<sup>1</sup> in TV programming and films with the USA where there was a surplus in 1985 of £150 million
- Ownership matters not just for democracy but because of the right of citizens to receive programming made for them from their own cultures. Owners from outside Europe have tended to import a majority of programming.
- Diversity and access to high quality indigenous content means that high levels of investment are required in what are expensive prototypes that can prevent access to the market except by large, financially strong and powerful media companies. Already some small digital channels are no longer in operation due to financial difficulties in a fragmented advertising market.
- This is reason why all EU countries have obligatory provisions on investment. Recent Italian and Spanish law require an investment of 3% of advertising revenue or 5% of turnover on the part of all non-terrestrial channels in indigenous EU programming in the film/drama/documentary genres. Terrestrial channels have more onerous investment and broadcast obligations.
- Canada has detailed investment obligations for every channel to stimulate their indigenous audiovisual industry and to guarantee cultural diversity
- In summary, there has to be sustained high levels of investment achieved through regulation, appropriate to the financial and platform position of the channel concerned, in order for the British audiovisual industry to be in a strong competitive position in Europe and the rest of the world.

### **Competition and Audiovisual**

#### **A certain specificity**

- It is important for the state to guarantee cultural diversity and link it to freedom of expression
- It should be understood what is special about this commercial and cultural activity and then say why we should take account of its special features
- The specificity of the sector must be demonstrated in relation to competition as follows:

#### **PRICE/QUALITY/OFFER**

All these elements are meant to improve and benefit consumer in well-functioning competition regime, but in audiovisual industry the same rules do not apply as follows:

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<sup>1</sup> [www.statistic.gov.uk/pressreleases/](http://www.statistic.gov.uk/pressreleases/) 25.10.01

## PRICE

- Price - this market is a mixed economy
- Some programmes cost 100<sup>th</sup> of others
- Most people do not pay for their television
- Cutting costs often means less investment in a diversity of programmes

## QUALITY

- Quality - can't compare the quality of programmes easily
- Quality home made programming costs more than imports

## SO OFFER IS THE ONLY CRITERION SHARED WITH OTHER GOODS WHEN CONSIDERING THE COMPETITION ISSUE

### OFFER AND CHOICE

- Greater competition should ensure a wider more varied offer
- Increased competition for sports rights and US film as documented by a Arthur Anderson<sup>2</sup> has sent costs for many companies soaring, reducing the amount they are able to invest in original indigenous programming, thus reducing diversity of offer to citizens and consumers
- Competition for ratings has led to focus on soaps/gameshows/gardening/cooking/animal programmes. The November 2001 Guardian reports on the future of television describes a decline in drama and documentary . Less choice and less export potential is the result.
- Only a varied offer allows consumers to exercise a real choice in this area

### Conclusion

- It is important that this sector of the economy is described accurately particularly from an economic point of view.
- The principles of competition cannot be applied to the audiovisual industry in the same way as for carrots, cars or coffee machines
- Government rightly wants strong competitive industry which must be one that produces quality drama, documentary and film which enjoy strong export potential
- Is this the promise of a consolidated ITV for example ?
- Government must therefore consider what arrangements best guarantee access to range of opinions and sources of entertainment and information plus a strong industry offering quality high skilled jobs
- Canal Plus is required by broadcasting law to invest 20% of turnover in indigenous EU film/drama/documentary with the result that it has developed one of the strongest film libraries in the world which in turn was a contributory factor in its purchase of Universal. In any year Canal Plus invests £100 million in European film/drama/documentary. BskyB's comparative investment per annum is approximately £16 million. Investment obligations in French broadcasting law has enabled Canal Plus to compete on world stage and become part of one of the biggest players. In view of this positive outcome from French content legislation, is this a model the government has in mind ? Naturally one would tailor investment obligations to the longevity, advertising revenue/turnover and platform position of every channel.
- In Germany in the absence of investment obligations for non-terrestrial television channels Germany's audiovisual deficit with North America has rocketed since the advent of cable and satellite channels<sup>3</sup> (as in the UK)
- It is therefore important to ask the relevant government departments whether they agree that:

**A diverse and plural ownership structure accompanied by regulation that ensures long term investment in home made programmes is the bedrock of a strong competitive industry which also serves our democracy and right to cultural diversity ?**

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Arthur Anderson Report for the EBU (1998) *The Impact of Digital Television on the Supply of Programmes*. Arthur Anderson Consultants.

<sup>3</sup> Consult statistics from the European Audiovisual Observatory