



ENDEMOL UK Response to the Consultation on Media Ownership Rules

EXECUTIVE SUMMARY

Endemol UK is pleased to submit its views on media ownership. Our concerns focus on one aspect of media ownership which is not addressed by the White Paper: the relationship between broadcasters and independent producers. Under current rules, foreign companies which broadcast abroad but not in the UK cannot own more than 25% of UK independent producers.

This places UK-based independent producers at a disadvantage to their European and international counterparts. It inhibits the growth of media enterprises in the UK, and limits the potential evolution and growth of small and medium enterprises. The limitation is obsolete and does not apply elsewhere in the EU. It should be reformed.

Fortunately, the rule can swiftly be revised through amendments to secondary legislation. We commend this change which will help the government achieve its objectives, set out in the Consultation, of encouraging “competition and economic growth”, and ensuring that “citizens receive a diverse range of content from a plurality of sources”.

ENDEMOL UK – A MODEL FOR SUCCESSFUL GROWTH IN THE UK INDEPENDENT TV SECTOR

Endemol UK is one of the country’s longest established production groups. Today, an average of 500 people work across Endemol UK at any one time. The group’s programming brands are Endemol UK Productions (formerly Bazal), Initial and Brighter Pictures.

Endemol UK produces over 2000 hours of programmes annually for the UK’s networks. Programmes include *Big Brother*, *Changing Rooms*, *Ground Force*, *Ready Steady Cook* and *The Pepsi Chart*. Overall, we are one of the UK’s most successful exporters of programmes and formats, selling to over 100 countries. Endemol UK is also building a presence in digital media. We have a 50% stake in Victoria Real, producer of 1500 hours of interactive programming. Endemol UK has also acquired a stake in multi-platform comedy producer, Zeppotron.

Endemol UK is part of an international television, media and telecoms group. Its parent company, Endemol Entertainment, has an extensive network of television and interactive companies in Europe, the US and South America. The Endemol group itself is now part of the Spanish telecoms and media giant Telefonica - which has a substantial stake in the internet service provider, Terra-Lycos.

SUCCESS UNDER THREAT

There is one cross-media ownership issue of immense concern to us. The acquisition of the Endemol Entertainment Group by Telefonica has resulted in us losing our independent producer status, because Telefonica has controlling stakes in Spanish and Argentinian broadcasters. Existing rules, set out in the Independent Production Order, mean that a UK producer cannot be regarded as an independent if it is more than 25% owned by a broadcaster, or by a company which controls or is an associate of a broadcaster, even where that broadcaster does not broadcast to the UK.

As a result of the rules Endemol UK has already suffered damage, losing a valuable long term contract with GMTV – the production of a live current affairs programme on Sundays. GMTV found that they would not have satisfied their independent quota and were forced to end our contract. Now there is a danger of our losing even larger contracts from the BBC where we supply a substantial percentage of their independent quota. But, to repeat, Endemol and Telefonica have no broadcast interests in the UK.

We think it is illogical that when a rule is applied to encourage indigenous production it should have this effect. Endemol has production companies across much of the EU, including Holland, Italy, Spain, Portugal, Belgium, Germany and France. In none of them have they lost their independent status. It is unjust and ultimately damaging to the UK as a base for investment. It is increasingly having a negative impact on our business and also causing broadcasters problems.

We are not the only producer adversely affected by the current rules. They have the perverse effect of cutting off sources of investment that could enable greater competition in the supply of programmes within the UK market as well as generally increase investment in our creative industries. The rules force independent producers to choose between their independent status and their ability to grow via inward investment. Further, the independent production sector suffers from under-capitalisation already. These rules exacerbate the problem.

We understand the benefit of such rules in preventing UK broadcasters in their home territory buying up independents and reducing the plurality of sources of programmes. We acknowledge that large independents bought by UK broadcasters should lose their status. But this particular rule prevents an independent producer growing naturally through the business cycle, beginning as a small enterprise, graduating to a medium-sized enterprise and growing beyond that while not threatening the purposes of independent status in any way.

The implication of existing rules is to undermine the Government's own objectives, set out in the Consultation, of encouraging "competition and economic growth", and ensuring that "citizens receive a diverse range of content from a plurality of sources". The restriction is inconsistent with other broadcast ownership rules which only apply to foreign companies buying services licensed by the ITC and the Radio Authority.

The restriction is also anomalous. In 1995 UK independent producers were allowed to acquire broadcasters outside the EU without losing their status. But this is not reciprocal since Café Productions, acquired by Canadian broadcaster Alliance Atlantis, have now also lost their independent status.

THE SOLUTION

DCMS officials are aware of our view that current regulations should be adjusted to ensure that future definitions of independent status are strictly linked to ownership of UK-targeted television channels, as in the rest of the EU. We have discussed with officials how this might be done and shared with them Counsel's Opinion we have received that supports our proposal.

We find it significant that our proposal is also backed by the most vociferous guardian of the rights of independent producers, our trade association, PACT. PACT'S Council fully supports our efforts to get this changed. We have also discussed in detail with officials the issues raised by EU regulations and believe we have satisfied DCMS that these raise no problems for making the changes we are suggesting.

All that is required to address the problem is a simple change to secondary legislation, through a change to the Independent Productions Order, as amended in 1995. This would involve classifying producers as independent if **they are independent of broadcasters whose services are directed to the public in the United Kingdom.**

CONCLUSION

Independent producers have contributed to making the UK television market considerably more dynamic and competitive. It is surprising that issues of vertical integration between independent producers and broadcasters are not addressed in the Consultation. We put forward our amendment in the spirit of encouraging the UK to benefit from the success of independent producers in the new, emerging media market.

In our view this would fulfil the Government's broad aim for media ownership regulation:

"The Government's task is to find a middle ground that safeguards both competition and democracy, re-aligning ownership rules to adapt to the new market that is emerging. In other words we would act to encourage a dynamic market whilst at the same time guaranteeing plurality, diversity and quality for the consumer." (para 1.11 of the Consultation)

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