

Consultation on Media Ownership Rules

A Response on behalf of the Evangelical Alliance

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This response to The Government's 50-page document titled – *Consultation on Media Ownership Rules*, published in November 2001, focuses on the aspects of broadcasting ownership and matters associated with those means of communication as well as other media ownership issues. The numbers quoted in brackets refer to the appropriate paragraphs of the Department of Culture, Media and Sport (DCMS) document.

The Evangelical Alliance (EA) welcomes the Government's Ownership Rules consultation document and takes encouragement from a number of the proposals. The EA has therefore responded in a way, which we trust, will help The Government in its deliberations regarding the complex area of media ownership.

The Government says that, "We want to encourage competition and economic growth, by being as deregulatory as possible." (1.2) It has also stated that are general disqualifications in the Broadcasting Acts (1990 and 1996) from holding broadcast licences by:

- Local authorities
 - Political organisations
 - Religious organisations (regulators have discretion to waive this in relation to cable/satellite TV and local analogue AM/FM, cable or satellite radio services)
 - Publicly funded bodies
 - Advertising agencies
 - Non-EEA (European Economic Area) individuals and bodies (though they are allowed to hold some licences)
- (2.2)

The Government says that, "We want UK industries to be able to compete in a changing global market, and we want them to be able to attract new investment and skills." (3.5) The Government recognises that, "technological developments alone cannot guarantee that new services and platforms will provide an adequate plurality of sources. Nor do open access requirements ensure a plurality of content providers." (3.9) The Government states that the key aims of the media ownership rules should be:

- To create the most competitive market possible whilst ensuring plurality of voice and diversity of content (5.1)
- To construct a framework which is robust but adaptable to a rapidly changing technological and economic environment (5.2)
- To provide as much certainty and predictability as possible (5.3)
- To be reasonable and proportionate (5.5)

The EA believes that the regulator, OFCOM, should do all it can to encourage the diversity of programme content by media owners, including religious broadcasters. This would help encourage the development of the British Christian broadcasting industry that has already proved, against the odds, that they are capable of producing quality programmes using indigenous talent and reflecting the broad spectrum of spirituality.

In section 6 of the document (summarised in section 7), there are a number of detailed options listed and we have responded to these as requested.

I We will revoke the rules preventing local authorities and advertising agencies from owning media companies, but will keep the prohibition by political organisations. (7.4)

We agree with this proposal in regard to advertising agencies. We feel that it is right that local authorities should be able to offer information services for the community via television and radio. We would however suggest that any local authority found to be abusing this method of communication for political purposes:

1. Should be banned from providing the service for a period of up to two years.
2. That the members of the cabinet of the local council should be surcharged for cost of OFCOM investigating the matter.

II Our working assumption remains that we will keep the current prohibitions on non-EEA ownership of broadcasters. (7.5)

We agree with this proposal.

We would be in favour of reciprocal ownership arrangements with specific non-EEA countries, as long as there was no reduction in the quality of programming and European content.

III Views are invited on whether we should remove all restrictions on religious organisations holding broadcasting licences, and in particular whether religious organisations should be able to hold:

- *a national digital sound programme service licence;*
- *a multiplex licence (local or national). (7.6)*

We are glad that the Government has already accepted that the disqualification of religious organisations from the ownership of local digital (DAB) radio licences is an anomaly and that it is proposing to remove this anomaly under the new Communications Bill. (6.1.7)

We welcome the Government wishing to encourage competition and economic growth whilst ensuring plurality of voice and diversity of content.

We believe that, in order to help stimulate expansion by the British Christian broadcasting industry, religious broadcasting organisations should have the legal right, not just at the discretion of the regulator OFCOM (currently the Radio Authority or Independent Television Commission), and they should be able to hold:

- ✓ *National digital (DAB) sound programme service licences*
- ✓ *Local digital (DAB) sound programme service licences*
- ✓ *DAB multiplex licences (local or national)*
- ✓ *DRM radio licences (local, national or international)*
- ✓ *Local analogue AM/FM licences (Commercial or Access radio)*
- ✓ *Cable or satellite radio licences*
- ✓ *Cable or satellite TV licences*
- ✓ *Local TV licences*

NOTE:

1. DAB = Digital Audio Broadcasting (Eureka 147 system operating in Band III & L-Band) currently enables up to 10 programme services on one frequency. This number of services may increase with improved compression and alteration in the bit rates of each service.
2. DRM = Digital Radio Mondiale is being developed for Digital AM broadcasting on long wave, medium wave and short wave transmissions. The ITU could introduce DRM transmissions on short wave from as early as 2003.
3. Access Radio = Very local radio (non-profit distributing). Trials by 15 operators are scheduled to commence from February 2002, for up to 12 months.
4. Local TV = Low-powered restricted area terrestrial TV service.

IV We will remove the rule that prohibits single ownership of the two London ITV licences. (7.7)

We agree with this proposal. This will enable one provider to plan the complete ITV programme service for London.

V We have decided to remove the rule that imposes a limit of 15% on any company's share of the television audience. (7.8)

We agree with this proposal.

VI Options:

We could remove all restrictions on the ownership of licensed television services, leaving the matter to the competition authorities.

We could ensure the existence of at least 4 separately-controlled broadcasters providing free-to-air analogue television services, by preventing the joint ownership of ITV and Channel 5. (7.9)

We believe that the Government needs to ensure that there are at least 4 separately controlled broadcasters providing free-to-air television services, broadcast as terrestrial analogue services and also by digital delivery platforms (cable – NTL & Telewest, satellite – Sky TV and terrestrial – ITV Digital).

Some viewers, including the elderly and low-income families, may only wish to view free-to-air services and it is therefore important that there is plurality of ownership of these non-subscription services.

VII We will retain the nominated news provider system for ITV, but will introduce a clause to allow the Government, on advice from OFCOM, to revoke it. (7.10)

We agree that there needs to be a well-resourced news provider for ITV, and Independent Radio.

There is a need for at least one alternative British independent news provider to BBC News, as the news services of CNN and Sky News/Fox News are part of international corporations that have their head offices in non-EEA countries. The Government therefore needs to have a clause in the Communications Bill to keep a nominated British-based news provider for ITV.

VIII We are persuaded that the current 20% limit on ownership of the nominated news provider is inconsistent with the demands of effective management and that the development of the market for news will permit liberalisation. We would welcome opinions on what limit might constitute an appropriate safeguard of the news provider's independence. One option, for example, would be to raise the limit to 40%, reducing the minimum number of shareholders from five to three. (7.11)

With the reduction in the number of ITV companies we believe that the proposal for safeguarding the independence of the news provider by having at least three British-based shareholders and a maximum holding of 40% by any of the shareholders should be the recommended option.

IX – NATION-WIDE RADIO OWNERSHIP Views are invited on whether the existing points system should be abolished in respect of UK-wide ownership. No alternative system would be established to limit total concentrations of radio ownership. It could be left to the competition authorities to determine the appropriate limits on the accumulation of radio interests on a UK-wide basis. (7.13)

We believe that the accumulation of nation-wide ownership of radio stations/programme services is best left to the Competition Commission.

The Commission, when coming to a decision on ownership of a radio station, should take into account:

1. The total variety of programme formats provided by the companies.
2. The amount of frequency simulcasting of programme services.

IX – LOCAL-AREA RADIO OWNERSHIP Views are invited on the proposals that, at the local level, OFCOM should be responsible for ensuring, via a new points system, that in every local area with a well-developed choice of radio services there are at least 3 owners of Independent Local Radio services in addition to the BBC. (7.14a)

Local Ownership Rules should have a prime purpose of increasing listener choice .

For instance the City of Memphis (population 603,507), in the United States, has 14 AM and 22 FM radio stations with a wide range of formats, including the NPR (National Public Radio) station WKNO-FM, WYPL-FM run by Memphis Public Library, the University of Memphis station WUMR-FM and Christian stations such as the contemporary Christian music station KLOVE 94.7/94.9. In that area of Tennessee there are a number of companies who own more than one radio station and for example the Memphis Radio Group owns four stations with a variety of formats:

- Kix 106 (WGKX) Today's Best Country
- Star 98 (WSRR) The Classic Hits Station
- Soul Classics 103.5 (WRBO)
- Smooth Jazz 98.9 (WJZN).

In comparison in most parts of the United Kingdom, outside London, there are only 11 or 12 radio services – five BBC national stations, one BBC local station, three national commercial stations and possibly two or three local commercial stations.

We agree with the CRCA/Radio Authority proposal on Local Ownership Rules, but they must take into account:

1. The amount of frequency simulcasting of programme services – AM stations, FM stations, DAB Programme Services and DRM stations.
2. The total variety of programme formats provided by the companies.

We also welcome the Radio Authority's Access Radio trial and we would support the expansion of this type of non-profit distributing local radio.

X Views are invited on whether we should lift the specific disqualification from ownership of more than one national radio licence. (7.14b)

The maximum ownership of national analogue stations should be increased to:

Two UK-based stations

Or

One UK-based station and a holding of over 30% of shares in one other EEA-based analogue station, that broadcasts to the UK market.

The EEA-based analogue stations would include the expanding number of long wave services in English – Crusin' 216 (Norway), TeamTalk 252 (Ireland/Eire), and MusicMann 279 (Isle of Mann).

XI Views are invited on the suggestion that OFCOM should be responsible for instituting a scheme that ensures at least 3 owners of local digital sound programme service licences in each area, and also ensures plurality of ownership of multiplex licences. (7.14c)

We agree that there must be at least 3 owners of programme service licences, but they must take into account:

1. The total variety (diversity) of programme formats provided by the companies.
2. The amount of frequency simulcasting of programme services – AM stations, FM stations, DAB Programme Services and DRM stations.

As with the Local Ownership Rules proposed jointly by the CRCA and the Radio Authority, OFCOM should ensure that the 3 owners of the programme services have a prime objective of increasing listener choice through a wide variety of programme formats.

The Government has already accepted that the disqualification of religious organisations from the ownership of local digital radio licences is an anomaly and that it is proposing to remove this anomaly under the new Communications Bill. (6.1.7) This anomaly “locked-out” religious broadcasters from providing programme services on local digital (DAB) multiplexes that have already been licensed.

We would suggest that as compression technology improves and multiplex operators reduce the bit rates on some of their existing programme services that OFCOM requires multiplex operators to offer religious broadcasters the first option of adding additional formats to these DAB multiplexes. It should be noted that the BBC has already reduced the bit rate of its national services and of World Service on its national DAB multiplex.

XII Views are invited on whether OFCOM should be able to prevent the onward sale of licences for a two year period after their award, where it believed a change of control would jeopardise the character of the service. (7.14d)

We believe that there should be a 12-month moratorium on the onward sale of newly awarded broadcasting licences.

In addition we believe that the purchaser of an independent radio licence or programme service (AM, FM, DAB or DRM) should be able to alter the format of the station, as long as the new format provides additional choice to all existing terrestrial radio services (local and national including BBC services).

The only restriction on change of format should be a 2-year moratorium, from commencement of broadcasting, for newly awarded licences.

We believe that such change would encourage broadcasting companies to increase the variety of formats.

XIII Options:

- *The special newspaper regime could be reformed to give OFCOM the duty of assessing whether a particular newspaper transfer would compromise the accurate presentation of news and free expression. OFCOM would advise the Secretary of State on whether to prohibit the merger or subject it to conditions on “freedom of expression” grounds. The independent competition authorities (the Director General of Fair Trading and Competition Commission under the proposed merger reforms in the forthcoming Enterprise Bill) would separately assess the merger on competition grounds. (7.16)*
- *An alternative process could involve the repeal of the special provisions. An exceptional public interest gateway under the reformed general merger regime would be created, so that the Secretary of State could call in any newspaper merger case which gave rise to freedom of expression concerns. Ofcom could have the role of advising the Secretary of State on the freedom of expression issues in such cases. The Director General of Fair Trading would advise the Secretary of State on competition issues. The Secretary of State would be the ultimate decision maker. (7.17)*

If either option were to be adopted, we invite views on:

- *The merits of taking local titles out of the newspaper regime. In particular, we would welcome suggestions as to how “local” should be defined for this purpose;*
- *The merits of extending the newspaper regime to all qualifying acquisitions, regardless of whether the potential owner is an existing newspaper proprietor or not;*
- *Whether the scope of controls should be revised in relation to newspaper assets;*
- *Whether it is appropriate to retain the criminal sanctions that underpin the regime. (7.18)*

We believe that as the accurate presentation of news and the free expression of opinion are very important in a democratic country. We believe that OFCOM must be involved in any decisions and we would therefore support the Government’s first option (7.16).

We agree that local newspapers – regional (e.g. *Newcastle Journal*), local daily evening (e.g. *Express & Star*), local weekly (e.g. *Knaresborough Post*) and free-delivery titles – should be taken out of the current newspaper regime.

A local newspaper should be defined as, “a newspaper whose prime objective is to serve the population of the region, city, town or village and its surrounding area, with a service of local and national news plus other items of information that are of interest to the people living within the locality”.

We agree that the newspaper regime should be extended to all qualifying acquisitions, regardless of whether the potential owner is an existing newspaper proprietor or not.

We agree with the Government’s proposal (6.4.8) to reform the general merger regime by the scope of the controls being related to the newspaper assets. We agree with the suggested figure of a turnover threshold of £45 million, but would suggest that this figure is increased annually by index-linking the turnover threshold to the annual rate of inflation. We would also suggest that titles published less frequently than weekly – fortnightly, monthly and quarterly – should be excluded from the regime.

We feel that it is appropriate to retain the criminal sanctions that underpin the newspaper merger regime and that these sanctions should also underpin the general reformed merger regime. We feel that such sanctions have already played a useful part in the newspaper regime, as they are an ultimate sanction that backs-up any financial penalty.

XIV Options:

We could retain the existing limits on cross-media ownership. (7.20)

We could do away with cross-media ownership limits altogether, and rely on regulations within separate media and competition law to meet our objectives. (7.20)

We could reformulate the existing rules, attempting to incorporate the extent to which different media differ in their influence, so that, for example, newspaper owners might be more limited in the TV interests they controlled than radio owners were. (7.21)

We could establish the same set of limits on all forms of cross-media ownership. For example, at national level, no owner might be allowed to control more than 20% of the audience in any 3 markets, or more than 30% of any two markets, regardless of the particular nature of the markets involved. A comparable system with different limits might be applied to local markets. (7.21)

We believe the Government should do away with cross-media ownership limits completely and rely on regulations within each separate media – newspapers, telephones, radio, television – and competition law to meet the objectives.

We would also welcome views as to whether the limits on cross-media ownership (whether or not they are altered) should be combined with a rule that limits could be exceeded if the acquiring party satisfied a plurality test. If so, should decisions be taken by OFCOM or by Ministers? (7.22)

We believe that all acquiring parties must satisfy a plurality test.

We believe that such decisions should be taken by OFCOM.

XV Views are invited on whether all media ownership rules should be subject to automatic review by OFCOM every two years. Limits could be amended through an Order by the Secretary of State on the recommendation of OFCOM. Alternatively, provisions would lapse unless their continuation was agreed by Parliament. (7.23)

All media ownership rules must be subject to automatic review by OFCOM every two years. We agree with that any amendment to the rules must be approved by Parliament.

We trust that these responses on behalf of the Evangelical Alliance, which represents over 1.3 million Christians in the United Kingdom, are of help to the Government in the formulation of media ownership policy.

Yours truly,

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