



Response to the DCMS / DTI  
consultation paper on media  
ownership rules

25 January 2002

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## 1 Introduction

Guardian Media Group (GMG) welcomes this opportunity to comment and debate the proposed options for legislation on media ownership rules. GMG has chosen to provide views on the general approach that should be taken to address media ownership in addition to providing a more detailed response on the specific options and proposals set out in the consultation paper.

GMG's position can best be summarised by the primary aim of media ownership rules as set out in the consultation paper itself (section 5.1, page 14):

*“To create the most competitive market possible whilst ensuring plurality of voice and diversity of content.”*

GMG firmly supports the Government's goal of seeking to be as “*deregulatory as possible*” in its approach towards the UK's media industry, and in particular the increased reliance on general competition law as the primary mechanism for ensuring the continued growth, efficiency and competitiveness of the sector. GMG encourages the Government to be bold with its implementation of this principle within each of the individual industries addressed.

However, in line with the consultation paper, GMG strongly contends that whilst competition law is an important part of regulation and should ensure plurality, it is not designed to deliver diversity in the media. In particular, at the national level, where the ability to define the national news agenda or where ownership of scarce or unique assets connotes market advantage, competition law will need to be supplemented by additional legislation.

On the issue of cross-media ownership rules, GMG rejects each of the new over-arching frameworks proposed arguing that each in turn is either, over-ambitious, too open to lobbying, socially divisive or simply ineffective. GMG believes that the patchwork of specific rules currently governing the media sector provides the best framework for regulation of the industry moving forward. These rules are needed to reflect the intricacies of the UK's media and cannot be adequately replaced by any single system. The periodic review of ownership limits and a drive to eliminate additional regulations at the local level will best support the goal of increased competition combined with plurality and diversity.



## 2 Guardian Media Group's perspective

Guardian Media Group plc occupies a unique position in the UK media industry. It is a UK media business with interests in national newspapers, regional and local newspapers, magazines, new media and radio, and it is the sole property of the Scott Trust. The Scott Trust was created in 1936. Clearly set out in the Trust's 1992 Statement of Objectives are obligations which commit the Group to striving to help to preserve diversity and plurality in the British press:

*"To secure the financial and editorial independence of The Guardian in perpetuity: as a quality national newspaper without party affiliation; remaining faithful to its liberal tradition; as a profit-seeking enterprise managed in an efficient and cost-effective manner."*

Furthermore, with particular relevance for the consultation paper and GMG's arguments, enshrined in the Scott Trust's Statement of Objectives are commitments to defending the independence of the press as a whole and seeking to ensure diversity:

*"The Trust declares a subsidiary interest in promoting the causes of freedom in the press and liberal journalism, both in Britain and elsewhere."*

It follows that, GMG's response to this consultation document is driven primarily by the core principles of the Scott Trust.



### 3 The Government’s overall approach

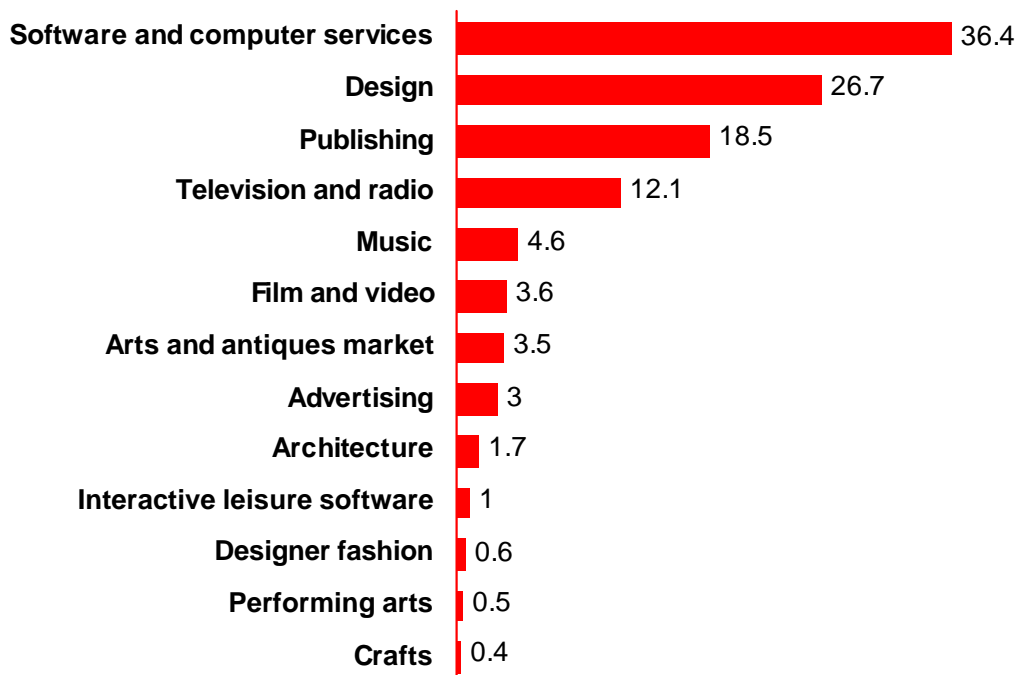
#### 3.1 The need for ownership rules (section 6.1)

The media occupies a central place in our social and cultural lives. It informs, educates and entertains us through a variety of delivery mechanisms – newspapers, radio, television, the Internet and mobile telephony. Each delivery mechanism represents a different market, a different editorial style and a different way of communicating with consumers. Maintaining the plurality of voices, editorial independence and diversity in content and platforms underpins the health of our democracy.

The media and creative industries also bring important benefits to the economy. The creative industries support revenues of £112bn (see Exhibit 1), yield export earnings of £10bn and employ 1.3m people (see Exhibit 2).

**Exhibit 1: GDP and Employment in the Creative Industries**

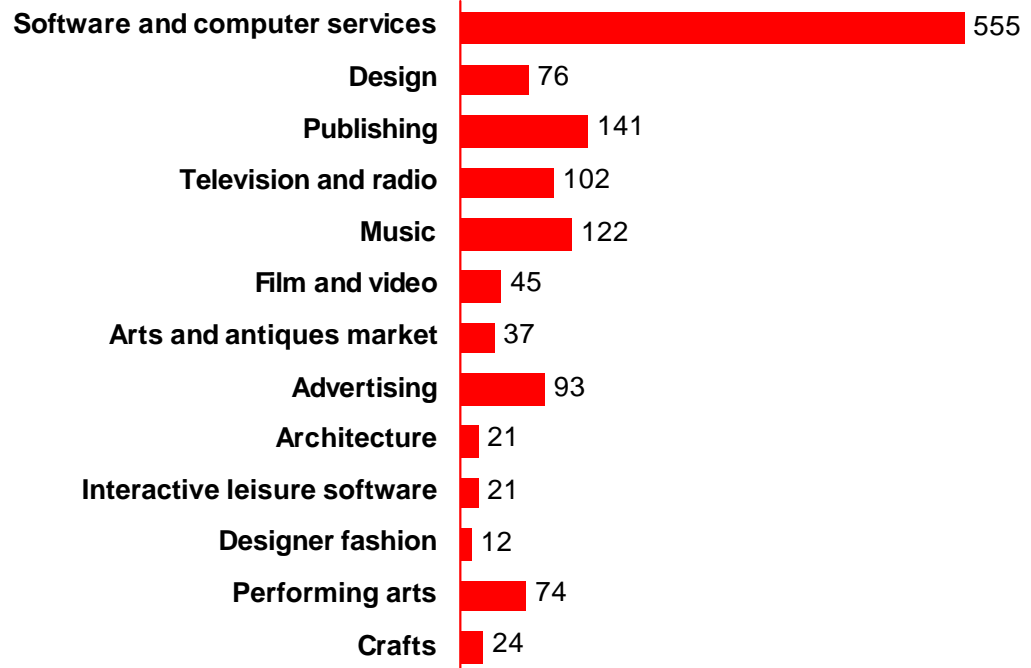
**UK GDP contribution by creative industries (£bn)**



It is crucial within the new multichannel, multimedia and convergent world, that the Government guarantees a high degree of competition across and between these sectors. Competition leads to innovation, creativity, efficiency and quality. A monopolistic environment leads to complacency, higher prices and poorer quality for the public.

Over the last four decades, legislation, good practice and public policy have produced a vast and dynamic creative environment. The UK supports many of the world’s top computer games developers and the world’s second largest film and music industries. The current framework has delivered the most politically diverse national press, and a successful television industry, including public service broadcasting into the 21st century across both publicly funded and commercial networks.

**Employment in creative industries in the UK (000s)**



Advertising, subscription and licence-fee funded media all co-exist in a complex yet delicate ecology which balances commercial forces with public responsibilities. While GMG favours greater liberalisation of markets it maintains that the Government must use all its influence in policy, competition law and regulation to:

- Ensure continued diversity and plurality across content providers, distributors and retailers of all media
- Stimulate innovation and prosperity for the creative industries
- Secure quality
- Provide universal access for consumers and open and fair access to platforms for suppliers of content, software and applications.

It is worth noting that the pace of change anticipated two years ago in Internet take-up, broadband rollout and digital penetration has not materialised at the rate predicted. The market has not delivered universal access or full competition in digital and the media markets are still widely affected by scarcity in the supply mechanisms (in radio spectrum for television, radio and mobile) and by dominant national players (in pay TV and the national press).

Furthermore, while the Competition Act 1998 and the forthcoming Enterprise Bill will provide a new framework for regulating the commercial and competition elements of the UK's media market, direct UK Government intervention will still be required to guarantee public interest goals such as plurality and diversity in certain circumstances (which are discussed below).

GMG sees a distinction between regulation at the national and local levels. GMG would see local as all non-National media, including regional services. In general it is felt that, at the local level, ownership rules can be effectively governed by Competition Law. At the national level however, GMG believes there is a need for positive regulation on four counts:

- Competition law alone cannot be relied upon to guarantee diversity and plurality in the provision or control of news and current affairs. This is especially a problem in the UK because the national press is highly polemic. It is essential for democracy and freedom of expression that a number of different media voices are heard. A large cross-section of the population derives its view of the UK and of the world from television. Television has become the primary source of news for more than 70% of the population, an increase from 60% in the early 1980s (source: ITC audience surveys). As a result of the pressure on ratings and revenues, news and current affairs programmes are being steadily pushed to the margins, reducing effective choice and access for viewers. The UK is fortunate in having three authoritative, independent and comprehensive news services, on the BBC, ITN (serving ITV, Channel 4 and Channel 5) and Sky. There remains a delicate economic balance where the three services act as a stimulus to one another, encouraging innovation whilst maintaining high professional standards. This balance could easily be eroded by growing commercial pressures. As the Government stated in the 1995 White Paper:

*“Television, radio and the press have a unique role in the free expression of ideas and opinion, and thus in the democratic process. The main objective must therefore be to secure plurality of sources of information and opinion, and a plurality of editorial control over them.”* (cm 2872, para 5,2).

- While the uptake of new media has increased over the past few years, the majority of the population still receives its news, information and entertainment via traditional print media, analogue television and analogue radio services. Analogue television and radio are delivered over scarce radio spectrum which has to be licensed, demanding ongoing Government intervention and selection processes.
- The media sectors are already highly integrated both horizontally and vertically across the content creation, packaging and delivery value chains. Some have suggested that the problems of integration and cross media ownership can be solved by a clear separation of content production and delivery. This cannot be introduced in the newspaper industry and in television it would imply the break-up of some integrated entities. To avoid this, the best practical solution to maintain fair and open access to content providers and consumers requires direct intervention to optimise the range and diversity of suppliers, channels, platforms and open access. Further integration and cross-media ownership is best dealt with by constructing clear and decisive rules. Constructing a complex array of points systems will introduce subjective decision-making and add to the weight of lobbying. GMG favours clear rules for each media and strict prohibitions in certain areas to achieve maximum competition together with plurality and diversity.
- Lastly, GMG agrees with Andrew Graham of Balliol College when he states that the

*“broadcasting markets exhibit market failure. In other words, leaving broadcasting entirely to the market would result in programmes which would not reflect accurately what even well-informed consumers would want to buy.”*

This is because broadcasting is a public good, it creates externalities and it includes merit goods which we think we will not like (and not buy) and yet are surprised and pleased after we have benefited or enjoyed the experience. These economic arguments are clearly stated in Andrew Graham’s chapter on ‘Public Policy Issues for UK Broadcasting’ in ‘e-britannia: the communications revolution.’

GMG’s suggested regulatory solutions to address the specific issues discussed above are outlined in the Section 4 Response to Key Issues.

### 3.2 The blur between regional and national

Devolution in Scotland, Wales and Northern Ireland could create issues for regulation of media industries which need to be considered now. It could be argued, in particular, that with a separate national Parliament and separate national legal system, Scotland has its own political agenda. As such, the definition of local and

national media becomes blurred with media currently classed as local in UK terms being redefined as national within Scotland, for example. OFCOM should be charged with monitoring this situation and, if it is deemed in the public interest, OFCOM should apply additional regulation to Scottish, Welsh and Northern Irish “national” media.

Were Scotland, for example, to push for its own Scottish OFCOM, this could also raise serious issues for non-Scottish UK companies which have media holdings in Scotland, especially around any foreign ownership regulations.

### **3.3 Consideration of the BBC**

The consultation paper does not make consideration of the BBC and its activities (either commercial or public service) the subject of its review. However, GMG regards any review of the UK’s media sector, sub-sector or cross-media issues, as incomplete without regard for the BBC.

The impact of the BBC on the commercial sector is often critical and certainly indisputable. In addition to its core analogue television and radio services, the extension of the BBC’s licence fee funded services to create a dominant position in digital radio, digital television (BBC 3 & 4) and the internet (BBC online) has had a profound impact on its commercially funded competitors.

The entry of the BBC into a market can render commercial alternatives not viable, deter new entry or commercial innovation, or lead to consolidation, or concentration which could serve to reduce competition, diversity and choice.

GMG does not request specific action, or make any specific recommendations at this stage. It asks only that OFCOM is given some role in considering the future regulation and impact of the BBC on competition, diversity and cross-media ownership in the broadly defined media sector.

## 4 Response on key issues

### 4.1 Cross-media ownership restrictions (section 6.5)

In line with the Group's position regarding the overall approach to media regulation, GMG believes that there is a distinction to be drawn between cross-media ownership regulation at the national level and at the local level. At the national level, as previously argued, there is a clear and obvious need for restrictions in addition to general competition law, at the local level GMG believes that competition law can be invoked and other restrictions can be abolished, or implemented by exception. At the local level, there is access to multiple sources of news provision, including the national providers themselves.

GMG believes that the following rules as a framework would give adequate protection at the national level in the regulation of cross-media ownership:

- Disqualification from holding both a national C3 licence and or a C5 licence and a licence to provide a national radio service
- No person who runs 1+ national newspapers with a combined market share of 20% may hold a licence to provide a national C3 service or C5, or a national radio service
- No proprietor of national newspaper(s) with a national market share of 20% or more may have > 20% stake in a national C3 service, or a national radio service
- Applications to hold a licence to provide a national C3 service or C5, a national radio service or a national digital sound programme service by a national newspaper will be subject to a public interest test
- Digital programme services (for national radio) shall not be provided for three months after the award of a licence to a national newspaper unless a public interest test is met.

Further, GMG believes all rules applying to C3 and C5, as set out in the governments own words above, should equally apply to Channel 4 were it ever to be privatised.

In its consultation paper (section 6.5, pages 28-30), the Government sets out four alternative options for consideration when reviewing rules on cross-media ownership. GMG has considered each of these alternatives, arguing that the existing controls provide the best guarantee of the Government's dual objectives of continued diversity and plurality; goals which cannot be effectively supported by competition legislation alone.

- a) Abolition of cross-media limits altogether, relying on regulations within separate media and competition law alone

GMG flatly rejects this option as competition law alone will not deliver the diversity or plurality sought, or needed, for the healthy future of the UK media sector. General competition law has no specific limits on ownership of market share, indeed provided there was no abuse of dominance with regard to pricing of subscriptions or advertising rates, competition law would place no limit at all on concentration in the media.

- b) Introduction of reformulated or flexible limits (sections 6.5.3 – 6.5.4)

The consultation paper suggests no new limits itself and does not invite comments on new levels on this issue. Regardless of the specific levels of the limits themselves, however, the introduction of flexible or permeable restrictions would be seen by GMG as being unhelpful and potentially damaging. A plurality test in support of a permeable threshold would only serve to open the decision process to undue lobbying and political influence. This in turn would lead to inconsistent treatment and bias. It would also result in a

significant increase in time wasted in planning merger activity which was not in the end permitted. Clear fixed levels provide the certainty that both the industry and the national interest requires to move forward.

c) Share of voice model (sections 6.5.6 – 6.5.10)

The share of voice model offers no short-term answer to the regulation of cross media ownership. The “media exchange rate” concept (section 6.5.8) would be certain to require complex, subjective and ultimately arbitrary weightings for each medium and would be bound to provoke controversy beyond its value. GMG considers the consultation paper’s own wording too weak and would instead assert that:

“such an exchange rate would be considered over-ambitious and would give a misleading impression of objectivity”.

A second share of voice model is also proposed (section 6.5.10), where financial revenue rather than reach is used as the measure and the limiting factor. GMG regards this approach as fatally flawed and potentially dangerous from a social inclusion perspective. Share of voice simply does not equate to financial revenues from a public interest perspective and concentration in terms of financial revenues is addressed effectively by competition law, in any regard.

Under this model of regulation heavier concentrations of ownership would be permitted in areas of the country with lower economic activity (and lower associated advertising rates), leading to reduced access to a genuinely diverse and plural media in these areas, ultimately reinforcing a cycle of political exclusion in poorer areas.

To equate share of voice and financial revenue is to equate the worth of an individual's opinion, or right to access diverse media, to their commercial value to an advertiser or subscription media owner. Ultimately under this model an individual would have access to a less diversely controlled range of media if they lived in parts of the country where advertising rates were lower, GMG regards the logical extension of this as potentially very damaging and certainly divisive.

d) Interlocking sector-specific limits model (section 6.5.11)

GMG rejects this approach as imprecise and arbitrary in its application. This model, whilst simple, is clearly imperfect from the start as the consultation paper itself recognises:

“20% of the radio market is not comparable to 20% of the television market, or the newspaper market.”

Whilst any unifying single mechanism will need to be straightforward in its application, this model trades common sense too heavily for simplicity. Once again, GMG would assert that the UK cross-media ownership rules have developed idiosyncrasies as it currently has, precisely because of the complexity which such a basic approach ignores.

### 4.2 The press (section 6.4)

GMG is pleased that the Government promises to consider a lighter touch approach to regulation of newspaper mergers. GMG would however reinforce its position that due to the highly polemic nature of the UK’s national press and the ability of national newspapers to determine the national news agenda, some additional scrutiny on merger activity is necessary at the national level.

GMG believes that the consultation paper’s own figures suggest that there is room for rationalisation and liberalisation in the application of the special regime:

“of the 172 cases considered under the special regime since 1980, only three have been refused and five given approval subject to conditions.”

Certainly, GMG would contend that the regime could be refined and better targeted.

### **Mandatory referral vs. exceptional public interest gateway regime**

GMG believes that the introduction of an exceptional public interest gateway offers the best framework for regulation of the newspaper industry. Under this model, GMG supports the concept of a process with the Secretary of State being advised on public interest and freedom of expression issues by OFCOM and the competition authorities advising on issues of competition.

GMG believes that there are no grounds for a mandatory referral of all newspaper transactions to the Secretary of State. No other industry is subject to mandatory referral of all transactions. GMG acknowledges that in some cases, such as with national newspapers and where local newspapers reach a certain scale of circulation, additional regulation is in the public interest, but that these issues can be raised on an exceptional basis.

Further, GMG believes that even the application of the exceptional public interest gateway should be restricted to national newspapers, and in general, local titles should be excluded from the regime, with limited exceptions relating to scale. These are set out in more detail below.

### **Merits for taking local titles out of the newspaper regime**

GMG holds that in contrast to national newspapers, local newspapers are primarily non-political often reporting on issues of local interest without significant editorial comment. GMG believes that it is undesirable in principle and unwise commercially for its regional and local newspapers to be made active vehicles for any political or social outlook or bias. GMG’s regional and local newspapers are expected to serve the needs of their local communities. They concentrate on local news and carrying a more selective range of national news items, especially those of particular local interest.

In support of this, the Competition Commission stated in its report on the proposed transfer of Regional Independent Media Ltd in November 2000 that:

*“When considering the public interest in a newspaper merger inquiry we are required to have particular regard to the need for accurate presentation of news and free expression of opinion. In doing so we have considered each potential bidder’s editorial practices and intended approach, and the risks arising from financial pressures. We found no evidence to cast doubt on the commitment of any of the bidders to editorial freedom or accurate reporting, nor anything that might lead us to conclude that the proposed transfers would lead to loss of independence of local editors or remoteness from local communities.”*

Further, during an earlier investigation, the Competition Commission stated in its Portsmouth & Sunderland Report that:

*“the commercial logic of regional and local newspaper publishing dictates that editors should be free to edit their newspapers in a manner that attracts and retains local readers. Therefore, an attempt by a publisher to dictate or standardise the editorial content of individual titles, or to impose a uniform style and approach, would risk loss of readership, leading to reduced advertising revenues and, in the case of paid-for titles, loss of circulation revenue.”*

GMG believes that the local press is essential for the effective functioning of local democracy. But that this relationship is less open to political influence as the commercial realities of local press ensure that the need to reflect the local agenda and issues is paramount in the on-going ability of a local title to attract readers, and so advertising or subscription revenues.

It is also the case that, whilst the national newspaper market is dominated by very few players, the local newspaper market as a whole is very fragmented. Though it could be argued that consolidation in one area could lead to a regional monopoly, in practise this is unlikely to be the case for a number of reasons:

- National newspapers provide competition to all local newspapers
- Other media, such as radio, television and the internet, both at a national and local level, to a degree provide effective substitutes for local print media
- GMG would argue that there is potential competition from other newspaper groups in neighbouring regions. Any newspaper group with a hub located within a range that would allow reasonable levels of currency for evening editions is a viable potential competitor – a 1.5-hour radius would provide a serviceable base. As such, were a local newspaper group to try to exercise monopolistic power in any particular region, it would be a natural consequence for neighbouring newspaper groups to enter the market.

GMG would also argue that barriers to entry in local newspaper markets are quite low. Associated Newspapers has proved through the launch of its Metro publication in several UK regional cities that it is possible to build market share quickly, even as a new entrant.

### **Definition of “local”**

For the purposes of clarity, this document defines local newspapers as all non-national newspapers. In local newspapers, GMG believes it is important to have a level of regulation which protects public interest requirements whilst being consistent with allowing local newspaper groups to operate, grow and compete efficiently. Therefore, local newspaper transfers should, in general, not be subject to the exceptional public interest gateway regime if:

1. The total paid-for circulation of the newspapers being acquired is below 100,000 copies
2. The newspaper being acquired is a weekly newspaper
3. An individual market can be served by at least one other area (i.e. another newspaper group has a hub within 1.5 hours driving distance of that market’s heartland).

GMG believes that for any transfer where the target newspaper fulfils one or more of the above criteria, competition law should be the only form of regulation applied.

GMG suggests setting the lower boundary for the exceptional public interest gateway regime at 100,000 paid-for copies, rather than suggesting that no transfers require reference, because larger local newspapers still have a significant role to play in local democracy. There is a small danger that, with too much consolidation in a local market, the local newspaper environment could be politicised. However, GMG firmly believes that there should be no mandatory referral for any newspaper acquisitions and that the special regime should be replaced by the exceptional public interest gateway.

### **Merits of extending the newspaper regime to all qualifying acquisitions**

GMG believes that any regulation of newspapers should be consistent both for existing UK newspaper publishers and parties which do not fall into the definition of a UK newspaper publisher. The current regulatory framework, allowing parties not owning a UK newspaper to complete newspaper acquisitions without prior regulatory clearance, tends to inhibit existing UK newspaper companies, who are often positioned to manage newspaper assets more efficiently. GMG would argue that all parties, whether existing UK media companies or not, should be subject to the same set of rules.

GMG's view of local newspaper regulation is based on the principles that

- The main regulatory instrument should be competition law
- Mandatory referral of transfers to the Secretary of State is not in the public interest or fair to the newspaper industry
- Any new local newspaper regime should in principle be less regulatory than the current framework

### **4.3 Radio (section 6.3)**

GMG believes that a combination of competition law and careful control of formats in the licensing approach alone can achieve the effective regulation of the radio industry and deliver the goals of plurality and diversity. The Group does not see the value that an additional points system at either the national or local level, can deliver and regards even recently developed, and well conceived systems (such as that developed by the CRCA and RA) as an unnecessary layer of further regulation.

Analogue radio spectrum as a scarce resource, is licensed to radio broadcasters by the Government. As such, there is a regulated control on entry, which limits the number of stations able to operate in a market and regulates, to some degree, the content of each station. As it is a statutory agency that decides who will receive a radio broadcast licence, it seems unnecessary to have a further regulatory layer.

#### **Nation-wide ownership of Independent Local Radio licences (section 6.3.5)**

GMG strongly supports the consultation paper's view that the existing points system governing concentration of ownership should be abolished in respect of UK-wide ownership. No alternative system is needed and it should be left to the competition authorities to determine the appropriate limits on the accumulation of radio interests on a UK-wide basis.

#### **Accumulation of interests in local areas (section 6.3.6)**

GMG does not believe that a further regulatory regime at the local level, as proposed jointly by the CRCA and Radio Authority, is necessary. GMG firmly believes that general competition law and market demand alone will guarantee local plurality and diversity. Furthermore, GMG holds that the proposed points system would work against the interests of niche formats and so present a risk to their commercial viability.

GMG disagrees with the suggestion that in each locality a minimum of three broadcasters in addition to the BBC should be mandated. The rationale for determining a minimum of three owners of independent local radio services per local area is unclear. GMG does not believe that it is practical to have a standard rule for every locality, as localities are diverse in terms of size, wealth and other characteristics. Some localities may not be able to sustain three separate broadcasters economically.

Furthermore, the CRCA/RA proposed points system for regulating local radio station ownership is also flawed. A points system based on the coverage of a licence, not the market penetration or the revenues of a station, does not distinguish between ownership of a niche station and a popular (or mainstream) station. As both the popular stations and the niche stations are valued equally according to the points system, an organisation wishing to expand will choose to sell off its niche stations and acquire popular stations which achieve higher advertising revenues.

The result of this would be that niche stations, which can benefit and often depend for survival on the economies of scale provided by ownership from a larger operation, are more likely to be divested and may struggle to sustain commercial viability. Niche stations may be forced to sell their licences or apply to change their format for reasons of economic survival, resulting in fewer niche stations in the local radio ecology and so reduced diversity.

Whilst the CRCA/RA suggested regulatory format seems to be an improvement on current regulation, GMG believes a points system based on licence coverage still poses a potential risk to diversity and the range of “choice on the dial”.

A stronger focus on definition of and adherence to formats, in the shape of a formal “letter of agreement” and “promises of performance” would serve the guarantee of local diversity much better. GMG suggests a licensee should be obliged to abide by such promises as set out during the licence award process. These can be defined in terms of the content a station broadcasts and/or the station’s target audience. This would allow a station to evolve with tastes and trends of a target group rather than stagnating and losing its appeal to listeners. The licensee should be permitted, without prior consent from OFCOM or the RA, to make changes to its content as long as the product delivers on the agreed promises. It would be the role of OFCOM to monitor the formats of all radio stations to ensure that they complied with the original commitments as set out in the licence award process and to rule on applications for changes to such agreements. Further, it would be OFCOM’s role to ensure that any such obligations were complied with after any on-sale of the licence.

Competition law should be sufficient to ensure plurality in the local radio market whilst OFCOM’s monitoring of compliance with “promises of performance” should ensure diversity.

### **National radio licences (6.3.10)**

GMG agrees with the suggestion that the specific disqualification from ownership of more than one national radio licence should be lifted. Again, competition law is adequate to ensure plurality in the market and OFCOM should be responsible for maintaining diversity through regulating format, as outlined below. With regard to content and diversity, GMG strongly agrees with maintaining the existing format controls ensuring that one national analogue station must be non-pop.

### **Digital radio (6.3.11)**

GMG is of the opinion that the current regulations in place regarding the digital radio market are adequate. It is essential that digital radio is subject to the minimum level of restrictions possible in order to allow potential investors in and to enable the digital radio market to grow. As the digital radio market is so nascent, the regulatory framework of the market should be reviewed at a later stage in its development, after it has been allowed to grow.

### **On-sale of licences (6.3.12 – 6.3.14)**

It follows that the “promises of performance” principle, as set out above, can be used to ensure that, if a radio station is sold on to a third party, its original character must be maintained unless the acquirer of the station receives prior consent from OFCOM to change the format of the station.

Although there are undoubtedly methods for circumventing restrictions on the on-sale of licences, GMG believes that it is entirely appropriate that OFCOM seeks to restrict or prevent on-sale within a two-year period of award. The pursuit of licences with no intent to operate a service, but the prime objective of benefiting from the increase in value following award, should be deterred insofar as possible.

Limitations or referral of all sales within a two-year period, return of a percentage of value from a sale to the Government or return of the frequency on lapse of service, are all interventions that GMG would consider as appropriate in such circumstances.

### **4.4 Television (section 6.2)**

On the specific proposals set out in the consultation paper, GMG is in broad agreement with the Government’s continued push for deregulation within the Television industry, as within the other industries considered.

Specifically, GMG supports the Government’s proposal to remove the rule that prohibits single ownership of the two London ITV licences (section 6.2.1) and the proposal to remove the rule that imposes a limit of 15% on any company’s share of the television audience (section 6.2.2 – 6.2.6). GMG is aligned with the Government’s position of allowing competition law alone to govern future consolidation within ITV.

However, in line with the Group’s overall position and due to concerns regarding control of the national news agenda, GMG would argue that there is a need for additional control regarding cross-channel ownership (section 6.2.7). Reviewing the options proposed, GMG would support a requirement to ensure at least four separately owned broadcasters providing free-to-air analogue television. This requires restrictions preventing joint ownership of ITV and Channel 5 (or Channel 4, if it were privatised).

With regard to the ITV news provider, GMG supports the retention of the nominated news provider scheme for ITV. Likewise we would support the extension of the ownership limits in the news provider to 40% to ensure continued independence.

Additionally, in the context of a discussion on the television industry, GMG would like to encourage OFCOM to consider the role of local, as distinct from regional, television. GMG regards regional and local content in television as a key component in the UK’s media industry, but share the concerns of Sir Robin Biggam, the ITC Chairman, with regard to the on-going commitment of ITV providers to regional resources and services:

*“I would sum up ITV’s submission to Government on regionality in two words “Trust Us”, with the submission avoiding making any firm commitments to regional resources and services. The history of commercial broadcasting in the UK is based on the overall economic benefits accruing to a public service broadcaster exceeding the financial penalty of providing services such as regional programmes which are clearly less*

*profitable than networked programmes. Against this background I feel Government will require more than "Trust Us" from ITV."*<sup>1</sup>

The advent of digital television makes local television, based on a city or town, an important extension of diversity and choice and will serve to foster the creation of genuine lower cost local television programming. With this thought, GMG would encourage the Government to consider its approach to Restricted Service Licences (RSLs), i.e. local television licences, more urgently. In particular, GMG would ask for a review of the potential for local "must carry" obligations, preferred terms of access and alternative funding models. If the Government is genuinely committed to the continued delivery of local television content, alongside its push for deregulation of the television industry, then GMG believes that RSLs could play an important role in the future.

### 4.5 Other issues

#### 4.5.1 General prohibitions

GMG believes that the current general criteria for disqualification on holding media licences are in the public interest and need not be liberalised or reformed.

##### **Non-EEA individuals and bodies**

GMG believes that non-EEA individuals and bodies should be allowed to own UK media if UK media companies are allowed to own media in the respective territories of the proposed acquirer. The role of OFCOM should be to monitor the situation and to advise the Secretary of State on such transfers. GMG's principle aim is that each party should be allowed to compete on equal grounds. Cases of non-EEA individuals or bodies wishing to acquire UK media assets are perhaps the only cases where we believe that mandatory referral to the Secretary of State is in the public interest.

##### **Local authorities, political organisations and publicly funded bodies**

GMG strongly disagrees with the suggestion that local authorities, political organisations or publicly funded bodies should be allowed to own media channels.

Local authorities are to an extent still political bodies. Local authority media ownership is wholly different from advertising-funded local media which, as discussed earlier, has a commercial, not a political, remit. A local newspaper or radio station is one of the few open critics of local government and the services which it provides to communities. To allow local authorities to own local media would threaten the impartiality of the local media ecology and would therefore be against the public interest.

GMG believes that the same arguments apply equally to political organisations and publicly funded bodies.

Publicly funded bodies must be excluded from media ownership as their funding originates from Government, either national or local, and is therefore partially determined by a political agenda. It is therefore not in the public interest to permit publicly funded bodies to own UK media assets, whether national or local.

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<sup>1</sup> Speech from ITC Chairman Sir Robin Biggam, ITC Dinner, Manchester 20 June 2001



### **Religious organisations**

GMG suggests that the current restrictions on religious organisations owning UK media assets should be maintained. OFCOM should have the role of monitoring the market in any cases where the Secretary of State or regulators have permitted religious organisations to own media assets in cable or satellite TV or local analogue, cable or satellite radio services.



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