

## Response to consultation on media ownership rules

### Introduction

1. Public Voice is a voluntary sector network established to support, defend and protect public service broadcasting in all its forms, now, and in the future. It represents the interests of voluntary and community organisations, the causes they serve and their constituents. Public Voice campaigns to ensure that communications reform is led by public interest objectives, such as plurality of voice, impartiality and objectivity in news, diversity and quality of content, right across the market.

2. The Public Voice steering committee is made up of a number of agencies who have particular expertise in the voluntary and media sectors (Broadcasting Support Services, Campaign for Quality Television, Community Media Association, the Media Trust, Third World and Environment Broadcasting Project [3WE], and the Voice of the Listener and Viewer), and we also have a wide and active membership of voluntary and community groups. Current supporters and members include: NCVO, The Kings Fund, World Wildlife Fund, RSPB, NIACE, CAFOD, Age Concern England, Childline, the Dyslexia Institute, RNIB, RNID, Oxfam, CSV Media and the British Deaf Association.

3. Public Voice has commented in detail on a number of policy proposals and consultation documents over the past year including: the Government's White Paper on Communications Reform; Professor Cave's Radio Management Spectrum Review; the BBC's proposals for new digital services; ITC consultations on restrictive service licenses and on cross promotion; the Government's draft digital action plan; the Towers Perrin scoping report on OFCOM; and the Culture Media and Sport Select Committee's inquiry into communications reform.

4. In its White Paper on Communications Reform published in December 2000, the Government made a number of welcome commitments, including the following statements that Public Voice welcomed in its own response to the White Paper. We believe that these commitments are still relevant today and that these principles should underpin communications reform:

- ensuring that the interests of citizens and consumers are paramount
- universal access to public service content through a diversity of media
- the recognition of public service broadcasting, including news and current affairs and original production, educational programmes, children's

#### Steering Committee

Broadcasting Support Services  
Campaign for Quality Television  
Community Media Association  
The Media Trust  
The Third World and Environment Broadcasting Project (3WE)  
Voice of the Listener and Viewer

Supported by: The Joseph Rowntree Reform Trust Ltd

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programmes, religious programmes and coverage of arts, science and international issues

- the explicit retention of key public service channels as mixed schedule networks
- strengthening regional and community media
- ensuring that cultural diversity is recognised and reflected in programming
- universal access to a choice of diverse services of the highest quality

### **General comments on the media ownership proposals**

5. The consultation paper clearly states that the Government wants to ensure that citizens receive a diverse range of content from a plurality of sources; this objective is also at the heart of Public Voice's campaign and we warmly welcome the recognition in this paper of the importance of plurality and diversity as a foundation of citizenship as well as of a strong competitive industry.

6. In this paper the Government rightly states its desire for a strong competitive industry. We support this desire, but it must be recognised that broadcasting cannot be regulated in the same way as other industries for a number of reasons: the market is a mixed economy; cost of programming making is an important factor, with some programmes cost one hundred times as much as others; most people do not pay for programmes; cutting costs often reduces the diversity of programmes available; it is very difficult to make simple comparisons between the quality of different programmes; and buying programmes from abroad costs less than making quality programmes here. All these points illustrate the complex nature of the industry, the ways in which it differs from other industries, and the importance of developing a sensitive and specific form of regulation to enable it to play a leading role in the world market.

7. To be strong and competitive our broadcasting industry must be one that produces quality programming – such as drama, documentary and film - that attracts strong export potential. To create such a strong and competitive industry that can lead the way in the wider marketplace we must have sufficient investment in programme making, and the best way to safeguard this investment is to require it through regulation.

8. There should also be a requirement on companies to invest in programming that may only have UK or even localised relevance – e.g. regional programming, factual and educational programming, social action and community programmes. There is already some evidence, for example that some educational programming has been diluted in order to make it attractive to overseas markets. Broadcasters have a duty to their UK markets that cannot be ignored.

9. We believe that the reform of communications regulation must be underpinned by the recognition of the vital contribution the media make to pluralism, diversity and quality of information in our society. Because of its unique role it needs a regulatory structure of its own, one that is quite different from those for other parts of the national and global economy.

## **Plurality and diversity**

10. In this paper the Government itself outlines the value of pluralism by identifying its four key effects:

- it ensures no individual or corporation has excessive power in an industry which is central to the democratic process
- it secures a variety of sources of news and editorial opinion from a variety of sources
- it counters risk of bias or editorial control of the news agenda
- it maintains cultural diversity and vitality adding to the breadth and richness of our cultural experience

11. These are extremely important points that must be taken into proper account in the review of media ownership rules. In democratic societies like our own the media plays an important part in protecting and promoting human rights and democracy and in enabling an informed public to play full roles as citizens. A pluralistic media provides audiences with a broad range of information and opinion; it allows minority cultures and groups the opportunity to express distinct interests and opinions, and to maintain their cultural diversity. However, by increasing the general understanding of a range of issues and concerns, a pluralistic media can also help facilitate social and cultural change.

12. We believe that maintenance of plurality and diversity should be key objectives in reviewing and reforming the regulatory system and should not be subsumed with the goal of creating a competitive market. Diversity and plurality add to the richness and quality of broadcasting policy and output, and play an important part in making the UK industry attractive in the marketplace.

13. At several points the consultation paper seems to suggest that diversity is about the availability of a wide range of content – which can be guaranteed through content regulation alone – whilst plurality is only about ensuring sufficient choice of service provider and can therefore be guaranteed through ownership regulation alone. Public Voice believes this is an over simplistic analysis and that such a clear cut distinction is not possible. Any reform must take account of the necessary relationship between content regulation and regulation of plurality of service.

14. We are disappointed that the consultation paper doesn't offer any clear safeguards for public service broadcasting - the key way in which broadcasting informs, educates and involves audiences and encourages them to play a full role in society - even though the Communications White Paper said public service broadcasting would be more important than ever in the new regime.

15. It looking at issues of plurality and diversity Government needs to consider not only the type of programming that is on offer but also the times at which it is offered. Increasingly programmes that provide diversity and plurality - education, social action and community programmes – are broadcast at times of minimum accessibility, either very late at night or early in the morning, and many people are simply unaware that they are on offer.

## **Media ownership**

16. We are very pleased to see the statement in the consultation paper that some form of ownership rules will remain the best means of tempering commercial logic to the needs of democracy and citizenship.

17. We do not believe, however, that the Government's proposals for automatic review of media ownership rules every two years would be beneficial. This would create a system of uncertainty and speculation where investment – in staff, programme making and infrastructures – would be likely to suffer. Because of the strong public interest factor we recommend that any review of ownership rules should take the form of a public inquiry in which the views of the public and all interested parties are actively sought. We also believe that any changes to media ownership limits should be subject to primary legislation and to a 'public interest test' which acknowledges the special importance of the media and communications sector for democracy and well as in the emerging 'information society'.

18. The consultation paper suggests that the consolidation of ownership would enable a greater diversity of service since larger owners will be able to serve a wider range of audiences, instead of having a number of smaller owners all seeking the middle ground. We believe this argument is a false one. In a more deregulated market the primary incentive for owners will be to gather large audience figures. Therefore it is likely that a small number of large media owners will aim for the large audience in the middle rather than serving particular interests, unless there are specific requirements on them to do so. For this reason we are calling for *very specific – and enforceable – requirements on provision of tier 2 and tier 3 services so that the range and quality of programming on offer are not diminished.*

19. A varied ownership structure within the media is also important for citizens to be able to receive programming from their own cultures. This is particularly important in broadcasting, where there is strong evidence that owners from outside Europe tend to import a majority of programming instead of encouraging the use of more locally available material.

## **Choice and competition**

20. We welcome the clear statement in the consultation paper that "competition issues alone cannot secure our diversity and plurality objectives". However, there are some advantages offered by a competitive system – correctly structured and regulated – and we hope that in responding to our comments you will particularly consider the importance of greater competition leading to a more varied choice for citizens and consumers. This question of choice is one that appears particularly difficult to guarantee in broadcasting.

21. There is clear evidence from the UK that competition for ratings has led to an over emphasis on particularly types of programmes – soaps, game shows, gardening and cookery programmes, wildlife documentaries and features – where the format and subject matter have proved popular.

22. Since the Broadcasting Act of 1990 Public Voice members have carefully monitored programme output and have amassed clear evidence of:

- a refocusing of current affairs programming to emphasise popular 'consumer' issues at the expense of broader and more complex subjects
- a reduction in the total output of factual programmes on developing countries by the four on-going terrestrial channels of almost 50%
- less innovation in drama and an over concentration on domestic and international repeats

23. In 1994 the main slot for 'serious documentaries' on the ITV network (10.30pm on a Tuesday evening) transmitted 34 hours of documentary programming. By 1997 this had dropped to 18 hours. Subject matter has narrowed with an increase in the number of films about royalty or celebrities, and there has also been a significant increase in the commissioning of popular programmes such as 'Neighbours from Hell'. Budgets for serious documentary programming have steadily been reduced, yet ITV companies have taken an increased profit margin (20% off the top of the budget) for each film they produce.

24. In the light of such evidence that market forces alone cannot ensure diversity of programming, we are campaigning for a clear definition of public service broadcasting in the forthcoming draft Communications Bill and for clear, measurable and published requirements on broadcasters in terms of content. This would cover news and current affairs (local, regional, national and international) and all the areas of programming that the White Paper suggests should come under tier 3 regulation.

25. In addition to this positive content regulation we believe there must be clear and enforceable programming investment quotas to ensure that sufficient money is available to make high quality programmes. Such quotas would, we believe, be a valuable long term investment since they would ensure that UK broadcasting retains its leading position in the world market and a ready foreign market for UK productions.

26. It is only by requiring, through regulation, a variety of programme offerings that we can ensure real competition and choice. The French broadcaster Canal Plus, for example, is required by broadcasting law to invest 20% of its turnover in indigenous EU film/drama/documentary; this has led to its development of one of the strongest film libraries in the world, in turn enabling it to bid for and purchase Universal. In any one year Canal Plus invests £100 million in European film/drama/documentary. Because of strong investment obligations in French broadcasting law, Canal Plus has been able to compete on the world stage and become part of one of the biggest players in broadcasting. We hope that you will want to consider this very positive example of content legislation and investment requirements and to consider how this might be adapted and used in the UK.

### **Specific concerns about proposals in the paper**

27. The Government is proposing to revoke the rule that prohibits single ownership of the two London ITV licences, and to remove the 15% limit on share of TV audience. This could have serious implications for plurality of voice and diversity of services

and content and we believe it should not be allowed without some quid pro quo to safeguard plurality and diversity.

28. We support the suggestion in the consultation document that the joint ownership of Channel 4 and Channel 5 should be prevented so that there are at least 4 separately controlled broadcasters providing free-to-air analogue television services. We also have concerns that the specific brief held by Channel 4, (and requiring it to cater to minority interests, to be innovative and to demonstrate diversity and plurality), could be weakened if such joint ownership was allowed. *We would want to see the restriction on joint ownership continued after digital switchover.*

29. The paper proposes the retention of the nominated news provider system for ITV, which we welcome, however it proposes to allow the Government, on advice from OFCOM, to revoke this. *If this were to be allowed we would argue that it should only happen on the fulfilment of strict criteria. These must include a requirement for the decision to take into account the interests of citizens and consumers and for it not to be made on grounds of cost alone.*

30. The paper also proposes to increase the limit on the percentage of the national news provider that a single company may own – possibly doubling it to 40%. *The provision of an objective and independent news service is at the heart of our democracy, any relaxation of this rule should only be allowed once the company had provided specific guarantees about the objectivity of its service and once OFCOM had been given specific powers to monitor this and to apply sanctions if necessary. We recommend that there should be a stipulation that no broadcaster should be able to own more than 34%.*

31. The Government is considering removing the restrictions which allow a company to only hold one national analogue radio licence but to continue the requirement for one non popular music and one speech based national service. *This would have to be supported by strict requirements on the range of content that the service would supply, so that quality and choice for the listener can be guaranteed.*

32. We welcome the statement that the Government will consider the extension of community radio services nationally after the completion of the current pilots. We believe that the Government should support the establishment of a wider Community and Diversity Fund to invest in a wide range of community and social action media, including UK-wide and national initiatives. Spectrum needs to be safeguarded for new and existing public service media, on television and radio, at UK-wide, national, regional and local levels. *We will be asking Government to underpin its support for community media services with clear funding proposals, and with detailed proposals on spectrum allocation so that social and community radio and television services can be properly developed.*

### **Media ownership rules**

33. We would support investigation of the following two options as long as there is a requirement for the interests of citizens and consumers to be at the heart of the decision:

- reformulating 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
- establishing the same set of limits on all forms of cross-media ownership. For example, no owner may 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

### **Conclusion**

34. We believe a diverse and plural ownership structure accompanied by regulation that ensures long term investment in home made programmes – including regional and local programming - is the bedrock of a strong competitive industry which also serves our democracy and right to cultural diversity. We hope that the Government will consider and endorse this view and review its proposals accordingly.

Public Voice  
24<sup>th</sup> January 2002

### **Public Voice**

Public Voice is a voluntary sector network established to support, defend and protect public service broadcasting in all its forms now, and in the future. Public Voice campaigns to ensure that communications reform is led by public interest objectives, such as plurality of voice, impartiality and objectivity in news, diversity and quality of content, right across the market and to ensure there are sufficient safeguards in the future legislation and regulation to make this vision a reality.

Any voluntary or community organisation can join Public Voice. Our steering committee is made up of a number of agencies that have particular expertise in the voluntary and media sector, but we have a wide and active membership with new supporters arriving every day. Current supporters and members include: NCVO, The

Kings Fund, WWF, RSPB, NIACE, CAFOD, Age Concern England, Childline, RNIB, Oxfam, RNID, NFWI, CSV Media and the British Deaf Association.

### The Public Voice Steering Committee

Broadcasting Support Services is a charity which has been devising and providing flexible solutions to the public and voluntary sectors and broadcasters since 1975. It offers a full range of services including short- and long-term telephone helplines, donation processing, publishing, new media, fulfilment, Welsh bilingual services and consultancy. BSS provides office space and management support for the Public Voice campaign.

The Campaign for Quality Television was set up in 1988 to express the concern of programme makers about the then proposed de-regulation of television. After intensive activity around what became the 1990 Broadcasting Act it was re-launched in 1995 and has since published two major reports on the state of British broadcasting. The campaign exists to: promote the value public service television; ensure choice and quality for all viewers in the UK; ensure that public service television is adequately funded; to promote public debate about television; and to persuade legislators towards policies which are creative and imaginative and which treat the viewers as partners in the enterprise of television rather than simply as sources of revenue.

The Community Media Association (formerly the Community Radio Association), was founded in 1983 by audio production workshops, community radio projects, social action broadcasters, media activists and academics. It was set up with the aim to support a third sector of community media services alongside commercial broadcasters and the BBC.

The Media Trust works in partnership with the media to meet the communications needs of charities, voluntary organisations and community groups. It provides advice and support from media and communications professionals for the voluntary sector, makes videos and television programmes for and about the voluntary sector, offers volunteering opportunities for media professionals, and runs the Community Channel, a television channel for the voluntary sector.

The Third World and Environment Broadcasting Project (3WE) is a coalition of non-governmental organisations concerned with international development, environment and human rights issues. It works for sustained, imaginative and fair media coverage of developing countries, their people and the environment in which they live. 3WE's membership consists of the following leading non governmental voluntary organisations: ActionAid; Cafod; Christian Aid; Comic Relief; ITDG; Oxfam; RSPB; Save the Children; United Nations Association-UK; Unicef UK; Voluntary Service Overseas; Worldaware; and the World Wide Fund for Nature.

The Voice of the Listener and Viewer is an independent non-profitmaking association representing the interests of listeners and viewers across the UK. VLV is concerned with the structures, institutions, funding and regulation that underpin the British broadcasting system, and in particular with the principle of public service in broadcasting. It has over 2,000 individuals, nearly 50 academic departments and

organisations and nearly 30 corporate organisations in membership, including RNIB, RNID, RSPB, NSPCC, NFWI, Age Concern England, Help the Aged, IBT and the Parkinson's Disease Society.

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