

**A submission from SMG plc in response to:
*Consultation on Media Ownership***

25th January 2002



1. Executive Summary
2. Introduction
3. BBC
4. Non-substitutability of Media
5. Plurality and Diversity
6. Media Ownership
7. General Prohibitions
8. Television, Radio & the Press

1.0 Executive Summary

- As a successful and ambitious media company, with a unique UK media profile, encompassing television, radio, press, magazines, online, outdoor and cinema advertising interests, SMG welcomes the Government's commitment to reforming UK media ownership rules, which we regard as inconsistent, archaic and counter-productive.
- Our fundamental view is that it would be in the best interests of viewers, listeners and readers – in addition to media owners – for UK media ownership regulations to be dispensed with, in favour of conventional competition rules. However, we recognise that such a proposition does not satisfy the Government's concerns regarding plurality of ownership and diversity of content.
- Therefore, we propose a new regulatory framework that is simpler to administer; is consistent across television, radio and press; prevents over-domination of individual media sectors or across the UK media market as a whole; recognises the special significance of the UK's most important media assets; yet provides for reasonable growth among UK media owners.
- Based on the principle that media revenue = media power and vice versa, and overlaid by a schedule of Prime Media Assets whose concentration of ownership would be limited, SMG's media ownership proposal represents a pragmatic, workable solution that protects plurality of voice and diversity of content, whilst significantly reforming and simplifying existing regulations. The proposal also has the merit of providing certainty for media owners whilst being sufficiently flexible and robust to accommodate any technological or economic changes in the long term, without resorting to further changes in primary legislation.
- The BBC, as the largest single broadcaster in the UK should be regulated by OFCOM in order to ensure that its role as a public service broadcaster is regulated in the same manner as its commercial competitors, thereby ensuring a level playing field for all UK media owners.
- The BBC's influential position within the UK television and radio markets must also be considered by OFCOM when it is considering issues relating to concentration of media ownership. This issue is accounted for in SMG's media ownership proposal.
- The Government should acknowledge that different media are not substitutable by advertisers and that viewers, listeners and readers consume media in different ways across the day, thereby ensuring the independent existence of each media sector.
- SMG notes the Government's expressed views on plurality of voice and diversity of content and we agree that these are important aspects of the media market when considering issues of influence and democracy. However, we believe that to impede the development of UK media in pursuit of such goals would be against the interests of UK consumers and of democracy itself.

2.0 Introduction

2.0.1 UK media are the envy of the world. The quality and diversity of content presents the highest standards of information and entertainment to UK viewers, listeners and readers. Meanwhile, the range of media owners and plurality of voice reflected in that content helps to ensure that democracy is protected and freedom of speech maintained.

2.0.2 However, this is achieved against a background of one of the most regulated media environments in the world. An environment in which regulations are inconsistent across different media, are based on outdated views of the media world and which actively constrain the development of UK media companies.

2.0.3 SMG, as a successful and ambitious UK media company, has a unique cross media profile in terrestrial television, radio, newspapers, magazines, online, outdoor and cinema advertising. We recognise the value of our media's independent voice and are committed to editorial independence. We further understand the need to invest in high quality infrastructure and content (**see Appendix 1**) in order to compete for the attention of our viewers, listeners and readers.

2.0.4 We believe that for the Government to achieve its aim of creating the most dynamic and creative media market in the world, that UK media companies must be allowed to achieve sufficient scale to compete not only with each other, but also with their European and global counterparts. Only with scale can media owners invest sufficiently in new content and infrastructure, thus ensuring that the UK media market retains its reputation for high quality and independent content backed by extensive and appropriate consumer choice.

2.0.5 It is our fundamental view that UK competition law is sufficient to protect the interests of consumers in an environment in which technological advances are providing an increasing range of consumer choice and lowering barriers to entry.

2.0.6 However, we note the concerns expressed in the Government's consultation paper and have proposed an alternative media ownership regulatory structure which recognises the Government's wish to retain some level of control over plurality of ownership. Our proposal is based on the principle that turnover, derived from advertising, subscriptions and other sources, is directly linked to the power and influence of the media. The stronger the media brand, the more revenue and influence it commands, providing the ability to invest in content and infrastructure and thereby attracting increasingly large audiences.

2.0.7 This proposal also provides for meaningful growth by UK media owners allowing them to compete effectively in the modern media world.

2.0.8 The Government also raises a number of single medium ownership related issues, and we have set out our views on these further on in this submission.

2.0.9 In constructing our proposals, we have considered whether the BBC should be taken into account within media ownership rules. Our media ownership proposals are also predicated on the principle that different media are not substitutable. These points are discussed in more detail below.

3.0 BBC

3.0.1 In the appendices to this submission, we have excluded the BBC's revenues from our analyses, as we have no means of objectively determining how those revenues should be allocated across television and radio. Notwithstanding this, we believe it is imperative that the strength and position of the BBC be taken into account by OFCOM as part of its assessment of relevant markets when implementing media ownership rules, regardless of whether the BBC is wholly regulated by OFCOM or not.

3.0.2 The White Paper proposes the creation of "*a more level playing field, that is fair between different broadcasters, taking account of their differing missions and funding sources*" (5.4.1). Under the proposals for OFCOM, the BBC is still regulated through its Governors and reports to the Secretary of State for Culture, Media and Sport. (5.4.1, 5.8.6 and 5.8.7 Securing Quality).

3.0.3 The White Paper states in section 5.8.7 that OFCOM will "*give formal advice to the Secretary of State on the, often important, market impact of both proposals for new BBC public services and for material changes to existing ones, before he reaches a final decision*". This is not independent regulation and is not compatible with the "*more level playing field*" to which the paper refers.

3.0.4 The exclusion of the BBC from OFCOM's regulatory power is, in our view, in conflict with the Government's aim to create a more equitable, transparent and coherent regulatory system. We strongly recommend that OFCOM's backstop powers should apply to the BBC. This does not threaten the regulatory functions of the Governors, nor does it affect the BBC's editorial independence.

- 3.0.5** We believe that the Governors could continue their role in interpreting the BBC Charter and report to OFCOM, which would also take on the responsibility of approving new licence-funded, or subsidised, radio or television services and changes to the existing services.
- 3.0.6** We believe that a strong and well-resourced BBC should set the standard for public service broadcasting in the UK.
- 3.0.7** The increasingly commercial nature of state-owned public broadcasters, in particular the BBC, means that these broadcasters can use their privileged and protected positions to cross-subsidise their commercial activities. This represents unfair competition for a commercial sector funded solely by revenues it is able to generate.
- 3.0.8** Furthermore, this impacts on the entire public service broadcasting ecology in the UK, ultimately damaging public service broadcasting. The BBC is the benchmark that sets the standard. An increase in its commercial activities and in ratings-chasing creates a reaction in the commercial terrestrial broadcasters as they in turn become increasingly commercial in their activities. It is inevitable that public service broadcasting will suffer as a consequence.
- 3.0.9** It is also worth examining the operations and behaviour of the BBC compared with commercial competitors. The BBC:
- has guaranteed income of more than £2 billion
 - has no spectrum charge
 - is not required to return money to shareholders
 - is self-governing
- 3.0.10** The BBC currently also has an ability to behave in a way that the commercial sector cannot. For example, the recent shift in programming emphasis conducted by Radio 2 is an advantage not afforded to the commercial sector where radio operators are required to comply with fixed format guidelines.
- 3.0.11** Similarly, the BBC has the scope to drive audiences from TV to radio and magazines, and vice versa, enabling a significant level of cross-promotion not afforded to the commercial sector.
- 3.0.12** Consequently, we firmly believe that, in recognition of its influence and position in the UK media landscape, and its increasingly commercial activities, the BBC should be regulated by OFCOM. Furthermore, as stated in 3.0.1, the BBC should be included in any assessment of relevant markets.

4.0 Non-Substitutability of Media

4.0.1 Consumers want to be informed and entertained, how, when and where they choose and their specific circumstances at any given time dictate the appropriate medium. For example, they cannot substitute television for radio when they are driving their cars. Advertisers also want to have access to consumers when they are most receptive to advertising and in a format that is most appropriate to carry their message. Therefore the laws of supply and demand, and the distinctive characteristics of each medium, preclude the substitutability of individual media.

4.0.2 It is acknowledged that different media are appropriate for specific types of advertiser and product. For example, financial services companies have not used radio or television extensively as a main advertising medium for complex financial products due to the requirement to include financial “health warnings” on all advertising. However, radio has proved popular with dot.com companies, due to the demographics of the radio audience and because radio can be consumed while accessing the internet.

4.0.3 Further evidence that media are not generally substitutable is that little or no cross-selling exists across different media, even where there is common ownership. Indeed, the structure of advertising agencies generally works against anything other than a strictly sectoral approach to advertising sales.

4.0.4 It is also worth noting that rulings in recent media merger investigations referred to the Competition Commission have recognised that different media sectors are not generally substitutable.

5.0 Plurality and Diversity

5.0.1 However, the Competition Commission’s views on this issue scrutinise only the commercial aspects of media ownership and do not address the Government’s concerns on plurality, diversity and media influence. Consequently, any media ownership proposals must deal with these concerns.

5.0.2 We agree with the Government’s view that existing media ownership legislation in the UK is outdated and requires review. We further recognise that the question of ownership is vital to democracy and therefore warrants careful consideration.

5.0.3 However, we are firmly of the view that to impede the growth and development of UK media and media owners in the name of plurality and diversity is against the interests not only of UK media consumers, but also of the process of democracy itself.

5.0.4 As a result of the above points, our media ownership proposal has been refined to take into account: the BBC; that media are not generally substitutable by advertisers; and the Government's expressed concerns about plurality, diversity and media influence.

6.0 Media Ownership

6.0.1 In our submission in response to the Government's White Paper, "*A New Future for Communications*", SMG proposed that existing media ownership rules be replaced by competition rules – a principle to which we still subscribe. However, the Government has subsequently made it clear that it believes that competition law alone is insufficient to ensure plurality of voice and diversity of content.

6.0.2 In anticipation of resistance to immediate change of this nature, SMG had suggested a transitional proposal, based on financial turnover, in recognition of the strong correlation between financial revenue and the ability of media owners to invest in content and therefore attract and influence audiences. However, the Government has also indicated that neither does it believe that financial measures alone are sufficient to protect plurality and diversity.

6.0.3 SMG has therefore developed and refined its transitional media ownership proposal, to take into account the Government's views. We believe that this proposal addresses the Government's concerns about plurality and diversity and that it safeguards democracy whilst encouraging an open and competitive market.

6.0.4 The Government's stated aim is to ensure that the citizens of the United Kingdom continue to receive a diverse range of views from its media. This is vital to the process of democracy and it is the view of Government that market forces alone are insufficient to ensure that this continues.

6.0.5 We believe that this proposal offers a practical and holistic structure that meets the Government's objectives and takes into account a changing media landscape. It will also encourage competition and economic growth whilst safeguarding the role of the media in public debate and opinion-forming.

6.0.6 Our proposal is based on the general premise that a media owner's ability to invest in content (including content capable of and liable to influence the thoughts and actions of the general public), directly corresponds to that media owner's financial clout i.e. the higher the level of revenue, the more the ability to invest in content and, indeed, infrastructure, thus attracting larger audiences, which in turn equates to media power. In its purest form, revenue equals influence and power.

6.0.7 We recognise that account may need to be taken of assets which have relatively small financial turnover but have significant media influence albeit these are intrinsically exceptional.

6.0.8 However, we accept that there are special media assets which, due to their size of audience, profile of audience or their public perception, are particularly influential and therefore may be worthy of overriding ownership regulation, in order to prevent undue concentration of power, at least in the short/medium term. We have defined these as Prime Media Assets.

6.0.9 Furthermore, in London in particular, and in the South East in general, there is a high concentration of media and of population. It is our view that our proposal deals with these anomalies in a transparent, practical and workable manner.

6.0.10 In setting out how this proposal would look in detail and work in practice, we have modelled the existing UK media landscape in financial turnover terms, both in relation to each media sector and across all sectors. This analysis also sets out the regulatory headroom available by sector and in total for the main UK media players. We have also documented national circulation statistics for newspaper owners (and associated headroom) as well as listing current ownership of key UK national/London media assets which we have designated as the Prime Media Assets, based on the broad parameters that follow, or on other realistic but essentially subjective criteria.

6.0.11 In constructing this proposal, we have omitted the BBC from UK television and radio markets and have included only the commercial sector, but we would re-iterate our final point in 3.0.1 that it is imperative that the BBC is included in any analysis of the UK market, regardless of whether the BBC is wholly regulated by OFCOM or not. The key components of the proposal are as follows:

- No one company can control more than 30% by financial turnover of any one regulated media sector, namely television (including advertising, subscription and licence fee revenues), newspapers (principally advertising, sponsorship and circulation revenues) or radio.
- No one company can control more than 25% of total UK media financial turnover across all sectors.
- In respect of certain key UK national/London media assets, no one company can control more than five “Prime Media Assets” and, of these five, no more than two can relate to the London market.

NB We do not propose that these criteria be applied retrospectively.

- 6.0.12** For the avoidance of doubt, we contend that when considering concentration of ownership issues in the television and radio sectors, a proportionate allocation of the BBC's turnover, including licence fee revenues, should be included in the assessment of that relevant market.
- 6.0.13** The limits and key assets noted above would be reviewed regularly to ensure that the regulations are flexible over time as the UK media landscape develops, whether in respect of new entrants, market/sector size, ownership concentration or technological innovation.
- 6.0.14** Our proposal also has the advantage of applying equal limits across all sectors with the common currency of financial turnover measures allowing for ease of aggregation across sectors.
- 6.0.15** Set out below are the implications of our suggested proposal for each media sub-sector, as well as total UK media. We have also commented on how Prime Media Assets are/could be defined.

6.1 Television

- 6.1.1** Turning firstly to the UK TV market (**Appendices 2 & 3**) it is clear that a 30% financial turnover limit would broadly allow the UK TV sector to consolidate over time to a number of main players, namely:
- BSkyB as the main satellite player
 - One ITV
 - NTL and Telewest could merge into one Cable company
 - Channel 4
 - Channel 5
 - BBC
- 6.1.2** The ability to own both Channel 3 and Channel 5 does not currently exist, nor would it initially, based on the system and figures shown in Appendices 2 & 3.
- 6.1.3** It is worth noting that the figures we have used will be distorted in relation to wholesale platform revenues between Sky and other TV operators. However, given the limitations of our information sources, we are unable to break this down further. Also, the NTL and Telewest figures we have used will contain some telephony revenue which should be excluded from this market analysis.

6.2 Newspapers

6.2.1 Moving on to the UK newspaper market, (**Appendices 4, 5 & 6**), it is clear that four main players currently exist across both national and local/regional press: DMGT (18%); News International (15%); Trinity Mirror (15%); Newsquest (10%). A financial turnover limit of 30% would provide all of these players with significant room to grow, albeit subject to the Prime Media Asset test. However, national and regional newspapers should be treated as separate markets.

6.2.2 In relation to the national newspaper market, we considered whether, to ensure plurality and diversity, we should introduce an additional national newspaper circulation threshold (say 35%). However, we took the view that, given that we have introduced a Prime Media Asset test and the fact that competition rules would ensure that an over-concentration in the national newspaper market would be prevented, then this additional national circulation test could be dispensed with.

6.3 Radio

6.3.1 In the UK radio market (**Appendices 7 & 8**) it is evident that a 30% revenue threshold would enable all major players to grow. This would also allow for a significant level of consolidation with a number of permutations possible. In short, following any consolidation, three large players could emerge, with the remainder of the sector owned by either one organisation or a number of small players.

6.3.2 Radio is a much smaller medium than newspapers or television in the UK and we are conscious that there are other proposals to increase ownership limits to 50% of the commercial radio sector. However, our proposal to limit single ownership to 30% of total radio market revenues (including, say, £300 million of BBC licence fee revenues) has a broadly similar result to the joint CRCA/RA proposal. In addition, our proposal takes into account both the strength of BBC radio and the fact that most commercial radio operators are music rather than speech-based.

6.3.3 This would move closer to the level of liberalisation proposed by the CRCA & RA, with the added benefit of being less complex and simpler to regulate.

6.4 Total UK Media Market Share

6.4.1 **Appendix 9** lists the key UK media players and their associated market share across TV, radio and newspapers and also in total market terms (the latter shown by bar chart in **Appendix 10**). Of the 37 companies listed, News Corp would currently be the most constrained but would still be able to grow its UK media business by close to £600m of financial revenue. This figure would increase over time as markets develop, subject to sector and turnover limits and Prime Media Asset tests.

6.4.2 All other UK media companies would be able to increase UK media revenues by approximately £2-3 billion, again, subject to the above parameters.

6.5 Prime Media Assets

6.5.1 This test relates to key UK national/London media assets and addresses the Government's concerns re plurality of ownership and concentration of national broadcast assets as well as advertisers' concerns over the London market place.

6.5.2 **Appendix 11** lists suggested Prime Media Assets, together with their current ownership. Prime Media Assets include those that:

- have UK national reach; or
- have significant influence over the population at large; or
- have significant influence over specific niche audiences

6.5.3 The list is intrinsically subjective and would require periodic review by OFCOM who would have the power to initiate a review. In recommending any changes to the PMA list, this could be done by way of a statutory instrument allowing Parliament to debate the issue, if required. The Secretary of State would be responsible for making the announcement post the Review with the obligation to explain the change.

6.5.4 As part of any announcement, the Secretary of State would be required to explain the reason for the change in Prime Media Assets in order to ensure transparency. This would provide flexibility and allow the addition of new Prime Media Assets (e.g. a new entrant taking significant market share or a publication gaining a significant readership on a new technological platform) or the removal of existing ones.

6.5.5 The concept of identifying Prime Assets that cannot be held by one owner is not a new one: relevant precedents include key ITV licences and Sporting Listed Events. In relation to how Prime Media Assets are defined, an initial list could be drawn up based on a number of broad parameters, such as:

- TV – national UK analogue reach or pay/free (bundle) digital subscribers of > 2 million households
- Newspapers – UK national titles with circulation of > 350,000
- Radio – analogue reach or listening hours (more appropriate than purely reach) per quarter of > 20 million hours

6.5.6 The parameters suggested above would only be guidelines as to what might constitute a Prime Media Asset but the designation would ultimately be determined by Government. For example, if the Financial Times' circulation fell below the above figure, it would remain a Prime Media Asset, unless the process outlined above stipulated otherwise.

6.5.7 This would allow the system to capture assets which have an ability to influence a powerful niche audience.

6.5.8 Consideration would also need to be given as to how the ownership and tactical use of influential equity stakes would be incorporated into the ownership regime, in particular with regard to Prime Media Assets.

6.6 Merits of the SMG proposal

6.6.1 In considering the merits of the proposal set out above, the following points are relevant:

6.6.2 The Government's objective of maintaining plurality of voice and diversity of content would be upheld with each media sector requiring at least four players. Given the additional Prime Media Asset test, key UK national/London media assets could not be concentrated in the hands of fewer than seven media owners.

6.6.3 For advertisers, in addition to the financial turnover market share thresholds, the Prime Media Asset test, incorporating both London ITV franchises, the largest selling London newspaper and the biggest London radio station (in revenue terms), would effectively prevent one player dominating the London market place. Should the Government feel that certainty is required in this regard, given the importance of the London advertising market, a further refinement could be added which would stipulate that within the limit of five Prime Media Assets, only two could relate to London.

6.6.4 The threshold of 30% of market share by financial turnover results in a minimum of four players by media sector, similar to the Competition Rules 25% trigger for investigation. For the media sector as a whole, the 25% threshold of total advertising revenue prevents an over-concentration of influence and media power. As such, these provisions could enable a smooth transition to Competition Rules, should the Government consider this desirable in the future.

6.6.5 The Government could also show that in adopting this proposal, it has moved to a system of national regulation and had dispensed with convoluted and illogical local/sub-national cross-media regulations, thereby liberating UK media businesses.

6.6.6 Similarly, it could also be demonstrated that legislation had paved the way for one ITV.

6.6.7 In regulating this system over time, OFCOM could simply design a *pro-forma* revenue return, as is currently used within the existing TV Licence agreements, which all (TV, Newspaper and Radio) media owners would complete at each calendar year end. Using financial turnover has the advantage of being easily measurable and is objective, transparent and easy to comply with, as companies already prepare turnover figures.

6.6.8 The system would also be self-regulating in that companies would file the return, with OFCOM having a right of audit with severe penalties encouraging compliance (eg licence withdrawal and/or heavy fines).

6.6.9 Our proposal provides media owners with well-defined, quantifiable ownership rules, allowing them to plan, against a background of clarity and certainty. It also has the merit of being sufficiently flexible and robust to accommodate any technological or economic changes in the long term.

7.0 General Prohibitions

7.0.1 Whilst SMG supports the liberalisation of media ownership rules, we believe that there is potential for serious conflicts of interest should local authorities and/or advertising agencies be permitted to become media-owners. Local authorities are to some extent held accountable by their local media, and are often heavy advertisers in local press in particular. Advertising agency-owned media could lead to various anti-competitive practices.

7.0.2 We concur with the Government's view that the existing ban on media ownership by political organisations should be retained.

7.0.3 Notwithstanding SMG's views on liberalisation of media ownership regulation, we note that, in view of existing regulations preventing UK media companies from owning media in certain other non-EU countries, the Government proposes to retain existing restrictions on non-EU media ownership in the UK. While we regret the protectionist nature of such regulations, we regard them as equitable in the face of similar stances elsewhere.

7.0.4 In the current multi-channel environment, where television viewers have access to a wide choice of specialist programming and channels, the ownership of broadcast media assets by specific religious organisations is no longer an issue for primary legislation. It is our view that, so long as existing regulations concerning taste and decency are observed, and there is transparency of ownership and of intrinsically partial views being expressed, the need for regulation of ownership of such broadcast licences does not exist.

8.0 Television

8.0.1 We support the Government's proposal to remove the restrictions that currently prevent the single ownership of the two London ITV licences. However, we note also that, in the short term, due to the importance of the London market in ITV's revenue, such a proposal would currently present significant competition issues requiring examination by the competition authorities.

- 8.0.2** In the Communications White Paper, the possibility that the 15% limit in share of audience would be replaced by another measure was suggested. We welcome the decision to remove the limit completely as it recognises that it is a barrier to the growth of successful and ambitious broadcasters, who wish to gain scale in the market place. Removal of this limit and the change proposed in Section 6.2.1 will effectively lift the barriers that prevent the creation of a single ITV. This is a sensible development given the viewer choice that now exists and the competition faced by the traditional terrestrial broadcasters for viewers and advertisers in a multi-channel world.
- 8.0.3** Whilst we do not regard the creation of a single ITV as inevitable or essential, we nevertheless believe that it is sensible to place the approval of any further consolidation in the hands of the Competition Commission.
- 8.0.4** With such a dynamic market place, we welcome the removal of regulation from primary legislation and believe strongly that OFCOM should have the power to decide on such matters in the future, subject to the approval of the Secretary of State. This will help achieve the Government's aim of a dynamic market place but with in-built flexibility in the regulation of the market.
- 8.0.5** ITV and C5 together will account for approximately £2bn of advertising revenue in 2002. ITV has an audience share of 27% and C5 has an audience share of 6%. In terms of their share of total audience at 33% across all-day and 41% in peak-time, it is not dissimilar to the combination of BBC1 and BBC2. The combined share of advertising, however, at 63% of total TV advertising revenue will currently cause problems with the Competition Commission and advertisers and could constitute a dominant position. This is likely to change over time and, if the intention is for this legislation to "stand the test of time", we would propose that any such consolidation is not expressly prevented in the Act, but could be permitted at some time in the future given the right market conditions. BBC and C4 are both financially protected to varying degrees. Neither has to pay a spectrum tax or provide returns to shareholders, thus placing them in a very privileged position. Furthermore, BBC's income is guaranteed. This is not the case with the free-to-air channels, such as ITV and C5 that rely upon advertising revenue alone. Allowing the combination of ITV and C5, when the conditions are right to do so, would create a commercial competitor with two mainstream channels to challenge the BBC, and provide the scale to compete against the multi-channel offering.
- 8.0.6** We welcome the decision to allow OFCOM to revoke the Nominated News Provider status for ITV and advise when it is appropriate to do so. ITV is a broadcaster that does not own and manage its own news operation. This is an anomaly in the digital world, when consumers are able to gain access to news and information 24 hours a day from across the world. ITV, as a main-market popular channel, is more than capable of providing the resources required to deliver this service direct to the viewers. The case for an independent news supplier to ITV is no longer sustainable.

8.0.7 In keeping with our views on the Nominated News Supplier system, we welcome this change but would propose that, under the same guidance from OFCOM, the Government goes further and allows ITV eventually to own and manage the news service.

8.0.8 With competition from BBC, Sky and all other news channels on a multitude of platforms, ITV would require to resource its own news service at the level of quality currently delivered by ITN or risk losing a valuable commercial news-watching audience.

8.1 Radio

8.1.1 We believe that the existing points system should be abolished and replaced by a regime that allows UK radio owners specifically, and media owners in general, to achieve appropriate scale.

8.1.2 We also recognise the commitment of the regulator to ensuring plurality of voice and diversity of content for the listener.

8.1.3 We believe that any proposed market measurement systems should also include all local commercial services available to the listener, including Access Radio.

8.1.4 We note the CRCA/Radio Authority position of ensuring a minimum of two commercial radio owners in any given market with the largest group controlling no more than 50% of the potential audience market as measured by aggregated station Measured Coverage Areas. However, within the context of our overall cross-media proposal based on financial turnover, we believe 30% of radio revenues overall (including the BBC) would represent a more appropriate threshold.

8.1.5 For the reasons outlined in 8.1.4 above, we also support the removal of the limit of ownership of one national station per group.

8.1.6 We believe that the ownership proposal for a given market provides a workable solution, which can be extended to the digital service provider market.

8.1.7 In common with the CRCA position, we believe that content regulation based around maintaining an agreed format, will maintain the character of the service and therefore believe that there is no need for regulation to prevent the onward sale of radio licences.

8.2 The Press

- 8.2.1** Our overall media ownership proposal overrides some of the issues raised specifically under Press in the Government's discussion paper but there are a number of specific points that are important.
- 8.2.2** Whilst we believe there are strong arguments in favour of normal competition law regulating newspaper ownership we do recognise the uncertainty such an approach may generate in protecting plurality. Within the context of newspaper mergers we would therefore welcome, as an alternative, the "lighter touch" approach, if complete abolition is not judged appropriate.
- 8.2.3** We welcome the comments (*Consultation on Media Ownership Rules* paragraph 6.4.4) that the continuation of the newspaper regime could be rationalised and better targeted. We would contend that the concerns as to freedom of expression are less acute for the regional press and note that since 1980, only three cases out of 170 have been refused. We therefore welcome the recognition of the need for, and benefit from a distinction between national and local/regional press and the implementation of a lighter touch approach to the regulation of regional/local press mergers.
- 8.2.4** We welcome and endorse the proposal to remove local newspapers from the regime entirely since we regard the incidence and cost of compliance with current regulation to be disproportionate. Adequate safeguards arise from the reality imposed unremittingly by the market, namely that a local paper carrying the views of a remote "proprietor" will all too quickly be shunned by local communities, served as they are by an abundance of other competing media, many of which will be part of and reflect the needs of their locality. We recognise that such an approach would demand a clear definition of what constitutes a local newspaper.
- 8.2.5** It is our view that the definition be based on geographical concentration of circulation. A local newspaper for these purposes would be a title (the editorial and commercial content of which was common across each edition, as published on each publication day) where no less than 75% of its circulation, paid for or free, was confined to one homogenous and discernible area of the UK. So, for these purposes, it is likely that *The Scotsman* or *Yorkshire Post* would be local newspapers. We make this recommendation solely in the context of a "lighter touch" regime applying to the merger/acquisition of local/regional newspapers.
- 8.2.6** In determining which press titles are excluded from the regime (if it is not abolished), we believe that our definition offered above is preferable to one based on frequency of publication (*Consultation on Media Ownership Rules* paragraph 6.4.8).

- 8.2.7** The interests of a level competitive arrangement in such a light touch regime (*Consultation on Media Ownership Rules* paragraph 6.4.11) would justify extension of this regime to all qualifying acquisitions, irrespective of whether the potential owner is a newspaper proprietor or not.
- 8.2.8** In light of our comments in 8.2.3 above, we believe that a workable definition of local newspapers can be arrived at and that this should be the criterion rather than excluding titles with limited circulation or production, or reliance upon the general merger regime thresholds. Such an approach offers the prospect of defining “local” by reference to an identifiable community of shared interest or shared sense of identity which we regard as beneficial.
- 8.2.9** Subject to the exclusion of local newspapers (and therefore the adoption of a definition of local), we would endorse the repeal of special newspaper provisions and the creation of exceptional public interest gateways, allowing the Secretary of State to call in any merger which gave rise to concerns over freedom of expression (*Consultation on Media Ownership Rules* paragraph 6.4.14). We think it is essential, given the importance of such decisions to the democratic process, that a Minister answerable to Parliament should take the ultimate decision.
- 8.2.10** We regard criminal sanction as unprecedented and unnecessary.

25th January 2002

Appendix One

1. Company Background

1.0 SMG originated from the ITV franchise, Scottish Television, which acquired Caledonian Publishing (The Herald and Evening Times) in 1996, Grampian Television in 1997, Pearl & Dean and Primesight in 1999 and Ginger Media Group (including Virgin Radio) in 2000. SMG also has a minority interest in the national Channel 3 breakfast-time broadcaster, GMTV, in Scottish Radio Holdings plc, the principal commercial radio operator in Scotland and in Heart of Midlothian plc, the Scottish Premier League football club.

1.0.1 The Group employs over 1,700 staff at its main operations in Glasgow, London, Aberdeen and Edinburgh.

1.0.2 We believe strongly in investing in our businesses to enhance the quality of our products for the benefit of our viewers, listeners and readers. Our track record in this area, embracing new technology and improving our existing products and services is well-documented.

1.0.3 We are also strongly committed to the promotion of and preservation of regional media that satisfy the needs and aspirations of local viewers, listeners and readers in addition to those of local and national advertisers.

1.1 Investment in Infrastructure

- We are currently constructing a new printing facility for our publishing division at a cost of £38 million, due for completion in 2002. This will enable increased pagination and the introduction of more colour in our newspapers, producing a higher quality product for our readers.
- The new state-of-the-art extension to our Glasgow headquarters, recently built to accommodate editorial and advertising staff within our publishing division, cost over £25 million. In 1999, we opened new premises in a central London location to house our London-based outdoor and cinema advertising businesses in addition to the London offices of our newspaper and television broadcasting operations.
- We are also currently upgrading our studios and offices in Golden Square, London, the home of Virgin Radio, at a cost of almost £2 million.

1.2 Investment in Technology

1.2.1 Over three years we will have invested over £15.0 million pounds in our television facilities. A digital/computerised news facility was designed, built and implemented in our Glasgow studios, along with desk-top editing for journalists, creating one of the most advanced newsrooms in Europe.

A new digital outside broadcast unit cost £1.5 million and the upgrading of Grampian Television's existing technical facilities in Aberdeen Dundee and Inverness amounted to £5.0 million. In 2001 we upgraded our studio facilities in Glasgow with wide-screen technology at a cost of £1.5 million

- 1.2.2 SMG Radio continues to be at the forefront of investment in new technology, particularly in new broadcasting platforms e.g. digital radio, internet broadcasting and other broadband media.

1.3 **New Product Development**

- 1.3.1 **Sunday Herald** – launched in 1999, now the 3rd biggest-selling Sunday broadsheet in Scotland, the most competitive newspaper market in the UK. The newspaper was awarded Best European Sunday Newspaper of the Year 2000 and The Royal Bank of Scotland Newspaper of the Year 2001.

- 1.3.2 **s1** – a suite of web sites aimed at the Scottish market, the first of which, s1jobs.com, was launched in January 2001 and is already Scotland's leading recruitment website. This has been supplemented by S1play.com and s1homes.com.

- 1.3.3 **Digital Radio** – As well as broadcasting nationally on the Digital One Multiplex, Virgin Radio also operates The Groove, a classic soul-based digital station in London, to be augmented by Liquid Radio aimed at a young audience, early in 2002.

Virgin Radio currently invests £1.2 million in digital radio.

1.4 **Diversity of Content**

- 1.4.1 Our investment programme is evidence of our commitment to the provision of a wide range of high-quality content, delivering the highest standard of information and entertainment to our viewers, listeners and readers.

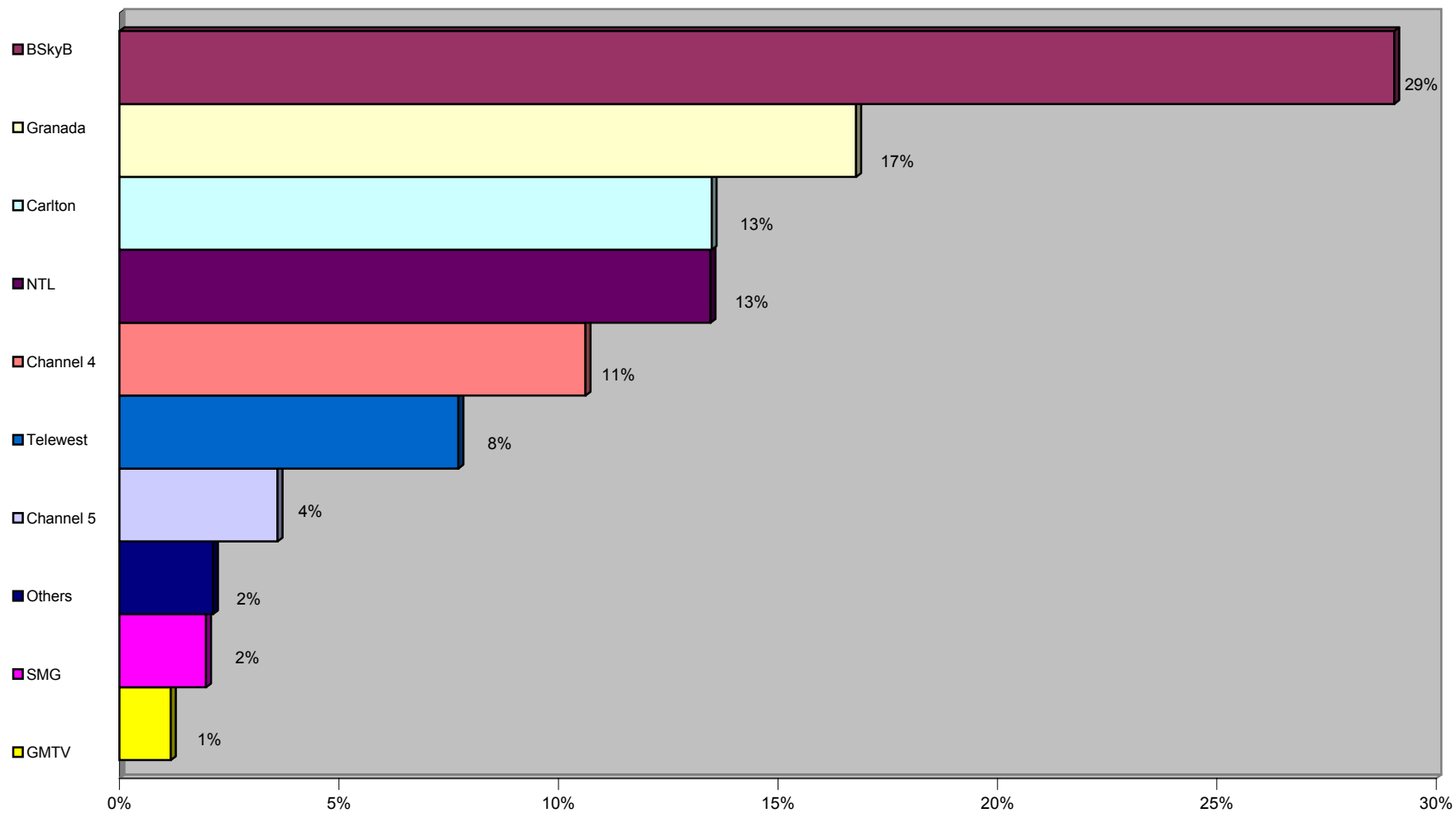
- 1.4.2 Furthermore we are totally committed to preserving the editorial integrity of our media. Whilst the editorial impartiality of our television and radio stations is protected by law, our newspapers have an equally strong reputation for fairness, accuracy and the balanced nature of their coverage.

Note	Company	Licence Fee	Advertising	Subs/Pay TV	Total	%
2	BBC				0	0%
3	BSkyB		242	1492	1734	29%
1	Granada		1002.15		1002.15	17%
1	Carlton		805.65		805.65	13%
7	NTL		124	680	804	13%
4	Channel 4		634		634	11%
5	Telewest		62	399	461	8%
4	Channel 5		215		215	4%
4	Others		57.3	70	127.3	2%
1	SMG		117.9		117.9	2%
6	GMTV		70		70	1%
	Total		3330	2641	5971	100%

Notes

- 1 ITV advertising revenue was £1.965 billion in 2000 (Source - Silver 3 year plan). This is split on basis of NAR share, being Granada - 51%, Carlton - 41%, SMG - 6%, Other - 2%.
- 2 Total BBC licence fee revenues was £2.285 billion in 2000 (Source - BBC Annual report 2001). BBC revenue is however excluded from the above analysis.
- 3 Source : SSSB's broker's estimates at 18 June 2001
- 4 Source : STV Licence Renewal Application at September 2000
- 5 Source : Telewest Comms plc statutory accounts for year ended 31 December 2000, split Telewest cable TV - £279m, Flextech content - £182m. Flextech content is included on a pro-forma basis for the full year (acquisition completed on 19 April 2000)
- 6 Source : GMTV statutory accounts for year ended 31 December 2000
- 7 Estimate. NTL UK Consumer division revenue was £1,290m for the year to 31 December 2000. This includes cable TV, residential telephony and broadband access. No published sub-analysis of this total is available, however given the NTL cable TV subscriber base is estimated to be larger than that of Telewest, the above revenue estimate may be prudently overstated.

UK Television Market



Notes	Publisher	National	%	Regional	%	Total	%
2	Daily Mail & General Trust	806	22.55%	437	13.27%	1243	18.10%
10	News International (News Corp)	1,042	29.16%		0.00%	1042	15.18%
1	Trinity Mirror	532	14.89%	465	14.13%	997	14.53%
	Newsquest Media Group (Gannet Inc)			715	21.73%	715	10.42%
7	Telegraph Group (Hollinger)	364	10.18%		0.00%	364	5.30%
6	Pearson	307	8.59%		0.00%	307	4.47%
3	Johnston Press			293	8.90%	293	4.27%
9	Express Newspapers (Northern & Shell)	246	6.88%		0.00%	246	3.58%
4	Independent News and Media	171	4.78%	72	2.19%	243	3.54%
	Regional Independent Media			235	7.15%	235	3.43%
	Others			222	6.76%	222	3.24%
8	Guardian Media Group	106	2.97%	110	3.34%	216	3.15%
	The Midland News Association			158	4.80%	158	2.30%
5	Eastern Counties Newspapers Group			119	3.61%	119	1.73%
12	SMG			70	2.13%	70	1.02%
11	Scotsman Publications			64	1.94%	64	0.93%
	Yattendon Investment Trust			63	1.91%	63	0.92%
	DC Thomson			61	1.85%	61	0.89%
	Kent Messenger			54	1.64%	54	0.79%
	CN Group			35	1.07%	35	0.51%
	Tindle Newspapers			35	1.05%	35	0.50%
	North Wales Newspapers			34	1.02%	34	0.49%
	Local Sunday Newspaper Group			25	0.77%	25	0.37%
	Clyde & Forth Press			24	0.74%	24	0.35%
	Total	3,574	100.00%	3292	100.00%	6866	100.00%

Sources/Notes

- 1 Trinity Mirror Statutory Accounts, year ended 31 December 2000
 - 2 Daily Mail & General Trust Statutory Accounts, year ended 30 September 2000
 - 3 Johnston Press Statutory Accounts for year ended 31 December 2000
 - 4 Independent News & Media Statutory Accounts, year ended 31 December 2000 - split between National and Regional is estimated
 - 5 Eastern Counties Newspaper Group Statutory Accounts, year ended 31 December 2000
 - 6 Estimated based on Pearson Group Statutory Accounts for year ended 31 December 2000. FT group total revenue is £844 million including Les Echos, Recoletos and Interactive Data Corporation. Estimate of revenue of FT Newspapers based on operating profit split (39% of total FT Group operating profit) is £312m.
 - 7 Telegraph Group Statutory Accounts for year ended 31 December 2000
 - 8 Guardian Newspapers Limited Statutory Accounts, year ended 1 April 2001 - split between National and Regional is estimated
 - 9 Express Newspapers Limited Statutory Accounts, year ended 31 December 2000
 - 10 NewsCorp Investments Statutory Accounts, year ended 30 June 2000
 - 11 Scotsman Publications (Holdings) Limited Statutory Accounts, year ended 31 December 2000
 - 12 SMG plc, Statutory Accounts, year ended 31 December 2000
- All other revenue data is estimated based on circulation data

Circulation data :

National Newspapers - 6 months to 30 June 2001 (ABC)

Regional Publishers - Newspaper Society Intelligence Unit at 1 July 2001

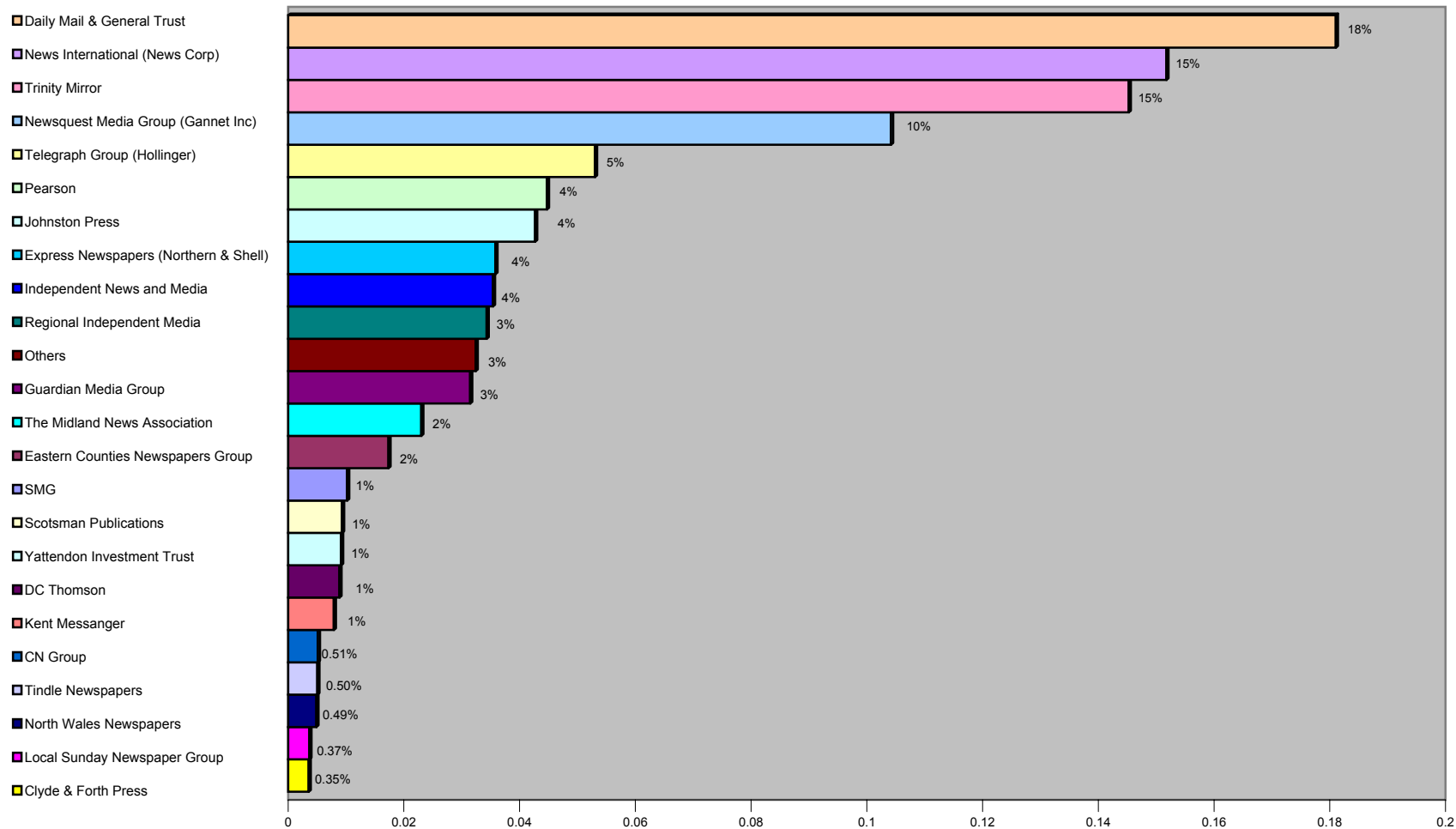
Market size : Advertising Association/World Association of Newspapers

Advertising Market : World Association of Newspapers 2000 estimate - £5,019 million (split National - £2,257 million, Regional £2,762 million)

Circulation Market : World Association of Newspapers 1999 estimate + assumed growth of 3% in 2000 - £1,847 million (split National - £1,317 million, Regional £530 million)

Implied Market size (includes advertising and circulation) :	National	357400.00%
	Regional	329200.00%

UK Newspaper Market



Current system re circulation test

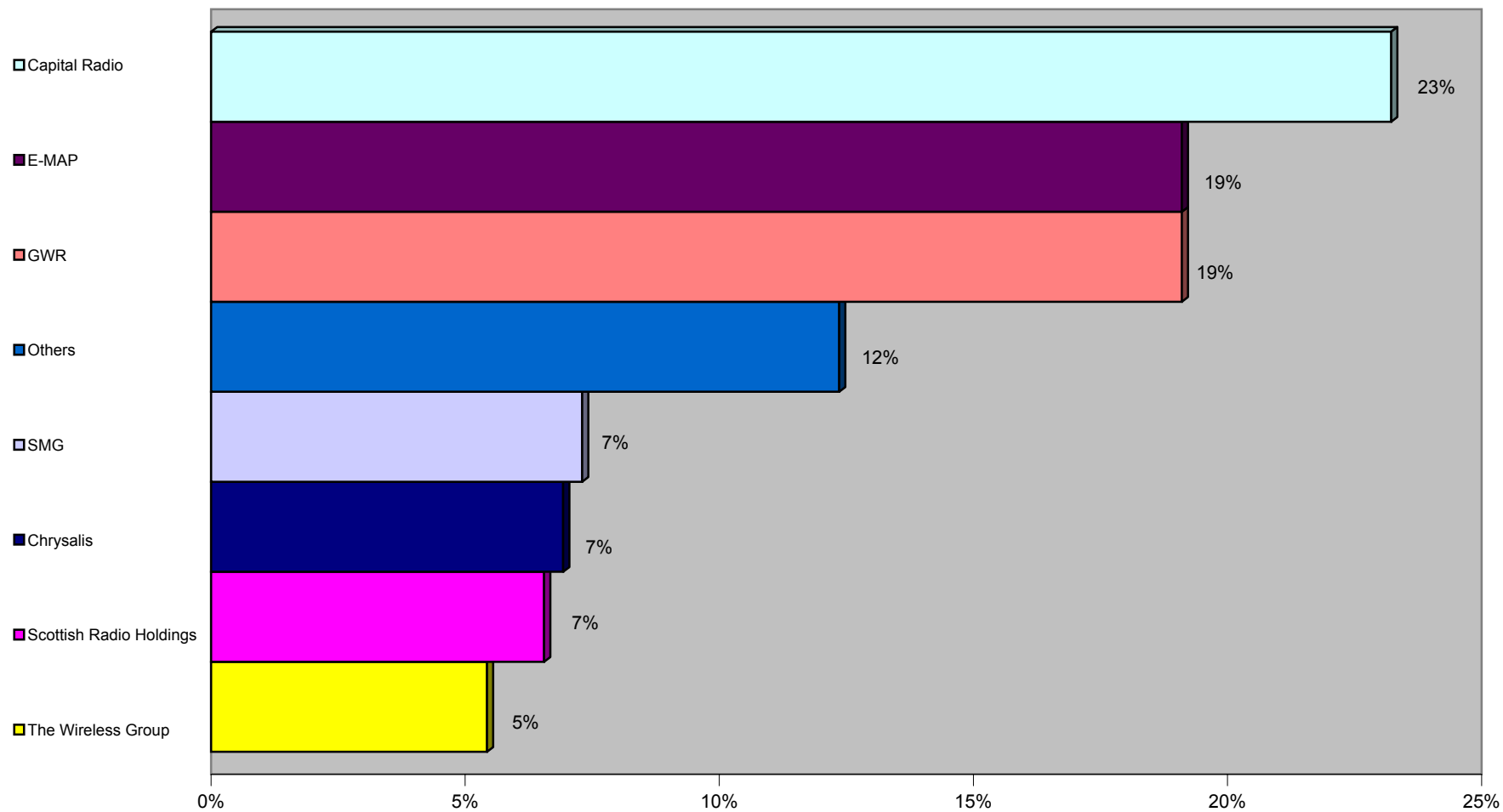
Publisher	Title	Average Circulation	Frequency	%	%
<u>National</u>					
Trinity Mirror	The Mirror	2,221,749	Daily	8.0%	
Trinity Mirror	Daily Record	601,567	Daily	2.2%	
Trinity Mirror	Racing Post	79,853	Daily	0.3%	
Trinity Mirror	Sunday Mail	706,855	Sunday	2.5%	
Trinity Mirror	Sunday Mirror	1,872,433	Sunday	6.7%	
Trinity Mirror	Sunday People	1,399,711	Sunday	5.0%	24.6%
Telegraph Group	The Daily Telegraph	1,023,016	Daily	3.7%	
Telegraph Group	The Sunday Telegraph	809,284	Sunday	2.9%	6.6%
Pearson	Financial Times	478,715	Daily	1.7%	1.7%
Northern & Shell	Daily Star	616,603	Daily	2.2%	
Northern & Shell	Daily Express	962,828	Daily	3.4%	
Northern & Shell	Sunday Express	903,125	Sunday	3.2%	8.9%
News International	The Sun	3,513,685	Daily	12.6%	
News International	The Times	715,535	Daily	2.6%	
News International	News of The World	4,032,179	Sunday	14.4%	
News International	The Sunday Times	1,375,103	Sunday	4.9%	34.5%
Independent News and Media	The Independent	228,830	Daily	0.8%	
Independent News and Media	Independent on Sunday	243,477	Sunday	0.9%	1.7%
Guardian Newspapers	The Guardian	408,656	Daily	1.5%	
Guardian Newspapers	The Observer	468,379	Sunday	1.7%	3.1%
Daily Mail & General Trust	The Daily Mail	2,467,799	Daily	8.8%	
Daily Mail & General Trust	London Evening Standard	427,543	Daily	1.5%	
Daily Mail & General Trust	The Mail on Sunday	2,381,408	Sunday	8.5%	18.9%
Total		27,938,333		100.0%	100.0%

Note	Company	Revenue	%
	BBC		
1	Capital Radio	124	23.2%
2	GWR	102	19.1%
3	E-MAP	102	19.1%
8	Others	66	12.4%
4	SMG	39	7.3%
5	Chrysalis	37	6.9%
6	Scottish Radio Holdings	35	6.6%
7	The Wireless Group	29	5.4%
	Total	534	100%

Notes

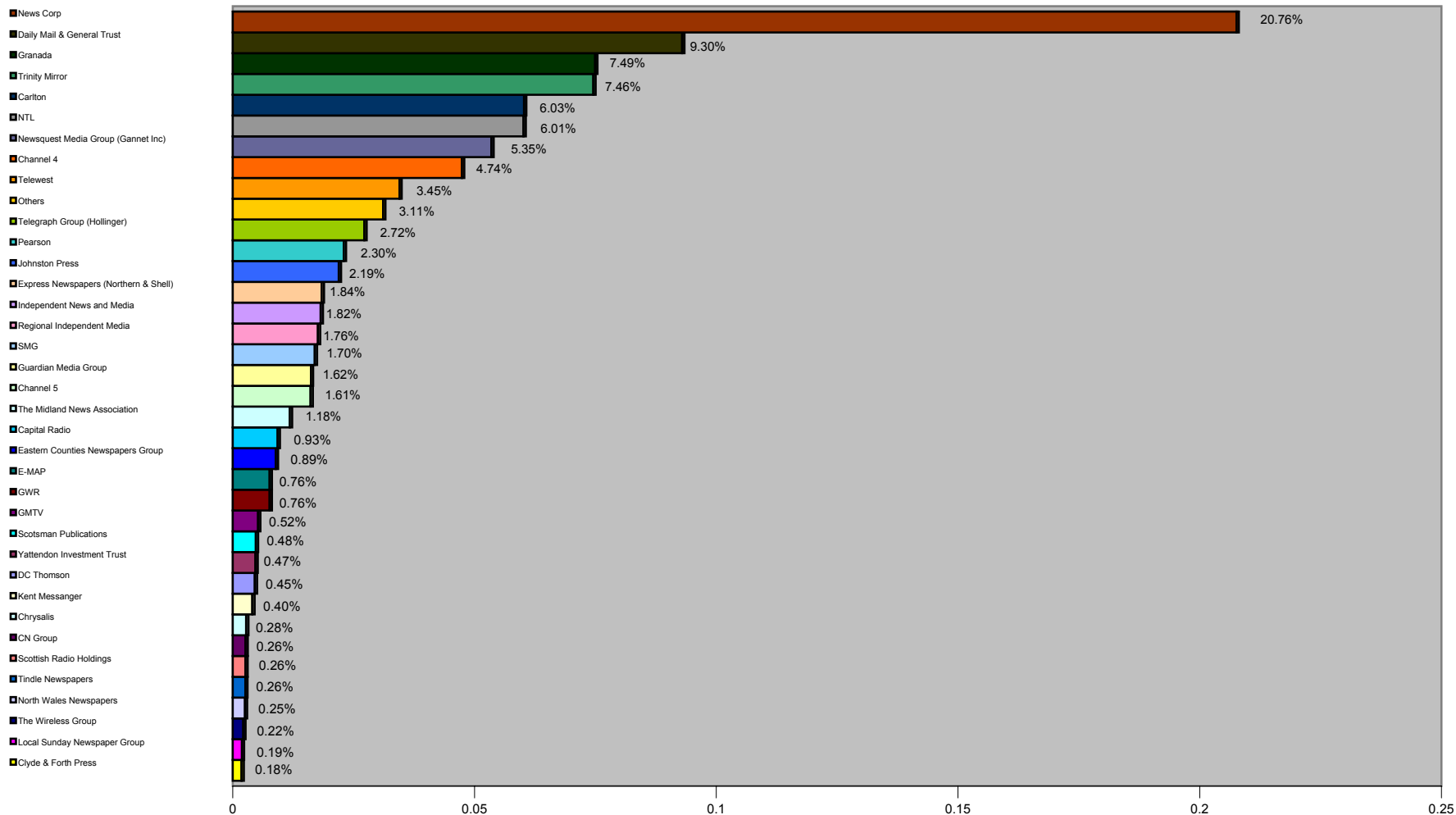
- 1 Statutory Accounts, year ended 30 September 2000
- 2 Statutory Accounts, year ended 31 March 2001
- 3 SSSB (2 Feb 2001), year ended 31 March 2001
- 4 Statutory Accounts, year ended 31 December 2000
- 5 Statutory Accounts, year ended 30 August 2000
- 6 Statutory Accounts, year ended 30 September 2000
- 7 Statutory Accounts, year ended 31 December 2000
- 8 ABN Amro - Mediaspace January 2001

UK Commercial Radio Market



	TV	Market share %	Headroom	Radio	Market share %	Headroom	Newspapers	Market share %	Headroom	Total	Market share %	Headroom
1 News Corp	1734	29%	57				1042	15%	1018	2776	21%	567
2 Daily Mail & General Trust							1243	18%	817	1243	9%	2100
3 Granada	1002	17%	789							1002	7%	2341
4 Trinity Mirror							997	15%	1063	997	7%	2345
5 Carlton	806	13%	986							806	6%	2537
6 NTL	804	13%	987							804	6%	2539
7 Newsquest Media Group (Gannet Inc)							715	10%	1345	715	5%	2628
8 Channel 4	634	11%	1157							634	5%	2709
9 Telewest	461	8%	1330							461	3%	2882
10 Others	127	2%	1664	66	12%	94	222	3%	1837	416	3%	2927
11 Telegraph Group (Hollinger)							364	5%	1696	364	3%	2979
12 Pearson							307	4%	1753	307	2%	3036
13 Johnston Press							293	4%	1767	293	2%	3050
14 Express Newspapers (Northern & Shell)							246	4%	1814	246	2%	3097
15 Independent News and Media							243	4%	1817	243	2%	3100
16 Regional Independent Media							235	3%	1824	235	2%	3107
17 SMG	118	2%	1673	39	7%	121	70	1%	1990	227	2%	3116
18 Guardian Media Group							216	3%	1844	216	2%	3127
19 Channel 5	215	4%	1576							215	2%	3128
20 The Midland News Association							158	2%	1902	158	1%	3185
21 Capital Radio				124	23%	36				124	1%	3219
22 Eastern Counties Newspapers Group							119	2%	1941	119	1%	3224
23 GWR				102	19%	58				102	1%	3241
24 E-MAP				102	19%	58				102	1%	3241
25 GMTV	70	1%	1721							70	1%	3273
26 Scotsman Publications							64	1%	1996	64	0%	3279
27 Yattendon Investment Trust							63	1%	1997	63	0%	3280
28 DC Thomson							61	1%	1999	61	0%	3282
29 Kent Messenger							54	1%	2006	54	0%	3289
30 Chrysalis				37	7%	123				37	0%	3306
31 CN Group							35	1%	2025	35	0%	3308
32 Scottish Radio Holdings				35	7%	125				35	0%	3308
33 Tindle Newspapers							35	1%	2025	35	0%	3308
34 North Wales Newspapers							34	0%	2026	34	0%	3309
35 The Wireless Group				29	5%	131				29	0%	3314
36 Local Sunday Newspaper Group							25	0%	2035	25	0%	3318
37 Clyde & Forth Press							24	0%	2036	24	0%	3318
Total	5971	100%		534	100%		6866	100%		13371	100%	
Maximum permissible market share	1791	30%		160	30%		2060	30%		3343	25%	

Combined UK TV/Radio/Newspaper Market



Asset	Current Owner	Points
<u>Television</u>		
Carlton	Carlton	1
LWT	Granada	1
Central	Carlton	1
Meridian	Granada	1
ITV Digital platform	Carlton / Granada	1
Sky News	BSKYB*	1
Sky Sports 1 (holder of FA P'ship rights)	BSKYB*	1
Sky - Satellite Platform	BSKYB*	1
Cable platform	NTL / Telewest	1
Channel 4	Public	1
Channel 5	RTL (65%)	1
<u>Radio</u>		
Capital FM	Capital Radio	1
Virgin Radio	SMG	1
Talksport	TWG	1
Classic FM	GWR	1
<u>Newspapers</u>		
Daily Mail	Daily Mail & General Trust	1
Mail on Sunday	Daily Mail & General Trust	1
Evening Standard	Daily Mail & General Trust	1
Daily Telegraph	Hollinger	1
Sunday Telegraph	Hollinger	1
Financial Times	Pearson	1
Guardian	Guardian Media Group	1
Observer	Guardian Media Group	1
Times	Newscorp	1
Sunday Times	Newscorp	1
The Sun	Newscorp	1
News of The World	Newscorp	1
Mirror	Trinity Mirror	1
Sunday Mirror	Trinity Mirror	1
Daily Express	Northern & Shell	1
Sunday Express	Northern & Shell	1

*Note: News Corp owns a substantial minority in BSKYB