

RD/01/255/311/9

The Prime Minister

**MEDIA OWNERSHIP**

This minute covers a final version of our consultation document on media ownership which is to be published on 26 November. It briefly sets out the context and then describes the proposals in more detail.

Attached is a copy of the consultation paper which we discussed on 30 October. As we agreed, I am letting you and colleagues see the final version of the paper before Patricia and I publish it on Monday 26 November

The paper refines and develops the very "green" media ownership section of the Communications White Paper. The paper aims to strike a balance between the need to show some advances in our thinking since the White Paper while, at the same, offering a genuine opportunity for consultation which will assist us in drafting the Bill itself. The main points are set out below. There have been a few changes in emphasis since the last version you saw but the paper remains substantially unchanged.

- **ITV ownership:** we confirm the White Paper proposals to remove the 15% cap on audience share and the requirement that there be at least two licence holders in London. Subject to competition law, which will provide any necessary protection for advertisers, this would allow the emergence of a single ITV company. We will continue to ensure variety of content through separate regional licences. We also welcome views on whether there should be a prohibition on joint ownership of ITV and Channel 5.
- **ITN:** we confirm the White Paper proposals to keep the nominated news provider for ITV. A sunset clause would allow us, on advice from OFCOM, to end the system if we concluded that high quality, impartial news provision was secure without this buttress. We ask for views on a proposal to relax the current 20% cap on ownership of ITN and we propose, as one option, replacing it with a requirement for at least three owners with a maximum interest of 40%. Without such a limit it would be open eg to BSkyB to buy ITN and reduce the plurality of news providers.
- **Radio:** we invite views on the joint Radio Authority/Commercial Radio Companies Association proposals for radio ownership, thus building on an industry consensus. If adopted, these proposals would mean that, at national level, ownership would be subject solely to competition law but with diversity of format maintained by the licence requirements for at least one predominantly talk and one non-pop station. At local level the proposals ensure a plurality of ownership - at least three owners, plus the BBC, where at least three licences have been granted. We would underline our intention to promote local radio. We also propose that OFCOM should be able to vary a local licence following

change of control so as to ensure that the original character of the licence is maintained. We also ask for views on whether OFCOM should be able to go further by being able to prevent the onward sale of licences in the first two years of the licence period.

- **Religious ownership:** we will confirm that we will remove an anomaly preventing religious organisations holding local digital sound programme licences while allowing them to hold local analogue licences. We will seek views on whether the restriction on national and multiplex licences should be lifted.
- **Foreign ownership of broadcasting:** our working assumption is that we stick to the line in the White Paper that there will be no lifting of foreign ownership restrictions. We invite views on whether we should develop reciprocal arrangements with those countries which might lift restrictions on UK companies, or put this issue on the table for WTO discussion.
- **Newspapers:** we reconfirm our intention to reform the special newspaper regime which requires virtually all newspaper mergers to undergo a public interest test, and welcome views on two options for reform. First, the special newspaper regime could be reformed to give OFCOM the duty of assessing whether a particular newspaper transfer would compromise the accurate presentation of news and free expression of opinion. OFCOM could advise the Secretary of State on whether to prohibit the merger or subject it to conditions on "freedom of expression" grounds. The independent competition authorities would separately assess the merger on competition grounds. Proposed mergers would have to clear both hurdles.
- Alternatively, the special newspaper provisions could be repealed and an exceptional public interest gateway created under the reformed general merger regime, so that the Secretary of State for Trade and Industry could call in any newspaper merger case which gave rise to freedom of expression concerns. OFCOM could have the role of advising the Secretary of State on freedom of expression issues in such cases. The Director General of Fair Trading would advise the Secretary of State on the competition issues. The Secretary of State would be the ultimate decision maker.
- We also ask for views on: whether local titles should be taken out of the newspaper regime, and how "local" should be defined for this purpose; whether the newspaper regime should be extended to all qualifying acquisitions, regardless of whether the potential owner is an existing newspaper proprietor or not; whether the scope of controls should be revised in relation to newspaper assets; and whether it is appropriate to retain the criminal sanctions that underpin the regime.
- **Cross Media Ownership:** again we would confirm that we wished to deregulate here. We do not completely rule out a share a voice approach but otherwise put forward for consultation more

specific options than appeared in the White Paper. We ask for views on whether the cross-media ownership limits should be abolished, retained or reformulated. If they are retained in some form, we ask whether they should be permeable, with decisions above the threshold of the formula subject to a plurality test, and whether such decisions should be taken by the Secretary of State or by OFCOM.

- **Regular Review of Ownership Provisions:** we propose the possibility of a biennial review of ownership provisions and a sunset clause to allow OFCOM to advise on the ending of specific restrictions which were no longer appropriate. Alternatively, provisions could automatically lapse unless the Government took steps to continue them.

A copy of this letter and the consultation paper go to John Prescott, Gordon Brown, Jack Straw, David Blunkett and Patricia Hewitt, and to Sir Richard Wilson.

**Tessa Jowell**