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B106/1/2/25

cc: Andrew Ramsey

File - Media  
Ownership  
Comms Bill

Prime Minister

## MEDIA OWNERSHIP RULES

The Communications Bill, when it is published in draft in April, will contain our proposals for the reform of media ownership rules. The consultation exercise on this issue has now ended, and having considered the responses we are writing to outline the steps we are proposing to take. We are to meet on March 18 to discuss the detail, which must if possible be decided very soon thereafter if a draft Bill is to be published on time. In essence, our proposals are deregulatory, but suggest the retention of certain limits on consolidation, to make sure the media retain the range of different voices and views that make democracy work. The possible effects of the changes we suggest are summarised in annex 3. This letter and its annexes are copied to Sir Richard Wilson.

Our consultation paper made clear our two main policy aims: to retain a diversity of content from a plurality of sources; and to promote the most competitive market possible. There is a delicate balance to be struck between these two aims – deregulation promotes competition at the expense of plurality. Responses to the consultation paper varied widely in their assessment of where to strike the balance. Some large media businesses suggested that competition law alone would be enough to protect the vibrancy of democratic debate. Other, more independent, voices called for tighter restrictions on media companies than currently exist. We suggest that there should be significant deregulation within individual media sectors, where we are content to rely on competition law above minimal plurality 'floors' (such as 3 separately-controlled public service television broadcasters, or 3 local commercial radio operators in each area). However, we agree with those consultation respondents who identified a need for specific rules on cross-media ownership. We suggest that, although these rules should be scaled down, there is a continuing need for restrictions on the joint-ownership of newspapers (the medium with the greatest editorial influence) and television (the most widely consumed medium).

We recommend that you accept the detailed proposals in Annex 2. These include:

1. Television – allowing, subject to competition rules, a single ITV while protecting regional production; keeping the nominated news provider requirement (the "ITN" rule);
2. Newspapers – introducing a less onerous and more targeted regime to be applied post-acquisition only in cases where there is significant concern on competition or

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plurality grounds. Criminal sanctions would be removed. Final decisions, at least on plurality grounds, would remain with Ministers;

3. Radio – removing all restrictions except competition law on ownership of national commercial stations; allow local consolidation down to a floor of three operators (four if the BBC local service were included);

4. Foreign ownership – removing all restrictions;

5. Cross media ownership – removing most media-specific rules, leaving it to competition rules to prevent undue dominance; maintaining restrictions on significant cross-ownership of newspaper and TV assets; relying on the floor of 3 commercial radio operators to prevent a local paper dominating any local radio market;

6. Review of regulation – making all regulations subject to an automatic review by OFCOM no less than every three years.

**Political Summary**

We believe that the case for deregulation is powerful. There has been an explosion of media choice in recent years giving people a wide range of sources of news, information, entertainment and other services. Meanwhile, the existing rules have hampered some companies from expanding and developing while others find themselves much freer. These anomalies are not good for investment, jobs or diversity of products for the consumer.

However, we also believe that the media are different from other industries, which means that Competition law alone is insufficient. They are a uniquely powerful force in democracy and debate and there is a long history of some media owners using national newspapers in particular to promote their views. We need a significant degree of plurality of ownership for democracy to work, and competition law can't guarantee this for us. Our line is therefore to regulate ownership on top of competition law, but only where absolutely necessary – imposing a simple set of barriers to excessive concentration.

We are therefore proposing substantial deregulation, both within each media sector (radio, TV, local newspapers, and national newspapers) and also between them, subject to retaining reduced but still significant controls on cross-ownership of national newspapers and major terrestrial TV channels.

Our proposed changes are listed in Annex 2. Potential beneficiaries are outlined in Annex 4.

The overall package is a major deregulation of the industry. We would expect

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significant consolidation to then take place, subject to normal competition regulation and our remaining controls.

Political pressure will be significant and is likely to centre on four issues:

(i) Scrapping Foreign Ownership rules – There are three logical options: to keep controls as they are, to allow foreign ownership on a reciprocal basis, or to allow foreign ownership on the same basis as other industries.

We believe the case for scrapping the rules is strong. Why should Bertelsmann, Kirch, Vivendi or Berlusconi be able to be active here when AOL/Time Warner, Viacom, Disney and News Corporation are constrained? We will be accused of “giving in to Murdoch”, but in fact there will still be major controls on his activity, because his strong position in the national newspaper market means that the competition authorities will probably block any further acquisitions of national titles, and because we are keeping significant controls preventing owners of newspapers from buying terrestrial TV. There is a further, wider point. We will also seek in the Communications Bill to impose duties on Sky (as with all broadcast platforms) to carry Public Service Broadcast channels. We are also allowing the BBC to develop a strong digital and online presence. So overall, our package offers Sky/News International/News Corp some movement, but also some challenges. Viewing all our changes together, we can be confident that we are acting fairly and rationally, and in a way that is proprietor-neutral and which does not allow any large company to become over-mighty.

(ii) Modernising Cross-Media Rules – as you can see from Annex 3 our proposals would make it possible for large cross-media companies to consolidate rapidly. It would mean, for example, that in many towns and cities the Daily Mail and General Trust could own a high-selling national daily, a significant local newspaper, a local commercial radio station, one or more national radio stations, own digital TV and radio channels (possibly Channel 5), and have minority interests in ITN and in the regional ITV licence. It could mean that News International and Sky (not one company, but linked in most people’s minds) could also expand, perhaps into local press and into commercial national and local radio.

The Draft Bill is intended for publication at the end of April, a week before the local elections, when the issue of local voice will be prominent. Many MPs may find the potential for consolidation somewhat threatening. Our defence would be that local voice would still be dynamic. There would be a minimum of four local voices in most places (the rural fringes can support fewer commercial players anyway), many of the media potentially being taken over have little debate in their formats (especially true of commercial radio), and we would retain content and format controls on TV and radio. We are also persuaded of the argument that local papers do not have editorial lines imposed on them even when owned by opinionated national proprietors.

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We are also considering the potential for encouraging the introduction of good corporate governance. The incentive to the companies would be that adoption and implementation of a code would become a material factor in judging whether local “voice” was at risk when mergers were being considered.

(iii) Allowing consolidation of local media – some MPs may feel nervous at the prospect of national and especially local newspapers owning local commercial radio stations. However, such consolidation may help keep local papers afloat and improve quality via more investment, we will impose a statutory floor to maintain a minimum number of local “voices”, and we will retain radio and TV licence conditions that impose balance and impartiality on output.

(iv) Allegations that we are still too regulatory – most companies, especially the major players constrained by Competition rules (News International, Trinity Mirror, Daily Mail and General Trust, Carlton and Granada) will say that we have not gone far enough. However, we can point to a package that contains substantial deregulation and to a regime that requires review of all remaining regulation at three-year intervals. They will be balanced by many who will say that we have gone too far.

It is important to remember that content regulation will continue to protect quality and diversity, and we are considering a number of options to extend the protection afforded to local and regional content. A summary is provided in Annex 8.

The process of scrutiny and consultation of the Draft Bill allows opportunities to change if we believe it right and necessary, but we think it right to offer Parliament a draft which is truly deregulatory while protecting the democratic essentials. We would welcome an early decision from you, after our meeting on 18 March, so that we can publish the Draft Bill by the end of April.



TESSA JOWELL



PATRICIA HEWITT

7 March 2002