

Media Ownership: Con

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MEDIA OWNERSHIP - FINAL LETTER TO THE PRIME MINISTER

Issue

After the last meeting with the Prime Minister, you asked that he be sent a further letter, summarising the package that had been agreed and outlining the steps that will be taken to uphold the quality, diversity and impartiality of broadcast content.

Recommendation

That you approve the draft submitted here.

Timing

Routine. No 10 are expecting a final version of the letter on Friday.

Consideration

You should look in particular at the proposals on content regulation, which you have not seen before in full. These have been drawn up in discussion with Ed Richards, and should ensure the regulatory framework can respond to the large-scale consolidation of ownership that our proposals allow.

[redacted]

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Prime Minister

MEDIA OWNERSHIP - FINAL PACKAGE

We have met twice to discuss the reform of media ownership rules. This letter summarises the decisions we have taken. Our approach will be deregulatory wherever possible, but we will retain a set of simple rules to prevent too great a concentration of ownership and political influence. Where we propose to remove rules (for example to allow sizeable newspaper companies to own Channel 5) content regulation will be able to maintain the quality, impartiality and diversity of programming, and competition law will tend to encourage dispersed ownership and new entry. Where we suggest the retention of rules it is because competition law will not guarantee the plurality of ownership that democracy demands. Three cross-media ownership rules will maintain the vibrancy of democratic debate in three important ways:

- big players in the national newspaper market will be prevented from owning a significant stake in ITV, the only commercial public service broadcaster with universal access to a mass audience;
- a parallel regional rule will prevent anyone owning all the newspapers and the regional ITV licence in any region or any major city;
- in every local community with a range of local radio services, there will be a rule to ensure at least 3 commercial media voices exist, in addition to the BBC.

The rules

There will be certain disqualifications on ownership by particular groups:

- Political organisations will not be allowed to hold broadcasting licences of any kind.
- [Religious organisations will not be allowed to hold Channel 3 or Channel 5 licences or national radio licences of any sort.]

Within individual media sectors (television, radio, newspapers) there will be certain guaranteed 'floors' of plurality:

- The existence of the BBC and Channel 4 will guarantee the existence of at least 3 separate free-to-air terrestrial TV broadcasters.
- Local radio ownership rules should ensure that wherever there is a well-developed choice of radio services there will be at least 3 separate owners of local commercial radio services, in addition to the BBC.
- No one will be allowed to own more than one local digital multiplex in any area (most areas will only have two).
- A reformed newspaper merger regime will be less onerous and more targeted, applying post-acquisition only in cases where there is significant concern on competition or plurality grounds. Criminal sanctions will be removed. Final decisions, at least on plurality grounds, will rest with Ministers.

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There will continue to be a special system to guarantee the quality and editorial independence of the ITV news:

- ITV must network its news, which must be provided by an organisation that the ITC nominate as fit for the purpose;
- No one will be allowed to own more than 40% of any nominated news provider, and ITV companies may own no more than 40% in combination or in total;
- When negotiating future news contracts with their chosen news provider, ITV companies will have to ensure the service is adequately financed, to ensure that it is of high quality.

The intention of this arrangement is to make sure that ITV news, as the BBC's only significant competitor, is independent and of sufficiently high quality. There will be a power for the Secretary of State to introduce the same system for Channel 5, if that channel's news service comes to act as a direct competitor in the same manner as ITV news. The Secretary of State will also have a power to sunset the whole arrangement, if a wider range of competitors emerge.

There will effectively be three cross-media ownership rules:

- 1 A national '20%' rule:
 - (a) no one controlling more than 20% of the national newspaper market may hold any licence for Ch 3;
 - (b) no one controlling more than 20% of the national newspaper market may hold more than a 20% stake in any Ch 3 service;
 - (c) a company may not own more than a 20% share in such a service if more than 20% of its stock is in turn owned by a national newspaper proprietor with more than 20% of the market.
2. A parallel, regional '20%' rule: no one owning a regional Channel 3 licence may own more than 20% of the local/regional newspaper market in the same region.
3. Rules on local radio ownership that ensure there are at least 3 commercial media voices (in TV, radio and newspapers) in addition to the BBC, in every area that has a range of services.

OFCOM will be required to review all media ownership rules, no less than every three years. They will make any recommendations for further reform to the Secretary of State, who will be able to amend or remove rules by secondary legislation.

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The extent of deregulation

This package represents a significant degree of deregulation. It:

- abolishes restrictions on foreign ownership;
- removes the regulatory barriers to a single ITV (though not the competition authorities' concerns);
- removes limits on the accumulation of radio interests across the UK, simplifying the rules on ownership at the local level ;
- scales down the burdens imposed on newspaper owners by the special merger regime;
- removes the restrictions on joint-ownership of TV and radio;
- allows large newspaper companies to own Channel 5 and a range of radio stations;
- greatly simplifies and relaxes the rules on local radio/local newspaper cross-ownership;
- reduces the number of cross-media ownership rules from 12 to (effectively) 3.

Content regulation

The regulatory framework provided by the rest of the Bill will ensure that the concentration of ownership in fewer, larger hands does not dilute the quality, diversity or impartiality of broadcast content.

- ITV will still consist of regional licences, with requirements for regional production and programming, as well as independent production and original production. OFCOM will have the power to vary these licences whenever they change hands, to maintain their regional character.
- Channel 5 will also have requirements for independent production and original production. OFCOM will be able to vary the terms of the Channel 5 licence to alter the scale of these requirements if the nature of the service, and the size of its audience change markedly, as long as the broadcaster consents to the change. The Secretary of State will also be able to alter the public service remit of the service, again if the broadcaster consents.
- There will be a power (described above) to introduce a nominated news provider system for Channel 5, if the channel's news service emerges as a direct competitor to BBC and ITV news services.
- OFCOM will have a new duty to protect and promote the local content of local radio services, and they will now be able to vary such licences on a change of control, to maintain their local character.
- OFCOM will have the power to investigate the news/current affairs programming of any local radio service where they have cause to suspect that news is being presented without due accuracy or impartiality, or that undue prominence is given to views or opinions of particular persons or bodies in matters of political or industrial policy. The policy narrative that we publish alongside the Bill will stress that in the light of what is likely to be considerable consolidation in local radio markets, OFCOM will have to pay particular attention to matters of impartiality.

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