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File - MO Comms Bill

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To Secretary of State

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RESTRICTED – POLICY

LOCAL RADIO OWNERSHIP

Issue

We are meeting tomorrow to finalise our policy on radio ownership.

Summary

You have seen my submission of 30 September on this issue. You and Patricia Hewitt both agreed in principle to adopt the approach it suggested, but you wanted to discuss the detail further. We have now floated our ideas with Tony Stoller, and have a much clearer view of the Radio Authority's position: they will not object to a '2+1' solution, but they are concerned to limit the size of the largest of the 2 commercial companies in any local market. They will lobby against us if we allow any company to own more than 55% of any local market. This note summarises their arguments, and the implications of the two options open to us.

Argument

Original recommendations

I Raise the limit on radio ownership to allow one company to own up to 65% of any market (the limit currently proposed is 45%)

[II The 65% limit on its own would represent a '2+1' solution. If you are concerned to retain some element of '3+1' in the system, we could include an additional rule to require at least three owners in the largest markets (the big cities).]

III Retain a tighter restriction on local radio ownership by local newspapers/ITV licence-holders. Such cross-media owners would be restricted to owning 45% of the market wherever there are 3 or more stations. This produces the '3 local media owners' result in most areas.

IV In areas with only 1 or 2 local radio stations, remove all limits on cross-media ownership apart from one simple rule to prevent anyone establishing a monopoly across local newspapers, ITV and radio.

V Remove the specific restrictions on the ownership of local radio by national newspaper groups.

Tony Stoller's arguments

1. He has no complaint about recommendations III, IV or V.

2. He objects to recommendation I. He doesn't think a limit of 65% offers enough protection to plurality or to the fabric of local radio. A company with a 65% share of a medium sized market might be able to own 3 out of 4 stations. In Tony's view this would represent an unacceptable level of dominance, allowing that company to control the news agenda, to homogenise the style of music and other content within the area and to strip out resources to make efficiency gains for shareholders without having to worry about any quality competition.

3. He therefore suggests a limit of 55%.

4. He sees no point in recommendation II. First because it would be hard to draft and would over-complicate matters. Secondly, because if we moved to 65% we would already have sold the pass as far as the Radio Authority were concerned, and the stipulation of a third owner, possibly tiny, would not afford any reassurance. In fact, it would be liable to further weaken the second owner in an area, and therefore add to the dominance of the person owning 65%.

We suggest dropping recommendation II, since it was largely conceived as a consolation to the Radio Authority.

Options re: recommendation I

A Stick to our original proposal: raise the limit to 65%

Everyone agrees this would allow significantly more consolidation within local markets than the current rules allow. One company might own 3 stations out of 4 (or 4 out of 5, or 5 out of 7). In larger markets such as Manchester, a 65% limit might allow one company to own all the largest, most influential city-wide licences, leaving plurality to be provided by smaller, more peripheral services.

The argument is over whether this degree of consolidation is desirable, if (or when) competition law allowed it.

The radio industry would welcome it – they'd be able to construct quasi-national networks of stations without any regulatory interference. They suggest that a company with a very strong local position would provide better and more diverse local services, with more local content. While this is potentially true, there can be no guarantee of such public-spirited behaviour.

Indeed, the Radio Authority believe that a dominant local company would behave in a more damaging fashion (see above). They would rather see plurality safeguarded by 2 relatively equal voices than by one large voice and one small. They suggest that a 65% limit would currently offer less of a guarantee of plurality than competition law.

However, we do not demand the presence of 2 equal voices in local newspaper markets, despite research that shows newspapers to be much more influential than radio. One company often owns up to 80% of a local newspaper market, although there are more opportunities for new companies to enter.

B Raise the limit to 55% instead

This solution would not be more restrictive than the existing rules, but nor, according to the radio industry, would it represent a significant deregulation in medium-sized markets. One company could own a maximum of 2 stations out of 4 (as now) or 3 stations out of 5.

The Radio Authority suggest this is the maximum degree of consolidation they are willing to accept. A 55% limit would still allow a significant amount of further consolidation in larger markets and at the national level, while protecting a sizeable second voice in most local radio markets. It would prevent one company owning all the biggest and best licences in large cities such as Manchester.

The radio companies wouldn't be satisfied, but we would at least have moved some way towards them by relaxing the stance we adopted in the draft Bill, dropping '3+1' in favour of '2+1'.

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