



Department for Culture, Media and Sport
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To Secretary of State Cc Ion Zeff
 From  
 Date 16 June 2003

NOMINATED NEWS PROVIDER PROVISIONS IN THE COMMUNICATIONS BILL

Issue

You asked for a note setting out the risks involved in removing the ownership restrictions from the Channel 3 news provider. We have sought advice from the Independent Television Commissions (ITC) and coincidentally met with representatives from ITV.

Attached at annex A are the arguments for and against removing ownership restrictions.

Timing

Urgent. We need to have a decision and line to take in advance of Report Stage at the House of Lords.

Recommendation

That you take a decision on whether to change the policy on nominated news provider provisions.

Risks

Patricia Hodgson of the ITC advised of the following risks involved in removing the ownership limits on the Channel 3 nominated news provider:

1. ITV could merge its regional news provisions with ITN's national and international provision, stripping out the costs from the regional service and reducing the quality and regional nature of that service. Carlton and Granada have already presented their plans for this to the ITC.
 - *Mark Wood suggested that the consolidation of the regional and inter/national news services would allow the pooling of resources and more effective investment, as well as making greater opportunities for regional journalists.*
 - *OFCOM can go some way to prevent any downgrading of news services as they must approve the news provider contract.*
 - *Regional licence conditions prevent standards of local news from falling.*
2. Discrete and identifiable news funding cannot be traced in the integrated ITV accounts and the stripping out from news continues.

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- *We could prevent this by ensuring that the nominated news provider continues to be a body corporate separate from ITV. ITV is happy with this structure.*
- 3. *ITV is taken by an overseas company and news provided off the back of a US or other operation.*
 - *Even with the present 40% limit, there is nothing preventing the NNP being wholly foreign owned although not by one body.*
 - *The NNP quality elements (ability to compete with the BBC, OFCOM approval of funding) will prevent this from happening.*
 - *It is feasible that, if you agree to adopt plurality tests for media mergers, such a test could bite on mergers involving the Channel 3 news provider.*
- 4. *That ITV chooses not to provide news to Channel 4. Channel 4 is understood to be making contingency arrangements to buy from Sky.*
 - *Mark Wood indicated that he did not envisage a problem in ITN continuing to supply Channel 4 or 5 news. For purely financial reasons, ITN will presumably do all it can to reassure Channel 4 and 5 that, if owned by Channel 3, it would continue to provide them with a suitable news service.*
 - *Neither the Government nor the ITC have control over how ITN provides its services and there is nothing to prevent ITN relinquishing the Channel 4 contract even under the proposed 40% ownership rule.*

Of these risks, the 100% foreign ownership of the news provider for Channel 3 and 100% News International ownership of the news provider for Channel 5 are issues causing the most concern.

To some extent, the content and impartiality provisions, and OFCOM's approval of the news provider contracts, would prevent the serious downgrading of content. At the same time, the removal of ownership restrictions will boost ITN's ability to compete with Sky and BBC news, by enabling better investment, efficiency and management for the ITN service.


Media Ownership Officer

ANNEX A

Arguments in favour of lifting the NNP ownership restrictions

- There is no comparable requirements on the BBC and no other broadcaster in the world is prevented from owning its own news service
- This provision is inconsistent with the Government's policy of liberalisation of ownership.
- This is more restrictive because the current rules state that, in theory, the existing 5 ITV shareholders could each own 20% of ITN.
- The new rules would reduce investment in ITN and hamper their ability to forge new partnerships or for shareholders to increase their stake. The rules would result in an artificially large number of shareholders making strategic and investment decisions more difficult. This, in turn, would undermine quality. ITN needs security of long term investment to enable it to grow and develop in the face of increasingly intense competition in the market for news provision.
- ITN argue that it would be detrimental to ITN to wait for OFCOM to resolve the ownership issue because of a potential Carlton and Granada merger. The two companies intend to make a decision soon on the consolidation of regional news. They argue that ITV want the synergies and economies of scale of a merged central and regional news service and in the longer term there is no guarantee that the company would be retained by ITV.
- The final approval of the Channel 3 news contract must be approved by OFCOM and it must approve the funding of the contract. Editorial integrity is already enshrined in licence obligations and the ITC programme code. These provisions mean there is no longer a need for OFCOM to grant nomination status prior to bidding. It is a pointless regulatory burden for the industry and the regulator.

Arguments for maintaining the NNP ownership restrictions

- The news provider requirements for Channel 3 provide a safeguard for securing a news service which is independent from ITV and the commercial pressure which ITV may face. The 40% limit will ensure that the service is independent of its licensees but it will not force any of the existing shareholders to disinvest.
- There has been widespread praise for the success of ITN. That success has been within the same structure of ownership rules as we are proposing in this Bill.
- The new ownership rules allow for a single ITV. It is prudent to allow the full implications of this to become clear before taking the further step of

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removing the ownership restrictions from the NNP, especially as the ITN contract is not up for renewal until 2008. The Bill allows OFCOM to revise the arrangements at any time (and at least every three years). OFCOM have said they will conduct an early review. We are proposing to table amendments at report stage which would enable OFCOM to repeal the ownership limits on the NNP without also losing the quality elements.