



Co-ordinating Committee for Media Reform

The Coordinating Committee for Media Reform has submitted detailed evidence in regards to the solutions and remedies addressed in module 4 of the hearings. Broadly, this evidence covered proposals in respect of media plurality and press regulation. Following witness testimony provided by James Curran and Angela Phillips on 13th July, this supplementary evidence offers three points of clarification.

1. Measuring online media concentration

CCMR proposals established a clear framework for measuring and identifying excessive market power in four designated sectors: national newspapers, television, radio and online news. Each of these sectors requires a tailored metric appropriate to the nature of the medium and market. Whilst this is fairly clear in respect of national newspapers, television and radio (based on the regular surveys of ABC, BARB and RAJAR respectively) it is less clear in respect of the internet where no established industry metric currently exists and the market is global. However, research in 2011 conducted by UKOM/Nielson was conducted specifically on the reach of UK news websites within the UK. The data was based on a survey of 50,000 people accessing the internet from office and work computers across the UK and provided a useful measure of audience concentration within the national online news market.

According to this data, no individual website would be subject to intervention under our proposals. That is to say, no individual UK news website (other than the BBC) attracts more than 15% of the total unique visitors in the UK for the top twenty news websites. But it is entirely feasible that this situation will change in the near term future. At this point, we would recommend that Ofcom commission regular audits based on the 2011 data cited above.

2. Ownership cap remedies

Our proposals stipulate that media groups with a dominant market share based on the aforementioned indicators should be subject to a set of public interest obligations to ensure editorial and journalist autonomy, as well as a commitment to supporting those sectors of journalism (investigative and local) currently being squeezed out of the market. These obligations are akin to behavioural remedies which have strong and growing precedent under current anti-trust regimes adopted in both the EU and US.

In tandem with these behavioural remedies, we have also proposed a structural remedy to be triggered by a system of cross media and sub market thresholds. It is on this point that clarification is required since what we are advocating is distinct from the forced divestiture remedies commonly applied in post-merger interventions.

The objective of forced divestiture is usually to create a new viable competitor, or strengthen the position of existing competitors through the break-up of a company's assets. In the case of the media, this might be feasible and sensible when a company has acquired a number of

assets across sectors such that it commands a dominant share of cross media market revenues. To this end, we support proposals put forward by Enders Analysis which would prohibit any single company from commanding more than 15 percent of core media industry revenues. But this will not solve the problem of concentrated power *within* particular media markets and we recognise that monopoly control policies based on divestment can raise difficulties when applied to these cases. We are therefore proposing a different structural remedy to be applied in these cases based on equity carve out. Where a single outlet or group of outlets breach a given threshold within any market, this would entail the creation of a new company out of the subsidiary and the selling of shares accordingly. Whilst this might not lead to the creation of a new viable competitor, it could ensure that no single entity or individual has a controlling interest in the title or group of titles.

The particular advantage of this approach is that it is aimed specifically at limiting the influence of powerful interests. That is, after all, the primary concern attached to media plurality and is precisely the kind of intervention that is most needed - especially in the UK where individual proprietors are still dominant in the newspaper industry (in contrast to the US and much of western Europe). Furthermore, a remedy based on equity carve out will not deter growth or interfere with consumer sovereignty within media markets; and it can be implemented relatively easily based on Ofcom's existing criteria for measuring controlling interests.

Recent examples of share-holder activism in many industries, including share-holder pressure at News International for Rupert Murdoch to stand down, demonstrate that there is a growing appetite to exert influence on large companies on the basis of share-holdings. This trend indicates that equity carve out could genuinely increase internal plurality, as civil society groups and socially-oriented investors (such as pension funds) may well take up the opportunity to buy released shares in order to hold media companies to account.

Perhaps most crucially, this kind of remedy would work very effectively with our proposed public interest obligations. We have argued that public interest obligations should be applied to any media group that commands more than 15 percent share of a given audience, and we believe that no individual interest should control more than 20 percent of the market. Though any such thresholds are to some extent arbitrary, we believe that the emergence of less than six 'voices' within a given medium is an appropriate trigger for intervention.

3. Right of Reply precedents

In the second half of our evidence, we discuss the practical changes that would be required to foster a new ethical professional practice in British journalism. One of the cornerstones of our proposals in this respect is a statutory right of reply. Our discussion alluded to the fact that this is already available in a number of other countries within Europe (namely France, Germany, Belgium, Norway, Sweden, Finland, Greece, Austria, Ireland and Switzerland). To clarify, the right of reply is available *either* by law or via some other mechanism in these countries. The key point is that in each case, the right of reply principle is both clear and enforceable. We believe that a statutory underpinning would be the most effective way of ensuring this in the UK.

Statement of Truth

I believe the facts stated in this witness statement are true.

Signed: Justin Schlosberg (for and on behalf of the Coordinating Committee for Media Reform).

Date: 4 August 2012