

OFCOM ADVICE ON MEASURING PLURALITY ACROSS MEDIA

A Submission from Global Radio

Background

Global Radio is the UK's premier commercial radio company. Our brands include Heart, Capital, Classic FM, LBC, Gold, XFM and Choice FM and together reach over 20m listeners on air every week.

We are grateful for the opportunity to comment on the questions the Secretary of State has asked Ofcom on measuring media plurality. We share Government and Parliament's view that plurality of news provision is essential for our democracy, and we believe that this can only be achieved through ensuring we retain a vibrant and diverse media sector.

There are already a number of regulatory checks and mechanisms in place which, taken together, provide considerable safeguards. As Ofcom notes, these include the public interest test for media mergers, the remaining cross-media ownership rules, the accuracy and impartiality requirements in the broadcasting code, the "fit and proper" test for holders of broadcast licences and the public service broadcasting framework in which the BBC and other public service broadcasters operate. In any future reviews of media regulation, we would urge Ofcom and Government to build on these established mechanisms rather than seek to create an entirely new regulatory regime.

We address the specific questions posed by Ofcom below.

What are the options for measuring media plurality across platforms? What do you recommend is the best approach? Is it practical or advisable to set absolute limits on news market share?

We broadly agree with the approach Ofcom has taken in the past to measuring plurality by looking at the reach of all news media and time spent watching, reading or listening to news output, and seeking to weight news consumption according to the extent to which citizens rely on different media as their primary or secondary source of news. We also agree that, while impartiality is not the same as plurality, the fact that broadcast media operate under a specific code guaranteeing impartiality must be borne in mind.

However, we believe there is an extra dimension which should also be taken into account. News, in a multi-platform context, is a broad genre and we believe that analysis of media plurality should distinguish between the various types or sub-genres of news content consumed. One categorisation would be between:

- Headline news provision with a summary of the day's main stories, eg as provided on the vast majority of commercial radio stations or in a "news in brief" section of a website,
- In-depth news and analysis, including comment, where editorial decisions on story selection and "news angles" can vary substantially between providers eg a half hour TV news bulletin, and
- Investigative journalism, campaigns, exclusives and "front page splashes" involving a high degree of editorial judgement and potential influence.

We believe that plurality is more of a concern in some of these sub-genres than others and that any regulatory regime must be capable of making a distinction between media, such as the majority of music-based commercial radio stations, which seek to keep listeners “up to date” and other media content in which opinion or comment play a much larger role either explicitly through adopting a particular editorial line, or implicitly through the selection of topics and material.

We do not believe that genres other than news and current affairs should be considered for plurality purposes. Rather, we believe the authorities should focus on the key sub-genres within news and current affairs, which are the most important in influencing opinion. Specifically, we do not think that a direct comparison can be made between music based commercial radio stations, that provide news bulletins as part of their programming on the one hand, and newspapers or peak time TV news programmes which remain most people’s primary source of news, on the other.

For these reasons, we do not think it is either practical or advisable to set absolute limits on news market share. We believe that the analysis of news market share is a complex undertaking but is ultimately only an indirect means of measuring influence and therefore it would be inappropriate for rigid limits to be set. However, in order to provide greater transparency it might be possible for guidance to be given regarding levels of market share which would give cause for concern and might therefore merit further investigation.

The Secretary of State has recently asked whether it would be appropriate for decisions on media plurality cases to be taken by an independent body rather than politicians, as is the case for competition law¹. While we recognise the difficulties inherent in politicians making the final decision on matters of media ownership, we believe that, on balance, it is preferable for elected representatives to make the final decision in these cases rather than attempt to pre-define a set of rigid rules, or leave the decision to an independent regulator. Competition cases are all about economic efficiency and protecting the consumer; intervention to maintain media plurality is about protecting democracy.

Ofcom also asks for views on the point in the news value chain where there is potential for the greatest level of editorial influence over content. We note that Ofcom’s analysis in respect of the proposed News Corp takeover of BSkyB distinguished between “retail” and “wholesale” news provision, and that Ofcom included commercial radio’s news output as being provided by BSkyB at the “wholesale” level because of the news supply agreement between IRN and BSkyB.

We believe that editorial influence and control are best assessed at the point of broadcast or publication. We are concerned that assessing media plurality on the basis of news supply agreements can be misleading and, in the case of commercial radio, does not reflect the operational reality on the ground. Sky News provides a service to commercial radio groups, including Global Radio, via IRN. This includes the provision of news content, which individual radio groups and stations use to produce news bulletins, and a “sustaining service” of news bulletins produced by Sky. In practice, though, radio stations typically produce their own bulletins throughout daytime relying on the Sky-produced bulletins for overnight broadcasts only, if at all. Global’s Capital and Heart networks, for example, which do not ordinarily broadcast news bulletins overnight, produce all of their own news. The Sky News service provided via IRN is a very important source of national and

¹ Speech to Royal Television Society, 14 September 2011

international content for news editors but editorial control remains with the radio station.

What could trigger a review of plurality in the absence of a merger, how might this be monitored and by whom?

In its review of the News Corp/BSkyB takeover, Ofcom noted that the current statutory framework only addresses a reduction in plurality which arises from a specific corporate transaction involving media enterprises. While we recognise that plurality might also be reduced over time by market exit or organic growth and that a more fundamental review might be appropriate, we are concerned that intervention in such circumstances could very easily create negative incentives or stifle innovation and growth.

If Parliament were to change the statutory framework to include scope for intervention without a specific corporate transaction, we believe that it would be important to provide as much clarity and transparency as possible to operators whilst also avoiding rigid limits or inflexible rules.

Could or should a framework for measuring levels of plurality include websites and if so which ones? Whether or how it should include the BBC?

We believe that any analysis of news provision or media plurality must include online news sources, including not just websites but also mobile applications and news alerts, and must also include the BBC. We cannot see how a robust or credible analysis could be undertaken if either the fastest growing medium or the largest single news organisation were excluded.

As to which websites should be included, it is not difficult to identify the most popular news websites, as Ofcom did in their analysis of the News Corp/BSkyB takeover, and market shares of online news can be estimated in terms of reach and share as in any other medium.

Clearly, the BBC operates under a different framework to commercial operators and this would need to be taken into account, just as the differences between the regulation of different media, for example press and broadcasting, would also need to be taken into account.

Global Radio
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