

## Seminar one, session two

*What are the main problems/issues arising from where we are now? Is there "unhealthy" concentration and if so how do we reach those conclusions? What should be taken into account in terms of cultural output beyond news and current affairs - i.e. should we include drama, comedy, sport, etc? If so, do we extend spheres of influence to cinema, theatre, and so on? To what extent is consumption research (on news and further afield) useful, relevant, and reliable and painting a picture of media "power"?*

### General discussion

#### *Opening points*

Session one was 'where do we want to be ideally?' Are we in a bad place now, and if so why – what doesn't work? How can we articulate that, and should we confine it to news and journalism? Much of the BSKyB debates centred on consumption, but how useful is that?

*Are we in an 'unhealthy' place?*

Role of the PCC and its inability to address citizen complaints: might be considered a plurality issue because it is about media accountability. We have a "window of opportunity" with the Leveson Inquiry, but need to acknowledge a national newspaper sector that is heading into economic crisis. Media ownership rules need to take this into account as well as issues of plurality and regulation.

There is a connection between complaints and lack of regulation: without an effective regulatory regime, dominant players can abuse their position of power and intimidate the political class. Some members of the Culture, Media and Sport select committee have said in the past that they were constrained from investigating too deeply because of fear about some elements of the press. There is a relationship between market power and the failure of regulation to act on behalf of the citizen.

In spite of the media ownership rules and Public Interest (PI) test, there are very high levels of media concentration. The PI test involves ministerial discretion, which could be a problem in terms of political commitment to pluralism and curbing undue political influence of media owners.

What is the "right" number of newspapers? Maybe four or five national groups, with sufficient regulation in place. But no agreed methodology for a solution.

Looking specifically at BSKyB: control of premium film and sport content allows it to generate a huge economic surplus and therefore dominate regulatory activity. It can invest millions in defending itself against any independent inquiries, through the courts if necessary, thereby distorting the regulatory process.

### *Gaming the system?*

A key point about plurality, which is a different point from the democracy issue, is the ability of a dominant player to game the system for its own benefit, including subsidies for loss-making enterprises – e.g. the Sun has arguably been under-priced and therefore undermined the rest of the popular UK newspaper market.

Attempts to regulate Sky's dominance of pay television through the regulatory system are now 15 years old. Quick and simple regulatory rules could help avoid a prolonged court process. The Competition Commission talks about "bright white lines" – if you cross those, you're in trouble. They have enormous influence because they make it much more difficult to game the regulator through use of expensive lawyers and court processes.

### *What are we aiming for?*

Companies want regulatory certainty above regulatory precision. Need another white line for measuring plurality.

Are newspapers the problem? If BSkyB didn't have a relationship with News International, would there be an issue? The plurality problem comes with the connection with news. On the other hand, a single company making a billion pounds a year in profit distorts the television market, enabling it to outbid for premium sports rights and talent, for example. There are other natural monopolies, but the concern is not just a competition issue: this is a media company which carries cultural influence through its news and entertainment.

There is a problem in arguing the case for intervention at the same time as having a sector in crisis. The Sun keeps the Times going and BSkyB keeps Sky News going. On the other hand, no one company should have that degree of influence in an industry which can act as a filter for cultural and political views.

There should be clearer white lines, maybe using Competition Commission's approach as a model: allow a merger which took a market from four to three players, but not from three to two. Should the same rules apply to media?

### *What does research show?*

Evidence suggests that Murdoch newspapers follow a right-wing agenda, but does the same apply to Sky News? If news consumption is from a variety of sources, is this less of a problem? Perhaps BSkyB quid pro quo should go beyond Sky News, e.g. minimum obligations for UK content (but n.b. universality).

### *The BBC*

International context: here we have 3.5 billion pounds of public subsidy and a dominant, trusted news provider. This transforms the argument - we shouldn't have to worry so much about plurality in the commercial sector. But BBC content

may not be even across the audiences. Younger audiences are not always so interested in news and current affairs. The BBC does a lot of work to get audiences engaged through all platforms (including for example, *Newsbeat* on Radio 1 for the younger audience). To some extent, it provides its own plurality, and both the BBC management and the BBC Trust, through its impartiality reviews, try to ensure a broad diversity of voices and opinion is present – but that does not obviate the need to look at problem, or to be concerned about potential harm from concentration in the private sector.

Should the BBC be part of this equation? It is bound by many obligations and conditions. Could it be opened up to independent news providers? The BBC shouldn't be curbed in the same way as commercial providers who don't pursue a public service agenda. Is there an argument that the BBC should be split into two, to create a more plural market? Or should it be exempt from the question of news plurality?

### *Plurality of public service content*

Is it desirable to have one public service player? There may be a public interest in having a plurality of models. Internal plurality, within the BBC, might not be sufficient. There are three kinds of ownership and plurality structures. If the overall evolution of the UK media ecology lets one drop out, it is not in anyone's interest. They are served by very different accountability structures. Different models of ownership can encourage pluralism by virtue of charitable funding and be encouraged through tax breaks.

It would feel a bit perverse to answer questions about newspaper ethics, or the scale of Sky, by splitting BBC into two, especially when BSkyB doesn't have a PSB remit. Anyway, BSkyB issue could be about economic power. Culturally, it does not have much influence.

Perhaps the BBC could be encouraged to do more to help the third sector or smaller news providers, especially at local level (though the Trust prevented it from launching its proposed local website network in 2008<sup>1</sup>, partly because of concerns about the impact on other local news providers).

### *Who has the influence?*

Exposure and influence are absolutely not the same. Agenda setting vs opinion forming. Effects studies are difficult to conduct, but intuitively there is clear evidence that newspapers in this country have had a material impact.

Partly because of the narratives of television news, the scope for influence is less. And partly because the agenda setting flow is largely from newspapers to broadcasters. BUT - relative weight between platforms is changing very fast which is one reason to be sceptical of anything beyond rudimentary thresholds

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<sup>1</sup> See BBC News (2008) 'BBC local video scheme rejected', available at: <http://news.bbc.co.uk/1/hi/business/7741244.stm>

and triggers coming out of this next policy cycle. The relationship of wholesale and retail is complex and changing, faster than ever. With the internet, newsgathering becomes the issue, with a wider array of sources. The ISP or search engine becomes a gatekeeper.

Evidence so far is that online hasn't made much difference to "big beasts". People still go to big news providers. Platforms may have changed but brand names and newsgatherers are the same – even more entrenched than before. Back to the "filter bubble" and the "Daily Me": consumers tend to select from brands they know and political positions they have - the power of those positions becomes much more self-reinforcing.

### *News flow and content*

Trend towards "churnalism", agency material, public relations. Policy agenda suggests we need to go beyond pluralism into how to improve journalism, beyond the remit of this seminar. There is a connectedness.

So it could be part of the PI test to have a demonstration of investment in good journalism, which is empirically measurable e.g. how many foreign bureaux are being funded? Current PI obligations include taste and decency and impartiality, but nothing about investment in journalism: e.g. doing more foreign news, more local news, more investigative journalism. These were not considered at the time of the relevant passage of the Bill.

### *The shape of future regulation*

One of the common elements in proposals for regulatory reform post-Leveson: they might constitute a self-regulatory club where it's not necessarily newspapers, or the methods of delivery that determines membership but factors like size that could incur these kinds of obligations and give access to defences (see Hugh Tomlinson QC's recommended approach<sup>2</sup>). We need to think about triggers and threshold proposals alongside these ideas, i.e. link triggers and thresholds with obligations and notions of ethics.

### *Cross-ownership issues*

There is also the Desmond issue: a newspaper proprietor who owns a terrestrial commercial channel and potentially a buyer of the Sun. What happens then? The potential power to cross-promote is important to note: it would be possible to put Big Brother stories on front page of your newspapers for two weeks and thus shift audiences to your TV programme which then feature ads for the Daily Star... there is economic as well as cultural power that comes with owning two major media assets.

There needs to be a holistic approach. But at same time we should not shy away from introducing curbs that are effective against individual voices. And be aware

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<sup>2</sup> Available at: <http://inform.files.wordpress.com/2012/02/proposal-for-msa-final.pdf>

of relevant shifts: in 10 years time, it will be likely that owning a search engine alongside a media organisation might be more of a problem.

### *Data collection*

Reference to German example – plotting degree of media ownership, on an annual basis. Ofcom produces data on media markets. Media ownership could be added. The tri-annual report could link into the PI test.

Could Ofcom do something equivalent to an annual media market report? More detail is needed on ownership issues, with the ability to get into company accounts. Why don't cable and satellite broadcasters have any obligation to publish breakdowns of their expenditure data? Ofcom has powers under the Broadcasting Act to collect necessary data, but not to publish without specific permission from licensees, who object on grounds of commercial confidentiality. If that is an important issue of accountability and public interest, it is for Parliament to legislate accordingly.

### *Share of voice as a proxy measure*

This is problematic. In 1995 the British Media Industry Group (an industry-based anti News International lobbying group) proposed a system which gave television and newspapers the same value and downgraded radio by 50% - and showed the BBC at the top of their "league table", News Corp second, and everyone else nowhere.

But newspapers have more power to set agendas and can be as impartial, unbalanced as they like. That carries an influence within the democratic sphere which cannot be equated with power of television.

DCMS/Ofcom should be running workshops to examine notions of influence and impact. You need empirical evidence – could someone devise an effective research programme? It would not be easy but should not be avoided: maybe a workshop to think through weightings based on ability to editorialise and set agendas?

Should we revert to pre-2003 rule – an organisation can't own a TV station if it owns a national newspaper? Too arbitrary – need to look at sphere of influence and regulation has to be operable. Other forms of structural separation: limiting by revenue or scale. But businesses are struggling and are exploiting media products across markets.

Convergence will not solve the problem: it will just change the distribution platform (e.g. broadcast distribution online). Does this render any structural separation across sectors meaningless?