LSE MEDIA POLICY PROJECT

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MEDIA POLICY BRIEF 10

Modelling Media Ownership Limits

The impact of current policy proposals on the UK media market

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KEY MESSAGES

- Since the Leveson Inquiry, academic and civil society experts have proposed a range of new limits on media ownership, both ceiling limits and threshold triggers of targeted behavioural intervention.
- The impact of these limits in the current situation would be relatively minor, even if the ceiling limits were set at the lower bounds of 15% or 20%, and need not necessarily result in enforced divestment or equate to a cap on growth.
- The BBC should be included in the measurement and monitoring of media plurality, but not in prescribed remedies.
- Plurality policy should address both individual markets for news and information (newspapers, radio, television and internet) as well as the total media market that extends beyond news providers.

INTRODUCTION

Over the last 18 months, there have been no fewer than four public consultations seeking evidence in relation to media ownership and plurality policy by the DCMS, the Lords Select Committee for Communications, Ofcom and the Leveson Inquiry. In responding to these, a number of civil society groups have proposed frameworks for imposing media ownership limits both within and across different media sectors. Most involve some kind of limit on market share, or threshold levels triggering behavioural obligations.

One of the stumbling blocks in plurality reform concerns the inherent difficulties in measuring media market shares in a converged environment with print news markets facing structural decline. Yet there already exist fairly uncontentious measures within markets provided by regular industry audits for television, radio and newspapers. They offer tailored metrics of audience reach or market capture from which shares commanded by dominant groups can be derived. Although there is no standard industry measure for online news reach and share, various methodologies have been used that are based on both traffic data and consumer market surveys and are comparable to the standards applied in other sectors.

Another significant challenge concerns how to regulate plurality in a way that, as both Ofcom and Lord Justice Leveson have suggested, is not limited to ex-post interventions following merger activity. Critics of ownership limits have claimed that they risk unduly penalising innovation and competitiveness, and would lead to immediate divestment. This brief assesses such claims by reviewing recent proposals for ownership limits in light of industry data.[1] It does this using a simplified framework showing the implications of 15%, 20%, 25% and 30% share limits in individual media markets and the media market as a whole, both with and without the BBC. The findings indicate that if such limits were implemented now, the impact on markets would be relatively minor - even if the limits were set at 15% or 20% - and would not necessarily trigger divestment or equate to a cap on growth. This brief then examines the details of the proposals put forth by the main civil society groups campaigning on this issue. It identifies the most common position among them as one that involves a 15% limit that would trigger public interest remedies along with a 20% cap that would trigger structural remedies, and includes the BBC in measurement, but not in those remedies.

MODELLING THE PROPOSALS

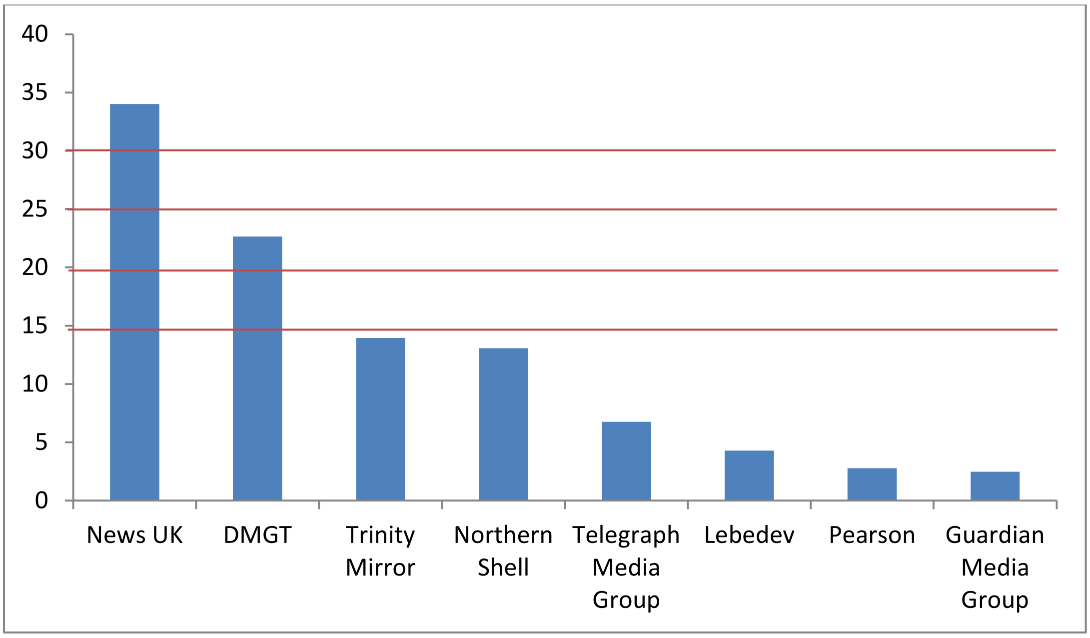
In regards to national newspaper ownership (the focus of the Leveson Inquiry) a range of limits have been proposed based on the market shares of dominant groups. In his testimony to the Leveson Inquiry, Labour leader Ed Miliband suggested that a market share limit on national newspaper publishers should be set “somewhere between 20% and 30%”. In its evidence to the Inquiry into Media Plurality by the Lords Select Committee for Communications, campaign group Avaaz called for a 20% market limit in all of the main media markets, and the National Union of Journalists (NUJ) mentioned a 25% limit. In its evidence and testimony to the Leveson Inquiry, the Media Reform Coalition (MRC) called for an initial threshold of 15% (triggering public interest obligations) in all media markets, followed by a ‘ceiling’ of 20% (triggering structural remedies).[2] The details of some of these proposals are analysed in the next section. This principle of a ‘behavioural’ threshold followed by a ceiling was echoed in Harriet Harman’s speech for the Charles Wheeler lecture in June 2013.

The proposals described above were made in the abstract, although no doubt based on certain understandings of the conditions in various media markets. One way to consider the proposals made is to apply them to current market conditions in the UK. Therefore in this section, the four levels of proposed limits, 15%, 20%, 25% and 30%, are tested for their potential impact in current market conditions. It first addresses key media markets individually and then considers the picture across sectors. It does this using publicly available data from accepted methods of measurement used in the industry and by Ofcom.

National Newspapers

Figure 1 below illustrates the combined market share (daily and Sundays) for national newspapers based on circulation figures between March and August 2013, along with the various percentages proposed for triggering intervention. The Audit Bureau of Circulations (ABC) measures circulation based primarily on retail sales and subscriptions for both print and digital editions. It excludes marginal outlets, so in the figure below market shares are based on a definition of the total market limited to the combined circulation of major titles as listed.

Figure 1: Shares of national newspaper circulation by publisher in March-August 2013 and levels of proposed thresholds (%)



Source: TheGuardian.com, 'National Newspaper ABC figures 2013'. Available at http://www.theguardian.com/media/page/2013/mar/08/1 (accessed 17 October 2013)

Notes: Data based on figures produced by ABC for average daily circulation between March and August 2013 inclusive. A combined circulation of Daily and Sunday titles has been derived by multiplying the Daily averages by six and then adding to the Sunday average. Shares are then calculated based on the total circulation of the titles measured and attributed to publishers, all of whom own individual titles outright. Daily Record and Sunday Mail excluded as they are included as regional titles in figure 2.

Under MRC and NUJ proposals, both News UK and the Daily Mail and General Trust (DMGT) would breach the lower limit of 15% triggering public interest obligations. A range of possible remedies have been suggested, many of which target the ability of owners to exercise editorial influence over their titles. This objective addresses core plurality concerns raised in the aftermath of the Leveson Inquiry without recourse to content controls akin to those inscribed in the broadcasting code. It limits the scope of proprietors seeking to use their outlets to dominate public conversation and, by extension, as leverage for political influence.

Measures such as independent boards with powers over editorial appointments have a track record in media merger conditions. Although questions have been raised as to their efficacy, they offer useful precedents as a basis for developing more robust models of internal democracy within titles owned by a dominant interest.

As part of a concession by Newscorp to enable its purchase of *The Times* and *Sunday Times* in 1981, the board of Independent National Directors at *The Times* was granted veto power over the appointment and dismissal of editors.

An independent editorial board was similarly established at the *Nottingham Evening Post* in 1994 as part of the undertakings agreed between DMGT and competition authorities prior to merger approval.

As well as public interest obligations, News UK would be subject to a 'ceiling' limit under most proposals (including those put forward by the NUJ, MRC and Avaaz). Under MRC and Avaaz proposals, DMGT would also be subject to such an upper limit. Given that News UK owns a selection of titles, an appropriate structural remedy might be divestment of one or more titles in order to bring the group's share beneath the ceiling threshold. However, if market conditions were such that the sale of a given title could threaten its viability, or a buyer could not be found, then an alternative remedy might be aimed at reducing the shareholdings or voting power of the interest in question.

This could be achieved via a number of means, including equity carve-out or the transferral of voting rights from shareholders to employees. It could provide added protection for journalist and editorial autonomy without unduly 'penalising' a given title for breaching the upper limit either because of its competitiveness, or because the closure of other titles increased its market share by default. At the same time, such a policy would recognise that a media market share is to some degree associated with a 'share of voice' and as such, dominance invokes wider concerns than those based solely on preserving market efficiency and competition.

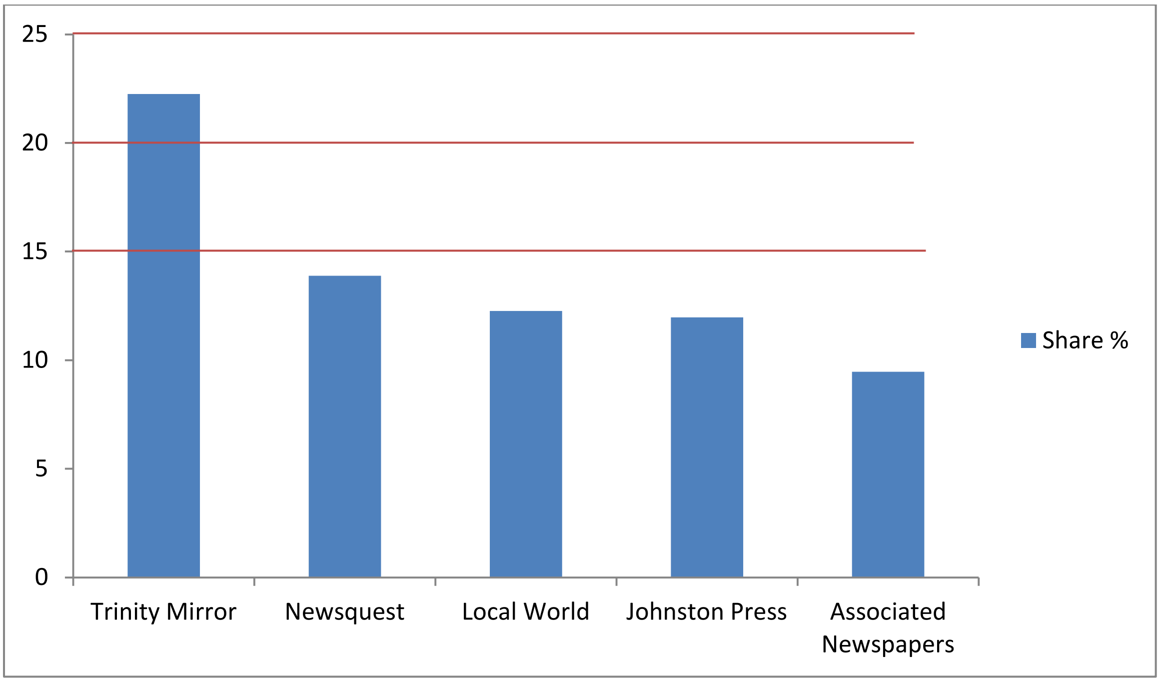
Under all limit proposals examined here only News UK would be subject to a structural remedy such as divestment according to recent market data. DMGT titles would at least be subject to public interest obligations such as editorial boards, but no other titles or groups would be affected.

Local Newspapers

No ownership limits have been explicitly proposed for local newspaper markets. However, unlike the national newspaper market, ownership concentration among local news publishers is advancing rapidly. Figure 2 illustrates the share of total local newspaper circulation commanded by the top five publishers. It is based on data provided by the Newspaper Society, which retains an up-to-date register of all local and regional titles and compiles circulation data based on figures provided by both the ABC and individual publishers.

As with national newspapers, marginal titles are excluded and shares are derived based on a total market definition restricted to the circulation of the top 20 publishers. Although the number of titles excluded from this is inevitably greater than the number excluded from the national market, the total circulation commanded by other local and regional titles is estimated to total less than 3% of the top 20 total (according to the Newspaper Society).

Figure 2: Shares of total local newspaper circulation by publisher in January 2013(%)



Source: Newspaper Society (2013), *Top Twenty Regional Publishers, January 2013.* Available at http://www.newspapersoc.org.uk/sites/default/files/pdf/Top-20-Publishers_January-2013.pdf

Notes: Data based on combining total circulation for all local and regional titles by top 20 publishers including dailies, weeklies and Sundays, both paid and free, averaged according to unit for month of January 2013. Excludes monthly and fortnightly titles. ILondon Evening Standard, City AM, Metros, Daily Record, Sunday Post and Sunday Mail are included as regionals. Based on newspaper titles with their own circulation/distribution figures as listed on the Newspaper Society database and therefore does not necessarily reflect all titles published by each group.

Limits on circulation share along the lines proposed for national newspapers could be imposed on the total regional and local market as depicted in Figure 2. In this case, Trinity Mirror alone would be subject to plurality intervention at the first two levels.

This does not take account of concentration *within* particular local news markets. Analysis of markets based on Local Government Authorities (LGAs) shows that even the highest limit of 30% circulation share would affect most local titles currently in operation, if it were applied to individual markets on this scale.[3] In two-thirds of LGAs, a single local newspaper commands over 50% of the market, and over half of this group have 100% monopolies; a quarter of LGAs have no local newspaper at all.

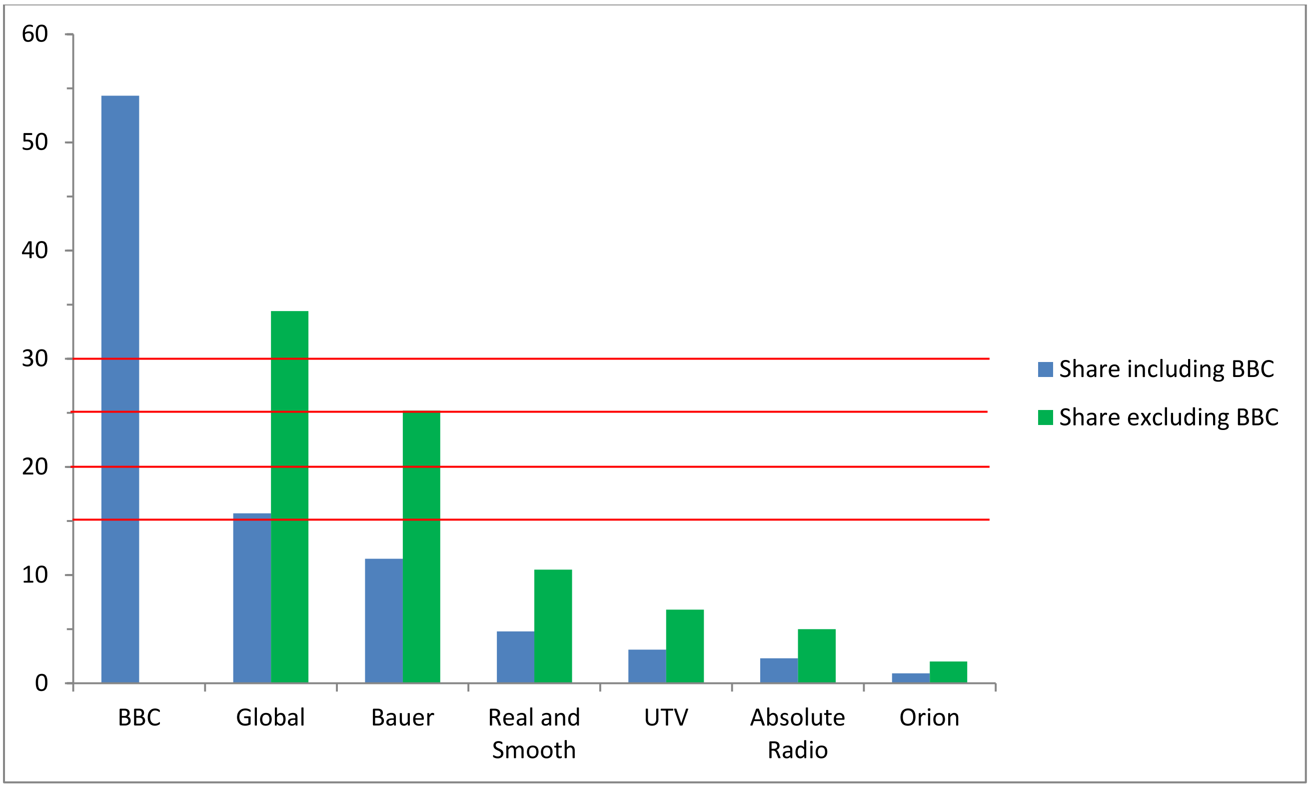
Although plurality remedies need not threaten the viability of any newspaper, given variance between local news markets and the added complexities in defining them, the most effective means of regulating for plurality might be a cross-market share limit (as illustrated in Figure 2) combined with a series of subsidiary policies aimed at promoting local plurality. In this respect, a range of potential measures have been proposed, including a ban on local media owners standing for local elections; a system of cross-subsidies to support entry-level journalism jobs and cooperative and non-traditional news start-ups; legislative amendments to enable local newspapers to apply for charitable status; and measures to enable local communities to take over titles or brands disposed of by multiples.

If applied to local newspapers, ownership limits across the board would impact only Trinity Mirror. Given the fragility of local newspaper markets, ownership limits could be accompanied by subsidiary policies aimed at promoting plurality.

Radio

Radio plurality can be calculated in a number of different ways, depending on how the BBC is treated in the measurement and what kind of radio suppliers are considered. Figure 3 presents a straightforward recent breakdown of market shares controlled by the major radio groups, as defined by share of annual total radio listening hours. It illustrates the same "red lines" for the market limits proposed by the various civil society groups used above.

Figure 3: Share of all radio listening hours held by major radio groups in the year ending 31 March 2013(%)



Source: Ofcom, *Communications Market Report* 2013, p. 232. Available at http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr13/UK_3.pdf (accessed 26 October 2013).

Notes: Figures are based on RAJAR data for year ending 31 March 2013. Rajar data based on survey of weekly radio use, sample 110,000.

If the BBC is included in the measurement, only Global Radio will be subject to remedies at the lowest threshold of 15%. At the time of writing, Global has acquired Real and Smooth Ltd and is appealing a decision by the Competition Commission requiring it to sell certain stations in order to secure merger approval. Depending on the outcome of this, Global may breach the 20% threshold. If the BBC is excluded, both Global and Bauer would be subject to intervention at the 15%, 20% and 25% levels, but only Global would be affected at the highest proposed limit of 30%.

The figure above illustrates a common measure of radio listening in general. If we focus on wholesale news provision, however, the picture looks very different. In this case just two providers – the BBC and Sky – dominate the sector. In its report on the public interest test for BskyB's proposed acquisition of News Corp in 2010, Ofcom found that Sky supplied news services to virtually all commercial stations, with a total share of 43.6% of overall listening hours (including the BBC in measurement).[4] If we were to attribute market share to wholesale news providers on this basis, Sky's position would trigger intervention under all four of the proposed limits, whether or not the BBC is included in the measurement.

It should be emphasised that these figures are not based on listening hours for news programmes specifically. Given that radio is often listened to 'in the background' with regular news bulletins interrupting formats, identifying direct market shares of wholesale news providers is difficult. However, in 2012 Ofcom did conduct an analysis of survey data based on the reach of news programmes specifically, which yielded a 62% share for all BBC radio and a 38% share for commercial radio (virtually all of which is provided by Sky).[5] The impact of ownership limits in this case would be unchanged, as all four limits would be breached by Sky including and excluding the BBC in measurement.

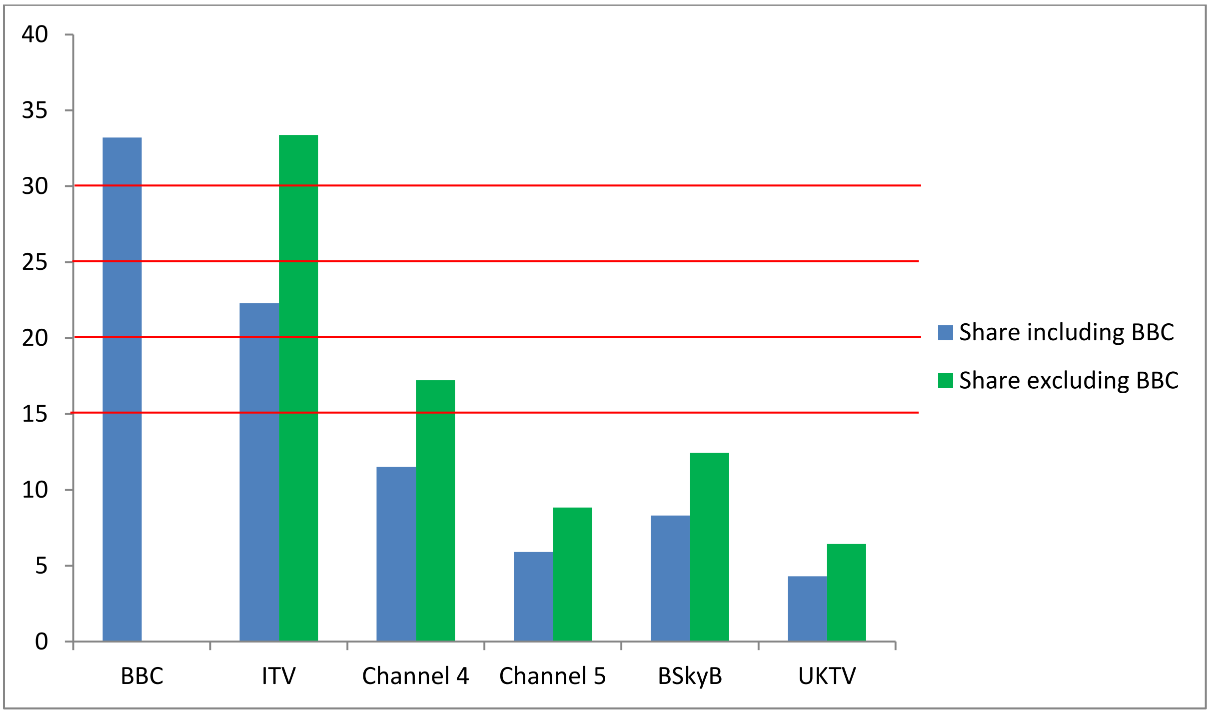
If BBC is included in the measurement only Global would be subject to remedies at the lowest proposed limits when looking at group market share, but when considering wholesale news provision, Sky breaches all four proposed market share limits.

If ownership limits within individual markets are intended to address agenda setting power by news organisations, it makes sense to focus on wholesale news provision. However, if it is determined that the market is insufficient to support more than two providers (BBC and Sky), then an appropriate structural remedy might be based on equity carve-out or the prescribed sale of shareholdings in order to create a new independent company and eliminate a controlling interest in the outlet.

Television

The following analysis uses the same approach adopted for radio above, first examining the shares of overall viewing figures commanded by the major broadcasters. This is illustrated in Figure 4 and is derived by the industry's standard ratings audit conducted by the Broadcasters Audience Research Board (BARB). Data is collected based on a selected sample of 5,000 households across the UK.

Figure 4: Audience shares of major TV broadcasters for 2012 (%)



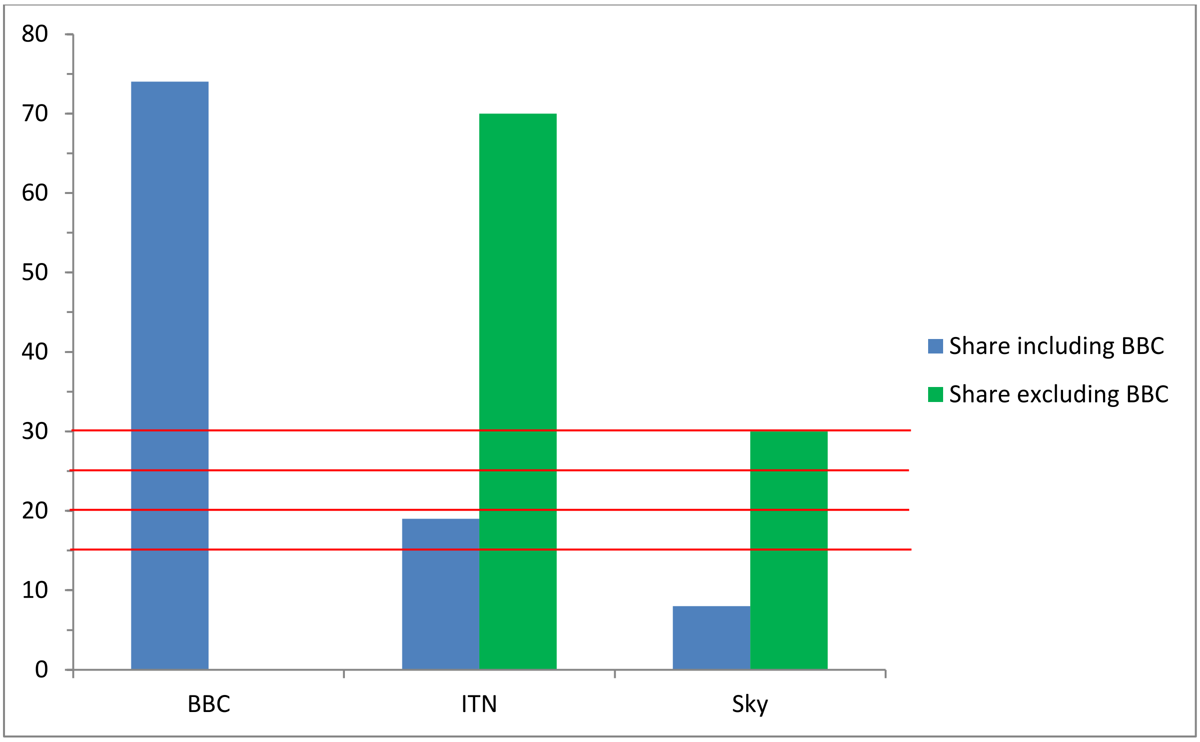
Source: Ofcom (2013), *Communications Market Report.* Available at http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr13/UK_2.pdf, p. 194 (accessed 10 October 2013)

Notes: Data include average overall ratings for channel portfolios in multichannel households, 2012.

If the BBC is included, ITV alone would be subject to remedies at the lower limits of 15 and 20%. If the BBC is excluded from the measurement, ITV breaches all four limits and Channel 4 surpasses 15%.

Looking at wholesale news provision, however, the BBC is overwhelmingly dominant as illustrated in Figure 5.

Figure 5: Share of viewing of national and international television news by wholesale providers in 2011(%)



Source: Ofcom (2012), *News Consumption in the UK*, p. 23 Available at http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/statement/Annex4.pdf (accessed 10 October 2013)

Notes: Data in table is extrapolated from shares of news viewing on BBC, ITV, Channel 4, Channel 5 and Sky. Shares are of the total viewing of National/International News on the BBC, ITV, Channel4, Channel 5 and Sky only. The shares of ITV, Channel 4 and Channel 5 are combined under ITN, which is the wholesale provider for these channels. Figures based on BARB data for total daily minutes of viewing in national/international news genre for 2011.

There are only three main providers with ITN currently providing wholesale news services for ITV, Channel 4 and Channel 5. In this case, where the BBC is included in the measurement, only ITN breaches the lowest threshold of 15%. Where the BBC is excluded, both ITN and Sky breach all four limits.

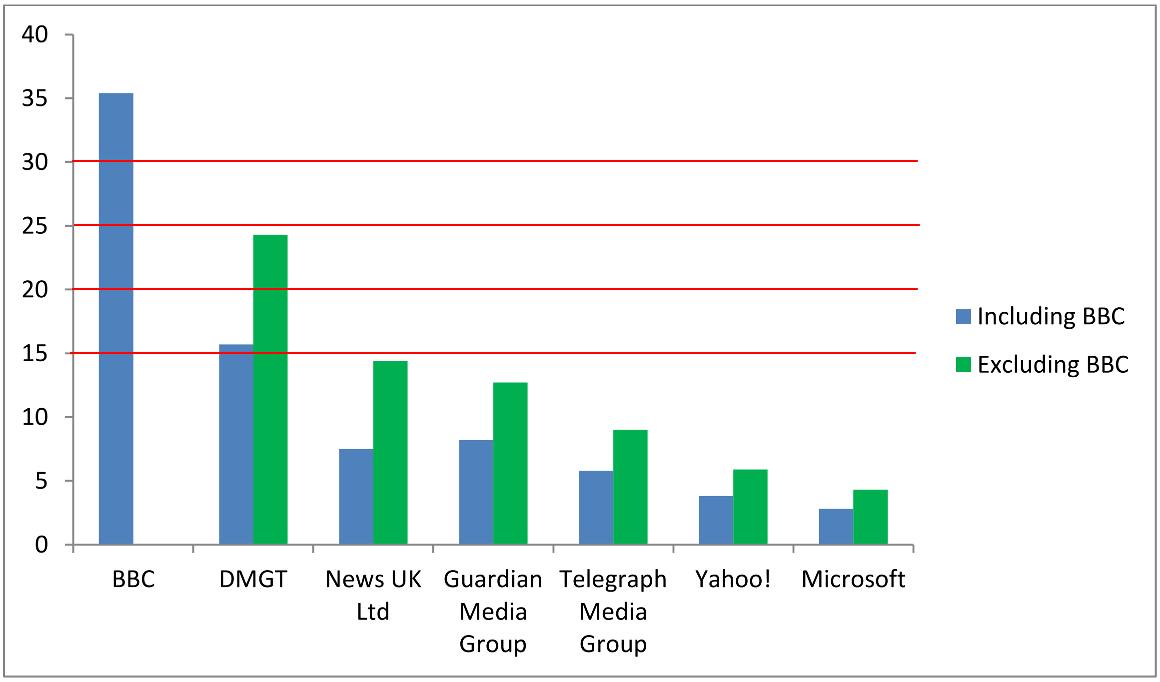
The BBC has by far the largest share of television news audiences. Only ITN would breach the lowest market share limit of 15% when the BBC is included.

It is worth noting that both Sky Radio News and ITN are already subject to due impartiality rules and other provisions contained within the Broadcasting Code. ITV is also subject to additional regulations according to its specific public service mandate, which includes minimum spends on current affairs. Impartiality rules by default protect to some degree against excessive shareholder influence over the content of news broadcasts. In light of this, public interest obligations might reasonably be considered redundant if they are oriented towards protecting editorial autonomy. In regards to ceiling limits, no television news provider would be subject to remedies under existing proposals and based on current market conditions.

Online News

Online news consumption is now measured annually by surveys conducted and commissioned by Ofcom among others (including Nielsen, Comscore, etc.). Defining a total market for online news is more difficult than in other sectors because of the ‘long tail’ of niche news services and the blurring boundaries of news online. However, it is clear from Ofcom’s research that news consumption online is following a pattern of concentration in favour of traditional news brands, as illustrated in Figure 6 below.

Figure 6: **Share of minutes for top 50 websites, grouped by wholesale news provider in Q3 2010 (%)**



Source: Ofcom (2010), *Report on Public Interest Test on the proposed acquisition of British Sky Broadcasting Group Plc by News Corporation.* [data from Rajar Q3 2010]. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/public-interest-test-nov2010/statement/public-interest-test-report.pdf, p. 34

Notes: News UK share includes Sky News share of 1.8%. Figures exclude regional and international titles for each owner. However such titles are included in the total number of minutes from which the percentages are calculated (i.e. the denominator includes page views and minutes to regional/international sites). This has the effect of understating the share and reach figures for commercial media groups who have regional and international titles, including News UK, DMGT, and Guardian Media Group. However, the differences would not alter the impact of thresholds.

In this case, only DMGT would be subject to intervention on plurality grounds under the proposed limits. If the BBC is included in the measurement, DMGT would only breach the lowest limit of 15%. If the BBC is excluded, it would also trigger intervention at the 20% limit.

However, based on the current market conditions as described above, DMGT would already be subject to plurality interventions due to its dominant position in the national newspaper market (at the 15% and 20% levels). Applying ownership thresholds to online news would therefore not trigger any remedies of its own accord, regardless of which measure is used, and provided that remedies triggered in the newspaper market also applied to online operations.

Nevertheless, the growth of online news audiences and their increasing concentration around traditional news brands suggests that this sector should not be excluded from plurality policy. It is possible, for instance, that the Guardian's digital growth may propel it above the lowest threshold in the near-term future.

It is worth noting that the above measurement restricts the online news market to the top news websites. But in essence, calculating shares based on the traffic for top online news providers is no different in principle to the way ABC calculates shares of newspaper circulation insofar as it excludes the smallest outlets. Of the top 50 online news providers by browsing minutes, for instance, five groups control more than 70% of the user base (BBC, DMGT, Newscorp, Guardian and Telegraph) and 37 have less than 1%, which is an indication that any providers outside the top 50 can be considered very marginal indeed.

Measuring market shares in online news can be done using similar principles to those underlying industry audits of conventional sectors.

Cross platform

Two distinct approaches have been followed for measuring cross platform concentration in recent years. The first takes a total media market definition (including online search and social media) and then measures concentration based on share of revenues. This formed the basis of a proposal put forward by Enders Analysis in 2010. According to their research, only a merged Newscorp/BskyB entity would breach a 15% limit.[6]

An alternative approach has been adopted by Ofcom, which has measured the ‘share of reference’ for major news providers based on consumer survey data.[7] With this approach, no news provider other than the BBC breaches a 15% threshold. This applies at both the retail and wholesale level and on measures based on both the ‘main’ source of reference and ‘regular’ sources.

The ‘share of reference’ approach has the advantage of capturing a measure of ‘influence’ rather than just market power, but is limited to news and information rather than the broader media landscape. It is reasonable to assume that the media’s impact on and contribution to citizenship extends beyond the output of conventional news and current affairs. Ofcom’s approach also fails to capture the filtering influence exercised by online intermediaries, including search and social media, which can impact on the flow of news and information in the digital sphere.

Nevertheless, regardless of which approach is adopted, no company would be affected under current market conditions at any of the proposed market share limits. However, as with online news, ownership limits applied at the cross platform level could be an effective guard against potential concentration in the future.

PLURALITY REFORM PROPOSALS

The previous section addressed the question of whether the implementation of ownership limits could be done without engendering radical upheaval in media industries or threatening market competitiveness. It indicated that this is possible even with the lower limits proposed, based on market share data used regularly by industry and Ofcom, and by applying a range of remedies aimed at distancing proprietors from editorial control. Should some form of limits be accepted by policymakers, three further questions will need to be answered:

1) where the limits are set;
2) where these should be applied; and,
3) whether or not to include the BBC.

The positions of several civil society groups on these issues are summarised in Table 1 below, based on their submissions to the Lords Select Committee on Communications' inquiry into media plurality.[8] Ownership limits play two different roles in these proposals.

Some proposed limits are absolute and foreseen to act as a ceiling, above which divestment or other ownership changes must be made and mergers prohibited. Other proposed limits are suggested as markers, the surpassing of which prompts the application of some kinds of public interest obligations or interventions. The groups covered here are those responding to the inquiry that a) do not represent commercial interests, b) explicitly reference ownership limits in some context, and c) are not single issue campaigns (e.g. European Initiative on Media Pluralism). [9]

Table 1: Summary of civil society proposals on media ownership limits

ORGANISATION	SECTOR LIMITS BASED ON AUDIENCE SHARE?	CROSS MEDIA LIMITS BASED ON REVENUE SHARE?	BBC INCLUDED IN MEASUREMENT?	BBC INCLUDED IN REMEDIES?
Campaign for Press and Broadcasting Freedom	Yes – 15% lower limit triggering P.I. test and 30% ceiling	Yes – based on P.I. test triggered by merger	Yes	No
Avaaz	Yes – 20% limit	No	Yes	No
National Union of Journalists	Yes – 15% lower limit triggering P.I. test and 25% ceiling	Not mentioned	Not specified	No
Media Standards Trust	Not mentioned	Yes – 15% based on Enders definition of total media market	Yes	Not specified
Media Reform Coalition	Yes – 15% lower limit triggering public interest obligations and 20% ceiling	Yes – 15% based on Enders definition of total media market	Yes	No
Enders Analysis	No	Yes – 15% based on Enders definition of total media market	Yes	Not specified

The majority of these groups endorse both sectoral limits based on audience share (e.g. television ratings, newspaper circulation, etc.) and a cross-media limit based on revenue share. In relation to the former, three of the four groups endorsing sectoral limits favour a lower and upper limit with any company in between being subject to prescribed public interest obligations, or remedies determined on the basis of a public interest test. In regards to the levels of ownership limits, three of the four groups advocating sectoral limits have cited a ‘ceiling’ limit of 20% or 25% and the same proportion favour a lower limit set at 15%. In regards to a cross media limit, the majority of groups examined here endorse Enders’ proposal for a 15% limit on total media market revenue share.

That the BBC should be included in the measurement of plurality is equally a point of consensus. However, none of the groups examined have suggest that the BBC should be subject to plurality remedies and a clear majority of groups are explicitly against this. Proposed structural and behavioural remedies are already covered by existing public service regulation, to which the BBC is subject. It is precisely because public service regulation would be unduly burdensome and inappropriate for publishers given free speech concerns, that a distinct and light-touch regime is needed for dealing with significant concentrations of commercial media power.

In light of this, a position that would seem to carry the strongest support among the civil society groups listed above (who have been active on this issue) is summarised in Table 2.

Table 2: Possible consensual position based on civil society responses

SECTOR LIMITS BASED ON AUDIENCE SHARE?	CROSS MEDIA LIMITS BASED ON REVENUE SHARE?	BBC INCLUDED IN MEASUREMENT?	BBC INCLUDED IN REMEDIES?
Yes – 15% lower limit triggering prescribed public interest obligations. Upper limit of 20 or 25% triggering structural remedy	Yes – 15% limit based on Enders' total media market definition	Yes	No

A clear majority of the groups listed in Table 5 (including Avaaz, Enders, MRC and the Media Standards Trust) are explicitly opposed to leaving significant discretionary power in the hands of Ofcom or ministers, which is implicit in the public interest test. This would require clear definitions of the range of applicable remedies under different circumstances to be enshrined in statute. It would also ensure that policy responses to market concentrations will be intrinsically transparent.

CONCLUSIONS

A broad consensus of concerned civil society groups advocates a system of ownership limits both within and across markets with prescribed remedies; that includes the BBC in the measurement of plurality, but not in remedies; and that above all establishes in statute 'clear bright lines' triggering appropriate remedies.

'Clear bright lines' do not imply that a system of ownership limits cannot take account of contextual factors. Provided a suitable range of remedies are clearly defined in response to particular circumstances, and provided that the system itself is subject to periodic review, it can allow for a degree of flexibility and certainty whilst minimising discretionary power. The majority of proposals considered here advocate behavioural remedies or public interest obligations to be triggered at a lower consumption share threshold of 15%, with structural remedies requiring divestment or dispersal of shareholdings at an upper threshold of 20% or 25%. Provided that both behavioural and structural remedies are principally oriented towards distancing proprietors from editorial output, and provided that they include a sufficiently broad range of remedies appropriate to different markets and circumstances, there is little basis on which to believe they will act as deterrents to innovation of growth.

Furthermore, this brief has shown that even at the lower levels of share limits proposed (15% or 20%), the impact on existing market conditions would be moderate overall if the BBC is included in measurement and existing controls on broadcasters were factored into plurality assessments. They would be significant only in the national newspaper market where a relatively high level of concentration pertains, but even here they would impact only on the two largest groups (News UK Ltd and DMGT).This picture is summarised in Table 3 below.

Table 3: Media groups providing wholesale news that would be affected by proposed public interest thresholds of 15% and ownership limits of 25%

National newspapers	Local newspapers	Radio	Television	Online	Cross-media
News UK Ltd – structural remedy *DMGT* – public interest obligations	*Trinity Mirror* – public interest obligations	*Sky* – structural remedy*	*ITN* – public interest obligations**	None	None

*Where a given market is not able to support additional providers as a result of divestment alternative structural remedies could be used as described above
**As suggested above, intervention might be redundant here if impartiality rules are considered to offer, by default, sufficient protection of editorial autonomy from shareholder influence.

As mentioned previously, there is precedent in merger conditions, which could be used as a basis for developing more robust protections for editorial and journalist autonomy. Such protections would be appropriate at the lower limit of 15% since they would not affect shareholdings directly. At the upper limit, divestment would clearly be the most effective means of enhancing plurality. This would also make the most sense if any media group was to breach the cross-sector limit, given that their share would necessarily comprise a plethora of distinct media assets. But where an individual market is not able to support additional providers as a result of divestment, or where a single outlet breaches a ceiling limit, alternative structural remedies could be applied with a view to eliminating a controlling interest within the outlet or group in question.

Such a regime need not therefore threaten the viability of particular titles, nor unduly penalise competitiveness. Remedies triggered by both the lower and upper limits could be tailored towards distancing proprietors from the editorial output of their titles. This strategy could therefore deal with the substance of plurality concerns whilst ensuring that limits are effective and appropriate even for print news markets facing economic decline.

The reason many of the civil society groups give for insisting on such statutory limits is that only by eliminating discretionary power in the hands of ministers, and minimising it in the hands of regulators, can plurality reform deal with the root cause of media capture exposed in the Leveson hearings.

The proposed system of ownership limits, drawn from the most common position of civil society groups (as described above), exhibits three further strengths in the context of on-going deliberation over plurality reform:

1. First, it strikes a balance between those who argue that ownership limits should merely prevent further concentration in media markets, and those who believe it should deal principally with existing bottlenecks.

2. Tackling cross-media concentration alone does not capture inter-media agenda influence. Newspapers might be facing structural decline in revenues, but this does not necessarily translate into declining influence over other media, and the news and policy agenda more broadly.[10] Also, one third of the population continues to rely exclusively on one medium

for news and information.[11] Whether by personal choice, media literacy or access barriers, plurality controls are needed to ensure that this substantive proportion of the population are exposed to a diversity of voices.

3. This policy deals with both the special contribution of news and current affairs to informing citizens in a democracy (within sectors), as well as the wider contribution to culture and plurality offered by other forms of media content (at the cross-media level).

In sum, statutory ownership limits are supported by concerned civil society groups as mechanisms to guard against the kind of surreptitious cross-influence between media proprietors and policy-makers exposed in some detail during the Leveson hearings. Testing the proposed limits using recent data on the current media UK markets demonstrates that such limits would not result in drastic overhauls in the industry and need not threaten the viability of any media outlet or unduly penalise the success or endurance of individual market players. They can be applied in such a way as to address the broad range of concerns invoked by concentration in a converged media environment and amidst structural decline in print news markets.

A system for measuring and applying limits, triggering appropriate and tailored remedies, is both feasible and recommended if the UK is to demonstrate global leadership in fostering a more democratic, plural and accountable media.

NOTES

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[1] This brief does not presume to give a definitive measurement for media plurality in the UK, but to model the limits proposed using market measurement data commonly used in the industry in order to contribute to discussion on these proposals.
[2] For details of Avaaz, NUJ and MRC proposals, among others, see http://www.parliament.uk/documents/lords-committees/communications/Mediaplurality/MediaPluralityEvidence.pdf
[3] This analysis is derived from statistics gathered by the Joint Industry Committee for Regional Press Research, forthcoming in Media Reform Coalition (2013), *The Elephant in the Room: A survey of media ownership and plurality in the UK.*
[4] Ofcom (2010) *Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation* http://stakeholders.ofcom.org.uk/binaries/consultations/public-interest-test-nov2010/statement/public-interest-test-report.pdf p 37
[5] See http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/statement/Annex4.pdf p. 29 (accessed 26 October 2013)
[6] For further details of this proposals, see http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Annex-1-to-Submission-by-Claire-Enders-Enders-Analysis.pdf
[7] Ofcom (2012), *News Consumption in the UK.* Available at http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/statement/Annex4.pdf
[8] For full details of all submissions see http://www.parliament.uk/documents/lords-committees/communications/Mediaplurality/MediaPluralityEvidence.pdf
[9] Arguably Enders Analysis is not a civil society organisation as it is a private company; however its submission to the Inquiry was self-initiated and not commissioned for commercial purposes or the purposes of lobbying. The term civil society groups is used to refer to all for the sake of simplicity.
[10] See J. Schlosberg (2013), *Power Beyond Scrutiny: Media, Justice and Accountability.* London: Pluto.
[11] Ofcom, *News Consumption in the UK - 2013 Report.* Available at http://stakeholders.ofcom.org.uk/binaries/research/tv-research/news/News_Report_2013.pdf (accessed 26 October2013)

LSE MEDIA POLICY PROJECT

ABOUT:

The Media Policy Project aims to establish a deliberative relationship between policy makers, civil society actors, media professionals and relevant media research. We want policy makers to have timely access to the best policy-relevant research and better access to the views of civil society. We also hope to engage the policy community with research on the policy making process itself. We plan to examine how policy issues emerge on the agenda and how networked communications may aid stakeholder consultation.

MEDIA POLICY PROJECT BLOG:

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