

Interview with Lord Inglewood: Communications Committee calls for Periodic Plurality Reviews by Ofcom and More



*The Leveson Report recommended Parliament review existing law on media ownership and media plurality. Today the House of Lords Communications Committee published its **Report on Media Plurality** proposing policy to address concentrations that might evolve in the market as well as in instances of transactions such as mergers. LSE Media Policy Project's **Sally Broughton Micova** spoke with the Committee Chairman **Lord Inglewood** about the report.*

Sally: What do you think is the most important change the committee is recommending in this report?

The real core of our report is that we are coming forward with a system that deals both with issues of plurality deriving from organic change and from transactions. We propose steps that can be taken which deal with each of them, and at the same time work in parallel. There are the regular plurality reviews, which come through every five years or so we anticipate, and then if something particularly dramatic happens, the transaction will trigger an investigation. The investigation deals with both the competition aspects and the plurality aspects of each case, and we've slightly re-balanced the relationship between competition policy and the plurality policy.

The report is quite clear that policy should be limited to news and current affairs content and those that produce it. Why did the committee decide that this scope is sufficient, especially in light of the revelations about the power of some large media companies that came out during the Leveson Inquiry?

We start from the proposition that the best can be the enemy of the good, and that if we're going to produce policy proposals

we've got to produce ones that are transparent and workable. The conclusion we reached was that news and current affairs, as we've defined it, are at the heart of people's concerns. I'm not saying that there are not other potential concerns; many of these can be dealt with in different ways. One thing people sometimes forget is that if a particular large media company is behaving in an aggressively dominant way in any marketplace it may run afoul of competition policy. These issues are actually very difficult to pin down, but if you try to get too complicated you end up not actually solving the real concerns.



Lord Inglewood

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But the committee still decided to reject the use of caps, which I guess is likely to be unpopular with some civil society groups...

We thought carefully about that and the conclusion we reached is that you should try to work out what your policy should be and then the remedies that you apply follow from that. We just thought that the idea of these caps and the things that a number of civil society groups advocated flowed from going over a threshold were not at all within the tradition of journalism in this country, particularly of print journalism. We felt that it would end up being very difficult to monitor and was not really going to be transparent. We thought that the approach we adopted, bearing in mind the desirability of things like freedom of speech and so on, was in the real world likely to give a better outcome. There are already a lot of safeguards in the case of public service broadcasters. In the case of the written media it is a different tradition. Having said that, we have not completely ruled out some sort of intervention or behavioural remedies out. We just thought that on balance they probably were not the right instrument.

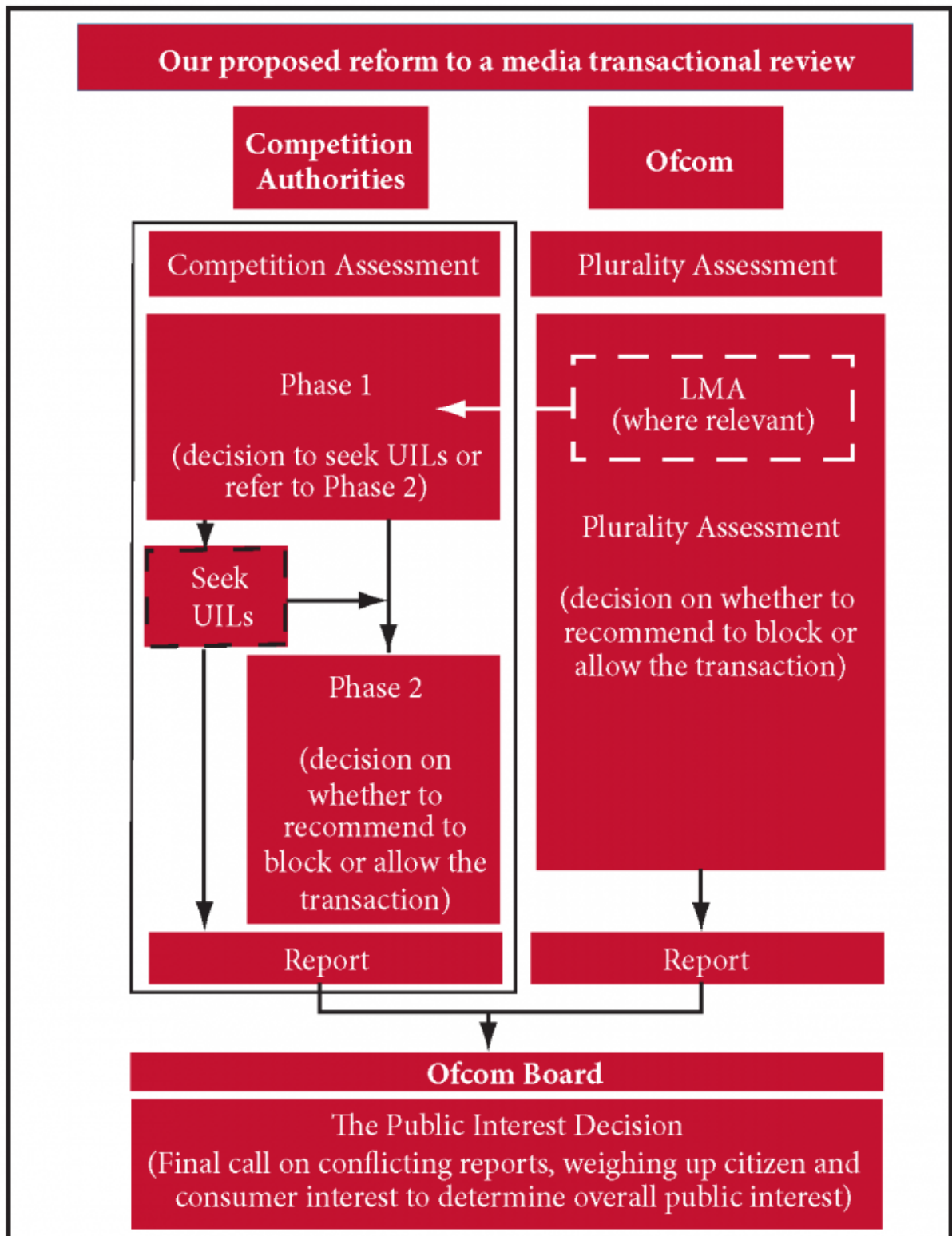
But then I did see divestment proposed to be used as a remedy if Ofcom identified a "severe concern" during a periodic review. How should Ofcom determine when media companies should be broken up?

We believe there should be statutory guidance about how to define these things and the approach that Ofcom should take. Ofcom then needs to agree with the Secretary of state the methodology it is going to take in any particular set of circumstances. Once that happens, it will flow as night follows day from how the metrics were deployed whether or not the thresholds for divestment were reached. If they were, then that procedure that we describe would come into play.

So on a case by case basis?

The reality of it is that we do not anticipate this happening except in the most exceptional circumstances, because the landscape is being reviewed and everyone will know where they stand. The crucial thing to remember is that media companies are spending their own money and they're not going seek out trouble. We think it is unlikely that there are going to be very many of these.

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The model proposed by the Communications Committee in its Media Plurality Report for reviews of transaction, or merger, related plurality issues (p. 65)

these processes the Committee advocates a greater role for Ofcom in reviews and decision-making. Considering the recent move by the Government to scale back Ofcom’s statutory reviews in other areas and put more discretion in the hands of the Secretary of State, how do you think these recommendations will be received?

I know there has been a move by Government for the Secretary of State to play a bigger role, but equally the Government recognises in the case of press regulation the need for Government, Parliament, and politicians to be at arm’s length from these issues, and in

particular specific transactions. So I do not think our proposal runs counter to its more general approach in this area. Furthermore, the basis of both the periodic and transactional reviews is endorsed by the Secretary of State and everything stems from this, also the underlying system requires statutory underpinning from Parliament.

The committee also quite adamantly advised against top-slicing the license fee to fund positive interventions to promote plurality...

We believe that license fee should be for the BBC. That is what it was set up to do, except that in certain circumstances in the past it has been plundered. It is like small boys seeing a tree laden with apples; they'll go and pick something off. Government sees the money and thinks – oh we'll have some of that – we think that's a bad idea.

Then are there any other implications for the upcoming Charter Review stemming from your report?

Not necessarily. If the Charter Review decided that the whole way of regulating the BBC changed, then it might have implications for what we've been talking about. But what we have spelled out is that as long as it remains as it is now, we believe that plurality issues, as they affect the BBC, should be dealt with through the BBC Trust. If all that changed, anything could be up for grabs, but there is no point speculating on that.

How does your Committee's report deal with digital intermediaries such as Google and Facebook?

Currently people are very exercised about digital intermediaries, but as of now I have seen no evidence of what I might call real abuse. We touched on this in our media convergence report. Of course the argument that these intermediaries run is that they are really indexes and that they do not interfere with the information – that the algorithms operate for the benefit of the person who is using them and impartially. If that ceased, in particular if the impartiality ceased so that they favoured certain sorts of information, then I think you have got a potential for abuse. Then you would have to deal with it, but there is no point in dealing with it on a national basis.

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