



Department
for Culture
Media & Sport

Media Ownership & Plurality Consultation Report

Government response to the House of Lords Select Committee on Communications Report into Media Plurality

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Summary

This report sets out the Government's response to both its July 2013 consultation on media ownership and plurality, and the House of Lords Select Committee on Communications report and recommendations on media plurality.

House of Lords Select Committee on Communications report into media plurality

We are grateful for the Committee's agreement to publish our response jointly with a report on our consultation, which we are doing due to the significant overlap in policy content.

The Government welcomes the Committee's thorough and considered report and recommendations. The report is a rigorous assessment of the current media plurality framework which recognises the challenges of both measuring plurality and ensuring the regulatory framework is adequately able to respond to changing market conditions. The report makes a range of constructive recommendations on the future of plurality policy, which are considered in greater detail in **part two** of this document.

We will continue to ensure the Committee's views are reflected in subsequent work by the Government.

Media Ownership and Plurality Consultation, July 2013

In July 2013, following consideration of Lord Justice Leveson's recommendations, the Government began a consultation to seek views on, and define the scope for, a measurement framework for media plurality.

Our consultation paper sought views on:

- The types of media a measurement framework should cover;
- The genres it should cover;
- The types of organisation and services to which it should apply;
- The inclusion of the BBC;
- The audience with which it should be concerned.

Government has been clear that it will not consider changes to the existing policy or regulatory framework for media plurality until the measurement framework and baseline assessment have been delivered, so that we can ensure any changes are proportionate and targeted. Therefore our response to the consultation does not seek to review existing regulatory and policy levers, nor does it seek to propose potential remedies. It simply sets out the proposed scope and objectives of a measurement framework and confirms the next steps that Government is taking to commission this.

Response highlights and summary of Government's conclusions

We received around 140 unique responses to our consultation from a range of individuals and organisations, including academics, media organisations, research bodies and individuals. We also received 2,018 responses to a campaign run by Avaaz, which broadly expressed the view that media ownership is concentrated in too few hands. We also received seven responses from people that reported only on their specific views on the BBC and its perceived bias.

We received 39 complete responses that answered all of the questions that we asked. Full responses are the most valuable to our current work, and they are what have been explored in most depth in this report.

We have briefly summarised respondents' views below, and the Government's conclusion on each question in light of its consideration of the consultation responses. The detailed response to the consultation begins at page 10 of this document.

Consultation question	Response summary	Government conclusion
<i>Do you agree that online should be included within the scope of any new measurement framework?</i>	Respondents overwhelmingly considered that online content should be included in any consideration of media plurality.	Government agrees that online should be included within the scope of any new measurement framework.
<i>What type of content is relevant to media plurality?</i> <i>Do you believe that scope should be limited to news and current affairs, or widened to consider a wider cultural context? If so, how might a wider context be defined?</i>	There were mixed views on which genres should be included. Whilst some respondents considered that all genres have the potential to influence consumers, for practical reasons many respondents felt that it is necessary to limit the scope.	Government has concluded that the type of content which is most relevant to media plurality is news and current affairs and we consider that, for reasons of practicality, the scope should be limited as such. This could, however, be kept under review.
<i>What sorts of organisations and services are relevant to media plurality?</i> <i>Do you believe that scope should be limited to publishers or include services that affect discoverability and accessibility?</i> <i>Do you agree that the BBC's impact on plurality should be assessed as part of a plurality review?</i>	Respondents largely agreed that organisations that exercise an active editorial function should be included in an assessment, though the practicalities of including social media was questioned by some. The majority of respondents considered that the BBC should be included in any assessment of the market.	Having examined the range of views expressed, Government has concluded that all parts of the news value chain (from collection to dissemination and aggregation) should be included in an assessment. Government also agrees that the impact of the BBC should also be assessed.
<i>Are there specific factors that you think a measurement framework needs to capture in order to provide a picture of</i>	On local communities, respondents noted that there are key differences between local and national media. There was also a range of views	Government has concluded that the first baseline assessment of plurality should include

<p><i>plurality in local communities?</i></p> <p><i>Do you agree that a measurement framework should also seek to assess the plurality of media serving other audiences or communities of interest? If so, which ones?</i></p>	<p>expressed on whether a distinction should be drawn between only against the four nations of the UK, or also across smaller regions.</p>	<p>some consideration of local and regional markets, but this need not include a forensic examination of every locality.</p>
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Other points of note

Ofcom’s principle that plurality is not a goal but a means to an end was widely supported. It was also noted that there are many other Government policy areas that contribute to media plurality, including net neutrality, competition, Public Sector Broadcaster (PSB) funding, and PSB prominence. We recognise that effective policies in other policy areas, such as competition, are key to ensuring we can maintain media plurality, and we should embrace the impact we can make using these tools.

Next steps

Having fully considered both the consultation responses and the Lords Communications Committee’s report, we will now look to commission Ofcom to develop a suitable set of indicators to inform the measurement framework for media plurality. These indicators will subsequently allow for the first ever baseline market assessment of media plurality in the UK to be conducted.

Policy Context

What is Media Plurality?

Media plurality is concerned with ensuring the public are exposed to a range of different opinions, views and information from a variety of sources. Its focus is the information that is available and that people consume on a daily basis; information which informs their views and perspective on the world. Successive governments have taken the view that plurality of the media is of central importance to a healthy democracy.

There is no definition of media plurality in statute; however, in advice to the Department in 2012, Ofcom provided a useful definition of the desired outcomes of a plural market:

- Ensuring that there is a diversity of viewpoints available and consumed across and within media enterprises
- Preventing any one media owner or voice having too much influence over public opinion and the political agenda.

Of course, neither the Government nor any other body can compel people to consume a range of media voices, or control the impact that these voices have on public opinion. Nevertheless, the principle remains that the Government should seek to promote the availability and consumption of a range of media voices.

However, whether the scope of the Government's existing policies or the tools available to it remain effective in ensuring consumers can continue to access a wide range of viewpoints has been a matter of debate in recent years. Most recently, Lord Justice Leveson's report into the Culture, Practice and Ethics of the Press examined cross-media ownership and the necessary regulatory regime that could support plurality of the media in the UK, and the House of Lords Select Committee on Communications considered the issue in depth through its investigation into plurality.

Lord Justice Leveson's report

In his report into the Culture, Practice and Ethics of the Press, Lord Justice Leveson set out eight recommendations in relation to media plurality, on issues such as measurement, periodic reviews and organic growth. He stated that his recommendations were "at the level of desirable outcomes and broad policy framework, rather than the technical means of achieving those outcomes". Lord Justice Leveson also concluded that the internet should be included in media plurality considerations, stating that "the particular public policy goals of ensuring that citizens are informed and preventing too much influence in any one pair of hands over the political process are most directly served by concentrating on plurality in news and current affairs". He added that "this focus should be kept under review."

Investigation by the House of Lords Communications Committee

In parallel to the Government's work, the House of Lords Select Committee on Communications began an investigation into media plurality in March 2013, and published its report in February 2014. The report discussed the case for, scope of and approach to plurality policy. The Committee made a range of recommendations, addressing the scope of plurality policy, mechanisms for reviewing the market, and the role of Parliament and the Government.

The Government's current role

The Communications Act 2003 introduced the Public Interest Test for media mergers¹, which set out that the Government's role is to assess, when a media merger takes place, whether it will have an adverse effect on media plurality. Before this legislation, media mergers were still subject to separate ownership restrictions. These took the form of restrictions on the ownership of particular combinations of broadcast media, restrictions on cross-media ownership and a specific merger regime for newspapers. The purpose of these restrictions was to ensure plurality in media ownership.

¹ Amending the Enterprise Act 2002

Part one: Government Response to Media Ownership & Plurality Consultation

Our consultation was designed to seek views on and define the scope for a measurement framework, and in particular sought views on:

- The types of media a measurement framework should cover;
- The genres it should cover;
- The types of organisation and services to which it should apply;
- The inclusion of the BBC;
- The audience with which it should be concerned.

This response sets out a summary of the key issues and concerns raised in the consultation responses, and also outlines the Government's next steps.

Types of content in scope

- **Do you agree that online should be included within the scope of any new measurement framework?**
- **What type of content is relevant to media plurality?**
- **Do you believe that scope should be limited to news and current affairs, or widened to consider a wider cultural context? If so, how might a wider context be defined?**

Our consultation asked which types of media should be included in any assessment of plurality, in particular whether content that is delivered online should be within scope, and which genres should be the focus of our analysis.

Currently, media ownership rules only apply to newspapers, television and radio. They do not extend to media organisations that operate in the online sphere. Yet, increasingly, more people in the UK now regularly access news via the internet. Much online content is generated by media organisations such as the BBC or Daily Mail that traditionally reached their audience via another medium, whether print, broadcast or radio. In addition, the internet has also created an outlet for new voices to reach the public, meaning that a myriad of individual, smaller voices can now easily be heard and their opinions debated. We therefore wanted to explore whether Government policy should explicitly cover online content.

In terms of genre, Ofcom have, to date, concentrated their consideration of media plurality on news and current affairs (although they are not required by the current regulatory framework to do so). This is because news and current affairs are considered by Ofcom to be the most relevant genres for the delivery of the underlying public policy goals delivered by a plural market (such as to inform citizens and ensure they are able to access and consume a wide range of viewpoints across a variety of platforms). Moreover, the practical challenge of measuring some aspects of plurality could be exacerbated should there be no restriction on the type of content captured². Lord Justice Leveson supported this approach, recommending that “the particular public policy goals of ensuring that citizens are informed and preventing too much influence in any one pair of hands over the political process, are most directly served by concentrating on plurality in news and current affairs.” He also noted, however, that “the focus should be kept under review”. Through our consultation, Government sought to test this assumption in order to reach an explicit view on what genres should and should not be included.

Should online content be included?

The overwhelming response to our consultation was that content delivered online should be included in any consideration of media plurality. Many respondents noted the inconsistency that means current regulations exclude a platform that has become an increasingly important channel through which people regularly find information about the world around them, particularly news. 41% of UK adults use the internet for news ‘nowadays’, representing a broad upward trend from 27% who ‘ever used’ it in 2007 and 15% who ‘ever used’ it in 2002³.

Of those that thought that online should be included, many agreed with Ofcom’s observation that internet services can influence availability and discoverability of content. However, it is clear that there is still some debate about exactly how the online sphere might fit into any regulatory framework. As one respondent noted: “There is no question that a new policy framework should embrace online and the internet. We should, however, be very careful about casual assumptions that an ‘explosion’ of online news and opinion sites somehow vitiates the need to monitor burgeoning media power.”

Others echoed the need for a cautious approach to any extension of regulation in this area. One argument proposed was that the internet has brought significantly greater plurality by virtue of enabling many more voices to be heard, whether via blogs, social media, or the comment pages on newspaper’s websites. It was argued that simply protecting freedom of expression on all platforms results in greater plurality.

Overall many noted that despite the fact that digital platforms are developing and expanding, TV is currently still the dominant platform for accessing news and current affairs. In addition, the barriers to entry for the TV and newspaper market are highest, making these markets harder to enter. Some respondents therefore felt that Government’s focus should initially remain on traditional print and broadcast media before moving to consider online.

Which genres should be included?

² Ofcom report on measuring media plurality, 19 June 2012

³ Ibid.

A minority of respondents felt that all genres of content are relevant to media plurality, however most thought that there should be narrower parameters; predominantly around news and current affairs.

Amongst those who thought that the scope should be wider, there was a mixed opinion about how far this should go. Proposals included: specific genres such as sport, drama, and light entertainment or genres that have cultural, social and political relevance; 'factual' content; or any content with significant potential to affect political and social opinion. Respondents were generally in agreement that, whatever the outcome, a clear definition of what types of content are included is crucial, but that this should also be reviewed periodically. The key argument made by those wanting a very broad definition was that all content has the potential capacity to influence our ideas, attitudes and opinions.

Nevertheless, the majority felt that limiting the scope was necessary for practical purposes and that news and current affairs was therefore the right area for focus; indeed, many argued that a broader scope would make assessment impractical and unclear. As noted above, some respondents underlined that the definition of 'news and current affairs' should be regularly reviewed as it becomes increasingly difficult to separate this genre from other forms of cultural expression, and that a distinction is required to differentiate between 'professional' content (for example output from an official news agency); and 'personal' content (such as that produced by bloggers).

Some respondents went further and suggested that the relative importance and influence of different types of news and current affairs content should be considered, along with content variety, media access, independence of creators, owner influence affecting content, and sources of funding.

Conclusion on types of content

Having considered these responses carefully, the Government's conclusion is, given that the objective of this work is to gather an accurate picture of how people gain information about the world around them today, it is clear that the measurement framework and baseline assessment should include all the main platforms through which this happens. Content delivered online should therefore be in scope. However, whether this will lead to changes in the regulatory framework is a separate question, and one that Government will not address until the measurement framework and assessment have been completed.

We have also considered the arguments made about the genres that could be covered by a measurement framework, and we have concluded that the scope of content under consideration should be limited to news and current affairs. Whilst we acknowledge that media of all genres has the potential to impact upon the attitudes and opinions of the UK people, we think that the parameters should be restricted to the consideration of news and current affairs: this reflects how current public interest considerations are carried out, and Ofcom's published advice. However, following the establishment of a measurement framework and a baseline assessment of plurality, we would expect these parameters to be kept under review.

Types of services in scope

- **What sorts of organisations and services are relevant to media plurality?**
- **Do you believe that scope should be limited to publishers or include services that affect discoverability and accessibility?**
- **Do you agree that the BBC's impact on plurality should be assessed as part of a plurality review?**

Our consultation asked whether any plurality assessment and associated measurement framework should be limited to certain types of news and current affairs organisations or whether it should take into account all businesses that play a role in the news content that we find and consume. We also asked whether the BBC's impact should be taken into account in any assessment of plurality.

We posed these questions largely in recognition of the fact that, if we are to include online services in any assessment, the internet has enabled a far greater range of business models and new services that can not only create and sell content, but also affect its availability and discoverability. The internet has changed the traditional business models for how news is generated, edited, presented and finally consumed and created a greater variety of ways that content can be discovered, curated and commented upon. For instance, traditional news organisations like the BBC and The Guardian operate differently online, providing links to third party and social content in order to support their coverage, particularly of breaking live events. At the same time, wholly new news sites have grown up, some with significant readerships such as The Huffington Post or BuzzFeed. With the number of users who access content through aggregated, social and search websites such as Google News and Facebook increasing, there is the potential for aggregator organisations to exert a degree of control over the content that is made available to their users: Facebook and Google News are used by around one in five (19%) of people who use the internet as a source of news, making them the equal second most important sources of online news⁴. Whether content is delivered to audiences on the basis of social recommendations, a curated service or pure algorithms, it is possible that a service may give prominence or improved discoverability to content originating from certain news sources over others.

In our consultation, we explore the fact that news is consumed via different sources and often travels through different types of organisation before reaching the consumer. This stretches from the news wires that gather news professionally and coordinate news for wider distribution, to broadcasters and online and print publishers that editorialise and retail the content. The internet provides added complexity through business models that simply aggregate or promote news stories without adding editorial input, but whose effect may be to influence what news is consumed by users of those services. We wanted to explore whether focussing a measurement framework on specific parts of this chain may be desirable.

We received a range of responses on this topic. Respondents agreed that organisations that have an active editorial function, namely publishers and broadcasters, should be central to

⁴ Ofcom report into measuring media plurality, 19 June 2012

any consideration. However, there was a split of opinion as to how important other parts of the value chain were to making an assessment. Some argued for the importance of 'gatekeeper' organisations that control what content is presented to consumers and thought that any organisation that is a potential barrier to the diverse dissemination of news should be included. Others thought those who simply re-use and re-package previously editorialised content were not important, and some argued that we should just focus on the 'point of contact' with the consumer, whatever type of organisation that might be. One idea posed was that the scope should only include those online companies that have 'material influence' over the news presented to the public, and that there should be a distinction between those that gather and editorialise news versus sites that repackage existing content or merely redirect the user to existing content. This was a reflection of the fact that a vast amount of online news is aggregated and in fact originates from newspaper and broadcast news operations.

Some respondents noted that consideration should be given to all the voices available to UK audiences across all media and within all media groups, but also that attention should be paid to the ownership of media organisations, because a concentration of ownership in a small number of hands is a key concern. A few respondents suggested that it would only be practical to include a relatively small number of types of organisation as opposed to a broad range across the value chain. Others argued that the focus of our work should be on how to promote diverse and quality media content (we are clear that Government's focus at present is simply on measuring and subsequently producing a baseline assessment of the current position, and is not currently looking at active policy intervention such as this).

There was a level of concern in some responses about the implications of including social media within scope. Some felt strongly that sites such as Twitter and Facebook should be excluded because they are not primarily news sites, and because the sheer mass of information they generate would make them impractical to assess. One remedy suggested was that, rather than including them in a blanket initial approach, these sites should be assessed regularly in order to evaluate their effect.

On the question of the BBC, the evidence shows clearly that it has the greatest market share across broadcast, online and radio news. In Ofcom's advice to the then Secretary of State on measuring media plurality in 2012, the regulator concluded that "The BBC's significant scale and leading position in three of the four platforms mean that it must be fully included in any assessment." Lord Justice Leveson noted this in his report, and support for inclusion of the BBC was the most unanimous response to the questions that we asked in our consultation. The sheer size of the BBC and its substantial market share and influence mean that for any assessment of plurality to be meaningful, the organisation must be included in the measurement of plurality. The BBC Trust has also stated on more than one occasion that it thinks that it should be included in an assessment of media plurality. However, there is a separate question as to whether the BBC should be subject to any remedies if a problem with plurality is identified.

On this point, the majority of responses also acknowledged that the BBC's unique position and its unique regulatory structure need to be recognised. It was noted that the BBC cannot be compared directly to other media organisations. It was recommended repeatedly that the BBC Trust assess the BBC's contribution to plurality, which was also Ofcom's position in its advice to the Department in June 2012. As stated previously, the purpose of this paper is not to review the regulatory and policy levers available for ensuring media plurality, but to confirm the scope and objectives for a measurement framework and baseline assessment.

Therefore the issue of how the BBC's impact should be managed, if at all, is for now out of scope.

Conclusions on services in scope

The Government's objective is to establish a measurement framework and baseline assessment of plurality in the UK that reflects an accurate and realistic picture of how people access and consume news and how the market that sits behind this operates. We asked what types of services should be included to ensure that the framework and assessment can provide the market with a degree of certainty about whether certain types of organisations would be covered, and to ensure that the scope of the work was not unnecessarily great or so small as to deliver an unrepresentative view.

With this in mind our conclusion is that all parts of the news value chain, from collection to dissemination and aggregation should be included in our assessment. However, it is important to note that this work is simply looking to establish the measures that will demonstrate whether or not there is sufficient plurality in the news and current affairs market, and subsequently the baseline assessment. By including all organisations that play a part in this market, we are not saying that, for instance, bloggers or social media would necessarily be subject to any remedies, but that their influence needs to be taken into account in order to provide a complete picture. The Government accepts the arguments that there is a distinction between large-scale, professional organisations that generate or make available news and are used by a large number of people, as opposed to small, non-professional individuals and SMEs whose sphere of influence is likely to be smaller.

The Government agrees with the prevailing view that in order to map out an accurate and meaningful landscape of the plurality of the UK media, the BBC must be included in the measurement framework. As a major player in the news and current affairs market, the BBC has a significant impact on the overall range and scale of news provision. As such, it is important that the BBC is internally plural - presenting a range of opinions and perspectives – as well as impartial: the two are not synonymous. Ofcom's advice to the Secretary of State noted that while the BBC seeks to adopt different approaches across its news programmes and services as it looks to serve all demographic groups, this does not guarantee that any individual is subject to a sufficient diversity of viewpoints. As such, we consider that a measurement framework should assess the BBC's impact on plurality.

Local communities

- **Are there specific factors that you think a measurement framework needs to capture in order to provide a picture of plurality in local communities?**
- **Do you agree that a measurement framework should also seek to assess the plurality of media serving other audiences or communities of interest? If so, which ones?**

Our consultation asked whether there are specific factors that a measurement framework needs to capture in order to provide a picture of plurality in local communities. This was in recognition of the fact that news markets in the Nations, regions and communities of the UK

differ and we therefore wanted to explore how best to achieve an accurate picture of plurality in different communities of the UK, but balanced against the fact that the measurement framework and assessment must be practical.

The amount, quality and type of information that people are able to and actively access at national-, regional- and community-level can differ significantly. For instance, many areas have established local newspapers, which are often complemented by an online presence. Regional news is broadcast by the BBC and ITV (which also have regional pages on their websites), and 2013/14 has seen the launch of local TV stations, with licences awarded in 25 areas. Many people will listen to a local radio station which will include local news items and stories. In some areas, 'hyperlocal' websites are a source of news for a more specific geographical area, sometimes filling the gaps in provision of news or information from other sources, becoming a new source of information for people in specific communities. As one respondent argued, "...it seems obvious that in some cases the impact of hyperlocal web media and their audience size should feature in plurality considerations if the local paper, radio station, TV station are to be taken over or fall under same ownership".

Many respondents highlighted the importance of local media, particularly in encouraging community cohesion, whilst also noting that there are significant sustainability issues for many local media businesses across the country. For example, a number of respondents noted the impact of the internet on advertising revenue for local newspapers.

The issue of sustainability and the detrimental effect that centralised regulation may have on this was a common theme in a number of responses. Particular attention was drawn to the decline of local newspapers in the UK, but also that hyper-local sites made possible by the internet may improve plurality of ownership and news provision.

Conversely, there was also a suggestion that more regulation be introduced in the form of cross-market ownership caps, combined with policies and initiatives aimed at promoting local plurality such as prohibiting local media owners from standing for election. The difficulties attached to defining and measuring local media were highlighted by a number of respondents. One respondent stated that, although it was right to draw attention to local media issues, the small numbers involved require a more sophisticated framework to capture local data. The definition of locality posed an interesting question for many respondents. Comments ranged from those that stressed the importance of plurality in small local communities, to those who thought that the distinction should only be drawn against the four nations of the UK. One respondent expressed the view that it is not the role of a regulator or Government to segment the market.

We received a range of responses on whether the assessment of plurality should segment by specific communities of interest as opposed to geographic locations. Some groups considered that Scottish and Welsh distinctiveness should be recognised. It was also suggested that any framework should pay particular attention to minority groups, as well as any foreign media that is broadcast in the UK and has an influence. One respondent suggested that particular attention should be paid to the Scottish market in any review.

Some respondents noted that a very small number of companies dominate regional and local news provision across the UK, and therefore suggested that the ownership of the various platforms in each location should be considered.

Conclusion on local communities

It is clear that any examination of plurality that looks only at the issue from a UK-wide level would not accurately reflect some of the major challenges and pressures that our news market is under today. On the other hand, a measurement framework and accompanying assessment needs to be practical and deliverable, and deliver data that is not so localised as to obscure the main themes and issues.

With this difficult balance in mind, we have concluded that the measurement framework must be sufficiently flexible so as to allow for detailed investigation into a particular geographical area or community of interest, but that the data from the indicators must be able to provide an assessment for each of the Nations of the UK and the UK as a whole. It is our view that the first baseline assessment of plurality should include some consideration of local and regional markets, but this need not include a forensic examination of every locality.

Conclusion and next steps

The Government has committed to using the information gathered through this consultation to commission a measurement framework. This can then be used to carry out the first market analysis of plurality in the UK which would:

- a) inform us about the current state of the market, and;
- b) indicate where potential problems might be arising.

Taking into consideration the consultation response and Lord's Committee report, the Government's conclusions are therefore:

- **Online should be included within the scope of any new measurement framework.**
- **The type of content which is most relevant to media plurality is news and current affairs.**
- **The scope should include all organisations that impact the news and current affairs that UK consumers access, including both organisations that generate, gather and aggregate news, services that affect discoverability and accessibility, and professional and non-professional commentary such as bloggers and social media**
- **The BBC's impact on plurality should be in-scope**
- **The framework must deliver indicators capable of illustrating the situation at UK-level and in each of the Nations, and should be used to examine issues at a regional and local level in some areas; but a full and forensic examination of every local area is not anticipated.**

Having set this as the broad scope for the measurement framework, the Government will now look to commission Ofcom to develop a set of suitable indicators, in consultation with industry. This is in line with the Lords Communications Committee report which recommended that Ofcom take a central role in plurality going forward.

We are therefore commissioning Ofcom to develop indicators that can show how far the UK has an 'ideal' market in terms of plurality. Ofcom previously defined this as:

- a) **There is a diverse range of independent news media voices across all platforms**
- b) **Overall reach and consumption is relatively high among all consumer demographics and across all of the UK's nations and English regions**

- c) Consumers actively multisource⁵ – such that the large majority of individuals consume a range of different news sources**
- d) Sufficiently low barriers to entry and competition between providers spurs quality and innovation in the gathering and dissemination of news**
- e) Overall investment and commercial returns are sufficiently high to ensure sustainability and guarantee high quality coverage, extensive news gathering and investigative journalism**
- f) No organisation or news source has a share of consumption that is so high as to create a risk that consumers are exposed to a narrow set of viewpoints.**

As Ofcom has noted in its previous published reports to Government on this topic, whilst many of the measures for plurality can be quantitative, there is also necessarily a qualitative element in making the assessment. It will be for Ofcom to decide on the metrics that are most appropriate for each of these indicators: their previous work in this area has suggested that three key areas should be considered – availability, consumption and impact – and Government broadly supports this approach. However, Government would expect at least one of the measures to be focused closely on media ownership.

Following publication of this paper, Government will ask Ofcom to set out its timescale for delivery of the measurement framework itself. The measurement framework should be developed in consultation with industry.

⁵ Ofcom defines multisourcing as consuming a range of different news sources

Part two: Government Response to House of Lords Select Committee Report into Media Plurality

Summary

The House of Lords Communications Committee published its report earlier this year, following the inquiry into Media Plurality. Due to the significant overlap with our response to our consultation on plurality and attendant next steps, we are publishing this response concurrently.

We welcome the Committee's evidence-based approach to making recommendations on the future of media plurality. Their report successfully highlights how complicated and far-reaching this issue is, and that there are many different views on how to proceed. Our work on plurality does not attempt at this stage to propose what measures might be taken to address any potential plurality concerns. Rather we think that without the initial evidence base upon which to base policy decisions, the best course of action is impossible to identify. Thus we strongly agree with the Committee that "the assessment of plurality should drive the decision about which remedy or intervention is appropriate, not the other way around."

The Government's response to the individual recommendations made by the Committee is set out below. Where the recommendations refer to policy options, we have noted the Committee's views, and will ensure that they are reflected in any subsequent consideration by the Government on receipt of a baseline assessment of media plurality from Ofcom.

Response to recommendations

Scope

259. We recommend that a plurality policy should be limited to the activities of media enterprises engaged in news and current affairs content. Content diversity in other genres is not unimportant but is a matter of independent commissioning or the stipulations set out in licence and Charter renewal agreement which create the context in which commissioning decisions are made. (Para 27)

260. There appears to be a strong consensus that UK media markets should be the focus of UK media plurality policy; we agree. We recognise that plurality policy remains broadly a matter for the UK and this report relates to a UK plurality policy. (Para 34)

261. Any plurality policy approach may take into account media enterprises based in the UK as well as those outside UK jurisdiction to the extent that they are consumed by UK audiences if this is considered relevant to the overall assessment. (Para 35)

262. The scope of any plurality policy should encompass both local and regional media as well as national media in the devolved nations and UK-wide media enterprises. In dealing with local or regional media, those tasked with making decisions should in reaching their conclusions pay particular attention to the question of financial sustainability. (Para 40)

Government agrees that media plurality policy should be limited in its scope to news and current affairs; this is in keeping with the way that the current public interest considerations are carried out, and with Ofcom's advice. Although media of all genres has the potential to impact upon the attitudes and opinions of the UK people, we feel that it would be most pertinent and efficient to focus our attention on the more refined scope of news and current affairs.

The UK strongly supports a free and plural press. We agree with the Committee's opposition to European intervention in plurality, and feel that plurality of the media should be dealt with at member state level. Member States are uniquely positioned to assess their own plurality and press freedom concerns, owing to the great level of diversity within the European Union with, for example, differing economics, electoral systems, languages and cultures. It is therefore right that responsibility for media plurality, ownership and media freedom rests at member state level.

We agree that a plurality measurement should, where relevant, encompass local and regional as well as national media in the devolved administrations, as well as UK-wide media, and it should take into account media organisations based outside the UK to the extent that they are consumed by UK audiences.

The BBC

263. The BBC should be included in any assessment of media plurality but it should not be subject to any control measures imposed from outwith its own regulatory framework as a result of that assessment. It is for the body which oversees the BBC, under the existing governance rules this is the BBC Trust, to ensure that the BBC's conduct in relation to plurality is addressed satisfactorily. (Para 45)

269. On the BBC, we think that the proper place to consider its responsibilities, including with regard to matters such as internal or external plurality, is within the Charter Review framework. (Para 90)

270. We encourage the Government and the BBC in negotiating Charter Renewal to consider whether the BBC might be given a more explicit responsibility—with respect to its online offer for news and current affairs content—to stimulate consumption of diverse viewpoints from different external sources. (Para 92)

271. We recommend that the Charter Review process makes clear what licence fee funding is for, and that, as long as it is conceivably available for projects external to the BBC, it is also made clear what strategic role, if any, this funding might play in positively promoting external plurality in the wider UK media. (Para 94)

272. For our part, we urge the Government to support our view that the licence fee should be for the BBC alone, though we do not argue that funding to S4C should now be removed. (Para 95)

It was clear from our consultation responses that the inclusion of the BBC must be included in any assessment of plurality, and so we agree with the Committee. There has been no reasonable argument that we have seen to suggest that the BBC should not be measured as part of a review, but this is clearly a very separate issue to applying ‘remedies’ to the BBC.

On the issue of the role of the BBC in stimulating and preserving media plurality, we are grateful to the Committee for its recommendations. As announced on 30 May, BBC Charter Review will not begin until the next Parliament and that is the appropriate time for such recommendations to be considered.

Convergence

264. We recommend that media plurality policy should not be limited by the media channel through which content is primarily delivered: print, broadcast and content delivered over the internet may all be relevant, as could be the influence of digital intermediaries on the consumption of this content. It should, therefore, be open to an assessment of plurality to determine which media channels should be in scope based on whether they are relevant to the overall assessment of plurality at the time. (Para 51)

265. We recognise the importance of ensuring that no content provider has an unreasonably high level of consumption and recommend that a media plurality policy should take into account both the supply and consumption of content, albeit that any interventions available will have to be limited in application to the supply side. (Para 56)

266. We recommend that a media plurality policy should be flexible enough to take into account both the wholesale and retail provision of news and current affairs content. It should establish an approach to determining how to attribute content to media enterprises operating at different points in the value chain. This determination will require the location of editorial control in the value chain to be identified in each case. (Para 63)

267. The framework of plurality assessment and intervention must strike a balance between providing certainty to the market and flexibility to the regulator—both are important. (Para 68)

268. The assessment of plurality should drive the decision about which remedy or intervention is appropriate, not the other way around. (Para 69)

Media plurality policy should take as its end-point an understanding of how consumers understand the world around them through the news that they access. We therefore consider that a platform-neutral approach to measurement and assessment is best, and that the importance of different platforms is likely to change over time so flexibility must be afforded to the regulator to allow for this. This is in line with the Committee’s recommendations. We also concur with the notion that both supply and consumption are important aspects to

consider when looking at any potential issues around the levels of media plurality, and therefore have made it possible for both to be included in the measurement and assessment of plurality.

We are pleased to note that the Lords' report highlights flexibility as a key theme, since we feel that this is an extremely important element of the work going forward. As was expertly explored by the Communications Committee in their previous report on convergence, we believe that the need to remain nimble in the face of great change is key to successful policymaking at this time.

As previously set out, we do not propose to pre-empt the outcome of any future work we plan by presupposing what the remedies should be.

Assessment of plurality

273. The centre-piece of our approach is that the Government should introduce a statutory periodic review of the plurality of the media markets to be undertaken by Ofcom on a 4–5 yearly basis, which will reshape the role for Government, Parliament, regulatory and competition authorities in protecting the public interest. (Para 196)

Government is asking Ofcom to develop a measurement framework which will allow for the first-ever baseline assessment of media plurality in the UK to be conducted. However, no decisions have been made about whether this will be a one-off report, the first in a regular programme of periodic assessment or an ad-hoc process. The Government is reserving its position on future media plurality policy until after a baseline assessment so that we can understand the nature of the picture in the UK today, but we note the Committee's preference for periodic reviews on a 4-5 yearly basis.

274. Ofcom's periodic assessment of plurality should be based on a limited number of different measures which address availability, consumption and impact. (Para 199) As noted in the main body of our report, Government is content for Ofcom's baseline assessment of plurality to use these broad types of measure, but has not set a requirement of the regulator to follow this approach, on the basis that it is right that Ofcom has sufficient flexibility to carry out its work.

275. There should be a role for Parliament in setting guidance for this new framework of assessment, but the metrics themselves to be used in assessing plurality should not be set down in statute. Instead, there should be flexibility for Ofcom to interpret statutory guidance, design the assessment framework and select appropriate metrics according to the circumstances at the time of the review, but with an emphasis, wherever possible, on longitudinal consistency of the measures applied. (Para 200)

Government notes the Committee's recommendation that Parliament should have a role in setting guidance for the framework assessment. Because the Government has not yet decided whether the approach of assessment will be a regular tool in this area, we think it would be premature to formally engage Parliament at this stage. However, we are pleased to note that the Government and Lords' Committee share a very similar ambition when it comes to the scope of what the framework should address, who should carry out the work and in what broad areas the indicators should be. The Government agrees with the Committee that flexibility in choosing indicators should be afforded to Ofcom, but that longitudinal consistency where possible is desirable.

276. The work which the Government intend to commission relating to the development of a clear measurement framework should not seek to find a ‘right way’ of measuring media plurality which can then be set in stone. Instead its output should provide Ofcom with a starting point and input to the decisions it will have to make, at the time of the first periodic review, about how to design the assessment framework and select appropriate metrics in a way most likely to balance the twin objectives of delivering certainty to the market and sufficient flexibility for a proper assessment of plurality at the time. (Para 203)

The Government agrees with the Committee on this point. We have deliberately set the commission for the framework at a high level, while at the same time clarifying the scope for consideration so as to give markets greater clarity as to what organisations would be included in the assessment.

277. Ofcom should select the metrics to be used in a plurality assessment which are most likely to assist it, given the state of the market at the time of each periodic review, in reaching defensible conclusions about the following:

- the sufficiency of diversity of viewpoints available and consumed across and within media enterprises; and
- the extent to which any one media owner or voice may have too much influence over public opinion and the political agenda. (Para 204)

278. The periodic plurality review report should contain both a narrative assessment of the sufficiency of plurality in specific media markets and across media; and a clear indication of where plurality may be under threat, which will guide the decisions over intervention in the event of any transaction. (Para 205)

These recommendations are a matter for Ofcom.

279. In producing the narrative description of the degree of sufficiency of plurality, Ofcom should be able to rely on new guidance relating to the definition of sufficient plurality to be set down in statute. This guidance should be qualitative and descriptive rather than quantitative and tightly prescriptive. (Para 206)

280. The content of this guidance should be clearly stated in statute and might include certain key elements such as a diverse range of independent news voices; high overall reach and consumption with consumers actively multi-sourcing; sufficiently low barriers to entry and competition to spur innovation; economic sustainability and no single organisation accounting for too large a share of the market. (Para 207)

281. The Government could, as part of the next phase in their work programme on media plurality, also begin to develop statutory guidance relating to the meaning of sufficiency of plurality upon which Ofcom can rely in making an assessment of plurality at the time of a periodic review. (Para 208)

The Government believes that a decision whether or not to develop statutory or non-statutory guidance defining the meaning of sufficiency of plurality is premature. It is important to wait until Ofcom has completed the development of the measurement framework. This will

enable a baseline assessment of plurality to be conducted and both the outputs of this work, and Ofcom's experience of undertaking it, can then inform how future policy is developed.

Intervention

282. Only in the most extreme circumstances should interventions in the interests of plurality be imposed outwith the context of a transaction. (Para 209)

283. Where immediate and pressing concerns resulting from organic change are discovered in a periodic review, it should be possible for Ofcom to order a media enterprise to divest. The bar for this imposition should be high and hinge on a demonstration of the following:

- That there is a real problem now;
- That the specific proposed divestment measure is the only way to remedy the problem;
- That the specific proposed divestment measure will be effective in remedying the problem. (Para 211)

284. Before making the recommendation that a media enterprise should be ordered to divest, Ofcom must ask those players affected to submit representations, in which they can put forward their own divestment measures in lieu of Ofcom's initial recommendation. Ofcom can then make a final recommendation if, in light of these representations, Ofcom believes there is a divestment measure, either of its own or of the media enterprise's design, able to pass the tests above. (Para 212)

Nature of the Periodic Review Reports

285. The report to result from the periodic review should be written so as to limit the need for transactional plurality reviews, by sending very clear signals and guidance to all concerned about the prospects of consolidation in future possible transactions before they are formally proposed. (Para 215)

286. Ofcom should publish in its periodic plurality report any plurality concerns associated with digital intermediaries. Indeed this might be the vehicle through which Ofcom could on a regular basis express the UK public's expectations of major digital intermediaries, as recommended in our previous Report on Media Convergence. (Para 217)

287. Finally, once complete, Ofcom's report on the periodic plurality review must be submitted to the Secretary of State. (Para 218)

288. The process for agreeing a final report should proceed as follows: The Secretary of State should have an obligation to accept the content and recommendations of the periodic review report or publish good reasons for not doing so. Ofcom should be permitted to submit an amended report in the light of the reasons given by the Secretary of State but should not be able to submit a third report. If agreement cannot be reached, the Secretary of State should have the final say, and accordingly, if this arises, the Government rather than the regulator should revise and publish the final version of the periodic plurality report. (Para 219)

The Government is not minded to set Ofcom the objective of limiting the number of transactional plurality reviews through the provision of a baseline assessment report. At this stage, as noted above, the Government has come to no decision about how or whether this system of report will be rolled forward and as such supports the current system of media plurality policy and regulation.

On the issue of submission of the final report, the Government would expect Ofcom to submit this to the Culture Secretary and publish it on their website. However, Ofcom is an independent regulator and the Government therefore has no intention of requesting or making revisions to the report.

System of Transactional Reviews

289. The Government should revise the present system of transactional reviews, in order to clarify the relationship between competition and plurality policy when dealing with specific transactions. (Para 225)

290. To that end, plurality assessments and competition assessments of transactions should be conducted as two distinct processes, by regulators with the appropriate set of priorities, expertise, methods and ultimately ethos for each. Competition authorities should remain responsible for the assessment of a transaction's impact on competition, but Ofcom should be given a new statutory responsibility for the assessment of a transaction's impact on plurality. (Para 226)

291. The plurality assessment of a transaction should proceed on the basis of a judgement by Ofcom. Right at the outset, Ofcom will have to form a reasonable belief prima facie that a specific transaction may be expected to result in a material and unacceptable lessening of plurality, and that it therefore merits closer assessment. (Para 230)

292. In reaching a decision about whether there may be a material and unacceptable lessening of plurality as a result of a transaction and therefore whether to proceed with a plurality assessment, Ofcom should draw on the most recent periodic plurality report, and consider the relevance of any readily observable changes to plurality in the UK since. (Para 231)

293. In conducting a plurality assessment of a specific transaction, Ofcom should reach a decision about whether or not the transaction should go ahead based on an assessment of the likelihood of its leading to a material and unacceptable lessening of plurality as compared to a scenario in which the transaction does not go ahead, taking into account in both scenarios:

- the sufficiency of diversity of viewpoints available and consumed across and within media enterprises; and
- the extent to which any one media owner or voice may have too much influence over public opinion and the political agenda. (Para 233)

294. The final step in the transactional review should be the submission of the competition assessment and the plurality assessment to the Ofcom Board who should be responsible for reconciling the recommendations of the two reports and implementing them as a single Public Interest Decision. (Para 234)

295. Where the two reports reach the same conclusion, the Ofcom Board must be responsible for ensuring the implementation of the regulators' mutual view either to block or allow the transaction, but there must be a clear mechanism in place for resolving potential conflicts between plurality and competition assessments of transactions. (Para 236)

296. Further, this mechanism should be designed to resolve such conflicts on the very clear principle that, where plurality is concerned, the citizen interest should have greater weight than at present in relation to the consumer interest, and a democratic and informed society should have greater importance than at present when weighed against the cost of advertising. (Para 237)

297. Responsibility for resolving such conflicts and as such for making a final Public Interest Decision should therefore be given to the Ofcom Board, rather than the competition authorities, as at present. (Para 238)

298. The Ofcom Board, mindful of its twin statutory duties to further the citizen and consumer interest should publish this Public Interest Decision, having weighed up the merits of each case and determined whether overall it is in the public interest for the transaction to proceed. (Para 239)

299. As a whole, plurality policy should be revised to strike a new balance between the regulator and Government in terms of decisions to be made about intervention: there should be accountability for politicians where appropriate but the onus should be on Ofcom to balance the consumer and citizen interests. (Para 246)

300. Ofcom's Local Media Assessment (LMA) should be given greater weight than at present in the competition authorities' decision about whether to refer a specific local media transaction onto a full Phase 2 investigation. The competition authorities should make this change clear in their guidance on mergers, before the new competition authority, the Competition and Markets Authority, comes into existence, at present anticipated in April 2014. (Para 250)

301. We note that this recommendation bears a striking resemblance to one we made in a previous Report, The Future of Investigative Journalism, paragraph 161. We urge the competition authorities, in cooperation with Ofcom, to make greater progress towards implementing this recommendation following the present Report. Should the competition authorities fail to act on this recommendation, we urge the Secretary of State to consider the introduction of a measure by which the relevant section of the competition authorities' merger assessment guidance would have to be approved by the Secretary of State. (Para 251)

302. One of the outcomes of Ofcom's periodic plurality review might be a consideration of whether there is a case for the more in-depth assessment of media-specific considerations provided by the LMA procedure to apply more widely to players in other fragile or emerging media markets. (Para 253)

303. We do not recommend the removal of the "20/20" rule, but equally would not argue for its retention. Were the Government to implement a revised plurality policy which lives up to the principles contained in this Report, there may be a case for its

removal. However, absent such a policy, it remains a potentially important safeguard which should be kept in place. (Para 256)

304. The relationship should be clarified between the public interest and plurality as we have defined it in our Report and other related but separate policies and interventions such as licensing, PSB reviews, fit and proper person tests and so on. (Para 258)

These recommendations focus on the remedies currently available for tackling issues of media plurality. As stated at the outset of this report, the Government's view is that it is necessary to wait until Ofcom have submitted a baseline assessment of plurality before taking any decisions about whether the current regime should be changed and if so in what ways. Although there are currently no plans to amend the existing regulation, we are grateful to the Committee for their work in this area, and will ensure that their work is a key input into any future considerations.



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