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## The future of media plurality in the UK

Ofcom's report to the Secretary of State on the Media Ownership Rules and our next steps on media plurality

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[The future of media plurality in the UK](#) – Welsh overview

**STATEMENT:**

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# 1. Overview

The ways in which consumers and citizens interact with news media have changed dramatically in recent years. New technology has enabled people to engage with news in previously unforeseeable ways and has challenged the business models of traditional news media organisations. Against this backdrop, media plurality remains the cornerstone of a well-functioning democratic society.

Ofcom has a statutory duty to secure and maintain a sufficient plurality of providers of different TV and radio services. We also have a duty to review the operation of the media ownership rules listed under section 391 of the Communications Act 2003, every three years. This statement sets out our recommendations following our most recent review of those rules.

Alongside the rules review, in June 2021, we launched a programme of work – starting with a call for evidence – to understand what impact changes in the market for news might mean for media plurality, looking beyond the existing media ownership rules.

## What we have decided – in brief

### The future of media plurality in the UK

Taking account of responses to our call for evidence, and our ongoing work on media literacy, we consider that there are three features of the modern UK media landscape that may present a risk to media plurality, but are not captured under the existing regulatory framework:

- Online intermediaries and their algorithms control the prominence they give to different news sources and stories.
- The basis on which online intermediaries serve news via their algorithms is not sufficiently transparent.
- Consumers do not always critically engage with the accuracy and partiality of online news.

We will now progress work to establish whether and how these issues present concerns for maintaining media plurality in the UK, and to consider what, if any, the potential options for addressing these concerns might be. We aim to provide our view on these points by summer 2022. We will continue to ensure that we co-ordinate our work on media plurality with the relevant areas of Ofcom's work, including to inform our work with the CMA and non-statutory Digital Markets Unit, and with other members of the Digital Regulation Cooperation Forum (DRCF).

### Media Ownership Rules Review: Recommendations to the Secretary of State

Parliament has put in place four media ownership rules with the objective of promoting plurality and preventing undue influence over the political agenda and process. As a result of our three yearly review we are recommending to the Secretary of State that some of those rules should be retained as they are, and some should be modified.

### Rules relating to Channel 3: Cross-Media Ownership and Appointed News Provider rules

We are recommending that the Secretary of State retains, for now, the Cross-Media Ownership Rule and the Appointed News Provider Rule as we consider that they still play an important role in

protecting plurality.

### **The Media Public Interest Test**

We recommend that the Secretary of State should broaden the scope of the existing Media Public Interest Test framework beyond print newspapers and broadcasters to capture a broader range of “news creators”. We think that this would be more reflective of the way in which people access and consume news today.

### **The Disqualified Persons Restrictions**

The Disqualified Persons restrictions are a series of restrictions on certain entities holding broadcasting licences, introduced to prevent undue influence over broadcasting services by these bodies.

We think that certain restrictions on entities holding broadcasting licences should be retained, as it appears to us that the rationale for which they were introduced still holds. We recommend that the Secretary of State should retain: the non-discretionary prohibition for religious bodies, the prohibitions for political bodies and local authorities, the prohibition for the BBC, S4C and Channel 4 Corporation, and the restrictions on who can hold analogue community radio licences.

However, we think that significantly increased consumer choice, wider availability of spectrum and protections provided by other parts of regulation mean that some of the restrictions on certain entities holding broadcasting licences are no longer required to prevent undue influence. We recommend that the Secretary of State should remove the discretionary prohibition for religious bodies, the prohibition on advertising agencies, and the prohibitions for publicly-funded bodies.

## 2. Background

### Market context

- 2.1 Our [June call for evidence and consultation](#) (the “Consultation”) set out that the market for news has changed significantly since Ofcom was established in 2003 and given duties in relation to media plurality, including the statutory duty to regularly review the operation of the media ownership rules framework.
- 2.2 We considered that there had been two key changes in the market for news in the UK since the regulatory framework for media plurality was introduced nearly twenty years ago. These are that:
- **there have been changes in who provides news**, driven largely by the growth of online news. There has been a large increase in the amount of news available online, as traditional news sources established and expanded their online news offerings, and online-only news sources entered the market. We have also seen the development of online platforms as intermediaries between consumers and news providers (Annex 1 paras A1.3-A1.9).
  - **the ways in which people consume news has changed**. Online news accounts for a growing proportion of overall news consumption, and online intermediaries, such as search engines, social media, and news aggregators, often play an important role in news consumption journeys (Annex 1, paras A1.10-A1.19).
- 2.3 These changes have brought some benefits to news sources, for example by providing opportunities to reach new audiences, and to consumers, by making it more convenient to access a wide range of news sources.
- 2.4 However, we found that these changes may also present new challenges to media plurality which are beyond the scope of the existing regulatory framework. For instance, the shift to online news provision and consumption may have created new challenges for consumers to critically engage with the partiality, accuracy, and reliability of news sources. While most people think critically about the information they see online, our media literacy research shows that as many as one third of adult internet users said they believed that all or most of the information they found online was truthful.<sup>1</sup> The shift online has made it more difficult for us to understand who or what influences the news content surfaced to consumers on online intermediaries, which also makes it more challenging to measure and assess plurality.
- 2.5 To read our view on how the market for news has changed in full, including data from our [2021 News Consumption report](#), please see Annex 1.

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<sup>1</sup> Ofcom, Adults’ Media Literacy Tracker, 2020/21. For more information, please see Ofcom, April 2021, [Adults’ Media Use and Attitudes report 2020-21](#).

## Our call for evidence and consultation

- 2.6 Ofcom has to carry out our functions so as to secure that a sufficient plurality of providers of different TV and radio services is maintained. We also have a duty to carry out regular reviews of the operation of the media ownership rules listed under section 391 of the Communications Act 2003<sup>2</sup> and to report on each review to the Secretary of State.
- 2.7 In June, we published a [consultation](#) on our proposal to recommend changes to the media ownership rules, to ensure they better reflect the supply and consumption of news in today's market.
- 2.8 However, we also noted that the developments in the market context we refer to above may mean that there are now threats to media plurality which are not covered by the scope of the existing regulatory framework. To help us better understand the potential threats to media plurality in the modern media landscape and whether any changes to the regulatory framework should be recommended, we published a call for evidence. This sought views on specific areas of the UK news media landscape where market changes may have created potential concerns for media plurality that cannot be addressed by the existing regulatory framework.
- 2.9 The response period for our consultation and call for evidence closed on 10 August 2021. We received 19 responses from a range of stakeholders who either addressed the consultation on the media ownership rules, our call for evidence on media plurality, or both. We have published all non-confidential responses on [our website](#).
- 2.10 After considering the range of views submitted by stakeholders, we are now:
- a) following up on our call for evidence by sharing a summary of the responses we received and setting out our plans for further work on media plurality to ensure that the regulatory framework is fit for the online world. This is set out in Section 3.
  - b) setting out our recommendations to the Secretary of State on changes to the media ownership rules, including to broaden the scope of the existing media public interest test and to remove certain restrictions on holding broadcast licenses that no longer seem necessary. This is set out in Section 4.
- 2.11 There are close links between many of the issues raised in the responses and other areas of Ofcom's work. We have shared responses with other teams to inform our work on separate but relevant policy issues. This includes our media literacy programme (Making Sense of Media) and our work preparing to regulate online safety. The issues raised by respondents will also inform our work with the Digital Regulation Co-operation Forum (DRCF), and our work with the CMA and the non-statutory Digital Markets Unit (DMU) on how a code of conduct could govern the relationships between platforms and content providers, such as news providers.

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<sup>2</sup> Section 3(2)(d) of the Communications Act 2003.

## Equality Impact Assessment

- 2.12 The objective of a plural media sector is to ensure that citizens are able to access a wide range of views in order to make informed decisions. It would be counterproductive if some aspect of the media ownership rules unfairly restricted the access of certain citizens, or groups of citizens, to varied, high quality media.
- 2.13 Where our research has shown differences in news consumption habits, for example between older and younger audiences, we have taken this into account in our analysis. Furthermore, the media ownership rules themselves contain provisions to ensure plurality is considered in terms of the individual nations and regions of the UK, and the regional Channel 3 licences. There are also provisions relating to religious bodies, which we have considered in the light of our duties.
- 2.14 Our recommendations seek to secure an appropriate level of plurality, which tends to reduce inequality in the representation of perspectives between different groups by securing the provision of television and radio services catering for a range of views. Therefore, we do not consider that our recommendations will have a negative impact on any groups with protected characteristics, and may indeed promote equality.
- 2.15 We will continue to consider and be mindful of equality impacts as we progress our work on the future of media plurality following our call for evidence. At present, we do not consider that this work will have a negative impact on people with protected characteristics.

## 3. The future of media plurality

### Our call for evidence on the future of media plurality in the UK

- 3.1 Given Ofcom's general duties in relation to media plurality, as well as the importance of media plurality to a well-functioning democratic society, we considered that it was necessary for Ofcom to explore whether the significant changes in the market for news in the UK may create potential concerns for plurality that cannot be addressed by the existing regulatory framework.
- 3.2 Our June call for evidence sought stakeholder views on three specific areas:
- the role of online intermediaries and the use of algorithms to surface news to UK consumers;
  - market changes outside the context of a media merger, such as cumulative market exit or organic growth in market share, and whether or how changes to the wider market context may have increased the need to consider plurality concerns outside the context of a specific media merger; and
  - any other features of the UK news media landscape that may have implications for news consumption in the UK or which may raise potential concerns for plurality.
- 3.3 We received responses from news publishers, platforms, industry bodies, civic society groups and academics and researchers. Over the summer, we also met with several stakeholders to hear their views, including interested members of the House of Lords.
- 3.4 We have engaged with the rich body of academic research on media plurality and met with international academics and experts on media plurality and measurement. This includes the Media Pluralism Monitor team at the European University Institute, and Professor Dr. Natali Helberger at the University of Amsterdam.<sup>3</sup> We have also engaged with international organisations who have made or are developing recommendations in this space, and we have drawn on their work to inform our views of these issues, for example, the Council of Europe<sup>4</sup> and the OSCE Representative on Freedom of the Media.<sup>5</sup>
- 3.5 Our reflections on the responses received and issues raised have also been informed by other areas of Ofcom's work, including our Making Sense of Media programme on media

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<sup>3</sup> For more information on the Media Pluralism Monitor, please see the [Media Pluralism Monitor 2021 report](#). Prof. Dr. Natali Helberger is a professor of Information Law at the University of Amsterdam, who, with colleagues, prepared a document for the Canadian Government on 'diversity by design'. For more information, please see: Prof. Dr. Natali Helberger, Dr. Judith Moeller and Sanne Vrijenhoek, February 2020, [Diversity by design – Diversity of content in the digital age](#).

<sup>4</sup> In 2018, the Council of Europe (CoE) produced a [set of recommendations on media plurality](#) which encouraged member states to re-examine existing approaches to media plurality to work to build a comprehensive picture of how intermediaries affect media pluralism. To note, the CoE has also produced a set of recommendations on [the human rights impacts of algorithmic systems](#) and [promoting favourable environments for quality journalism](#).

<sup>5</sup> The OSCE Representative on Freedom of the Media (RfOM) are in the process of developing recommendations related to content curation and media pluralism. To note, as part of its #SAIFE project (Spotlight on Artificial Intelligence and Freedom of Expression), RfOM has also published [a report identifying the ways in which AI affects freedom of expression](#) and provides guidance on how to effectively safeguard free speech when AI is deployed.



literacy, our preparations for potential responsibilities for online safety, and our work with the CMA and non-statutory DMU.

- 3.6 Below, we set out a summary of the views we have heard through the responses we received and discussions with stakeholders, our reflections on these views, and our plans for further work on media plurality.

## Summary of the responses we received

- 3.7 Across responses, stakeholders expressed views on how the evolution of online services has posed significant challenges for traditional media sources, and for news sources in particular. In contrast, consumers have benefitted from access to a range of new sources of content and innovation in how that content is consumed. Online intermediaries play an important role in making the wealth of content discoverable and can help consumers prioritise content to engage with. But they may also provide a range of challenges for media plurality, which are not covered by the scope of the existing regulatory framework.
- 3.8 Below, we set out a more detailed summary of the themes raised in the responses. This summary also reflects on points drawn from our engagement with academic research on media plurality and international experts where relevant. The [non-confidential published responses](#) are available on our website to read in full.

## The role and impact of online intermediaries on media plurality

### Summary of views

- 3.9 Respondents broadly agreed with our assessment that the way news is distributed and consumed has changed significantly since the regulatory framework for media plurality was first put in place in 2003. Online intermediaries, such as search engines, social media, and news aggregators, now play an important role in the news consumption journey of UK consumers. However, views diverged on what the role and impact of online intermediaries means for media plurality in the UK and the related regulatory framework.
- 3.10 Most respondents, namely news publishers, industry bodies and academics, expressed concern about the role and impact of online intermediaries on the news consumption journey of UK consumers and the UK news media landscape, and consequently the repercussions for media plurality.
- 3.11 Several respondents commented on what they viewed as the dominant role the largest online intermediaries, specifically Google and Meta (formerly Facebook)<sup>6</sup>, play in distributing online news to UK consumers. These respondents suggested that there were

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<sup>6</sup> Reflecting Facebook's recent organisational name change (announced on 28 October 2021), we refer to 'Meta' as appropriate throughout this document. However, we have referred to 'Facebook' when discussing Ofcom's consumer research (where respondents were specifically asked about 'Facebook'), when referring to the specific Facebook social media site and app, and when quoting from or summarising submissions from other respondents.

issues related to structural dependency, including that publishers do not control how their content is distributed by and displayed on online intermediaries. In summary:

- Respondents raised concerns about online intermediaries' influence over which online news sources and stories consumers see, and therefore consume. The Guardian Media Group (GMG) said that for many people "very large online platforms – Google and Facebook – have become the internet, or at the very least, the principal gateway to it", and that both platforms "control the flows of information" that their users see.<sup>7</sup> The Daily Mail Group (DMG), News Media Association (NMA), and Radiocentre suggested that the largest online platforms hold a 'gatekeeping' power over how news content is distributed and consumed online.
- Respondents raised concerns about online intermediaries' influence over how news publishers' content is displayed on intermediaries' platforms. The NMA commented on the "unfair obligations" news publishers felt they had to accept, including around how their content is displayed, because they are " beholden to these dominant, unavoidable platforms".<sup>8</sup> Similarly, Dr Rachael Craufurd Smith said that: "Faced with the network power of key social media and search engines, news producers have lost significant control over their own content".<sup>9</sup> News UK said that the way news publishers' content is displayed by online intermediaries could lead to problems with news brand attribution: "Online platforms scrape content and present it with their own user interfaces, this removes notable markers of a brand – text formats, language. Over time, a consumer who reads their news via platform intermediaries may not associate a particular publisher for its record of breaking sources or its high quality journalism, damaging the brand and its ability to attract an audience long-term".<sup>10</sup>
- Respondents said that online intermediaries' influence over how online news content is distributed and displayed to consumers presents challenges for the sustainability of news publishers. News UK said that the "unavoidable presence of the dominant platforms" meant news publishers were "being forced to accept less than favourable terms of service", which affected their viability as businesses.<sup>11</sup> It also suggested that problems with brand attribution, stemming from how news content is displayed on online intermediaries, could lead to sustainability issues for news publishers in the longer-term. The Independent Monitor for the Press (IMPRESS) and GMG argued that changes to intermediaries' algorithms could have a significant impact on referral traffic to news publishers and repercussions for news publishers' sustainability. DMG, GMG and News UK also commented on challenges for publishers in creating revenue in the digital advertising market.

3.12 A smaller number of respondents agreed that while the news media landscape in the UK had changed significantly in recent years, intermediaries such as search engines, social

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<sup>7</sup> [The Guardian Media Group response](#)

<sup>8</sup> [NMA response](#)

<sup>9</sup> [Craufurd Smith, Dr R response](#)

<sup>10</sup> [News UK response](#)

<sup>11</sup> [News UK response](#)

media and news aggregators have had a positive impact on media plurality in the UK, and increased UK consumers' ability to access and engage with a diverse range of news sources and stories. Google and Meta stressed the positive contributions that online intermediaries make to a plural news market.

### Comments on potential changes to the regulatory framework

- 3.13 As a result of the concerns raised above, most respondents argued that the current regulatory framework for media plurality, which has traditionally focused on media ownership and merger regulation in relation to traditional news providers, should evolve to meet these new challenges.

"...the greatest threat to plurality [is no longer] the possibility of one company acquiring a commanding position in either or both the broadcasting and newspaper industries...Our view, based on our experience as a news publisher, is that the market dominance and global reach of [Google and Facebook] means they are now the most significant threat to media plurality in the UK."<sup>12</sup> **DMG**

"It is no longer appropriate to simply consider solely media ownership in determining whether the UK enjoys a healthy and plural media provision. Strong consideration of how and where consumers consume news media should remain at the centre of any reformed regime. In today's media environment this needs to take into account the significant role of platform intermediaries in determining the creation and curating the availability of news media..."<sup>13</sup> **News UK**

"The online intermediaries are now so large that it is impossible to argue that their dominance does not raise worrying concerns about media plurality. There is a wide and growing range of other media organisations, civil society activists and academics who believe that media pluralism is under threat due to new sources of power, concentration and dominance that are not adequately captured in existing competition rules or tests."<sup>14</sup> **GMG**

"...the current framework is insufficient to address the increasingly concentrated news and media landscape. The Council of Europe have recommended that countries "limit the influence which a single person, company or group may have in one or more media sector". We would argue this should apply across all types of media as well as to print, broadcast and online media specifically."<sup>15</sup> **National Union of Journalists (NUJ)**

- 3.14 Respondents suggested potential amendments to the regulatory framework to bring online intermediaries into scope. Dr Craufurd Smith suggested that in considering ways to secure media plurality in an online world, Ofcom should take into account the bargaining power of different news producers and the basis for collective negotiations. This is because of the

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<sup>12</sup> [DMG Media response](#)

<sup>13</sup> [News UK response](#)

<sup>14</sup> [The Guardian Media Group response](#)

<sup>15</sup> [National Union of Journalists response](#)

role online intermediaries play in news distribution and the comparative bargaining power of news publishers. Dr Craufurd Smith indicated that this is similar to the approach taken by the Australian Competition and Consumer Commission on the News Media Bargaining Code.<sup>16</sup> The NUJ suggested that Ofcom should be given additional powers to direct online intermediaries to provide company information, monitor, assess and report on the impact of online intermediaries on media plurality, and if necessary, instruct online intermediaries to increase the levels of media plurality on their platforms.

- 3.15 However, GMG cautioned that there was a risk that an updated regulatory regime might be used by incumbent print proprietors to re-establish their position in the digital world as a result of their print dominance or political leverage.
- 3.16 Several respondents, including DMG and the NMA, suggested that plurality concerns related to intermediaries and their role in the market might best be dealt with under the forthcoming Online Safety Bill and non-statutory Digital Markets Unit.
- 3.17 Arguments that the current regulatory framework should evolve echoes much of what we found in the recent academic literature on media plurality. For instance, Justin Schlosberg and Des Freedman have made calls for new legislation to set out indicative thresholds and detailed guidance on plurality ‘sufficiency’, which would enable regulators to assess plurality outside of specific merger activity and to respond to the challenge of new technologies and market changes. Schlosberg and Freedman also warn that “major intermediaries are serving to consolidate rather than diversify the news offer in favour of incumbent and mostly legacy publishers”.<sup>17</sup> Andrea Prat has argued that existing media ownership rules, common in Western democracies, are no longer sufficient to secure plurality; “the safeguards of the post-war period were not designed for the Facebook era”.<sup>18</sup> He has suggested a “platform-neutral way” to define and measure media concentration, using ‘attention shares’.
- 3.18 On the other hand, Sky argued that changes to the media plurality regulatory framework would be unnecessary, because of the plethora of news sources available across print, broadcast and online media, and because any further intervention might risk disincentivising investment.

## The role and impact of algorithms on media plurality

### Summary of views

- 3.19 Three key themes were raised by respondents in relation to the role and impact of algorithms in media plurality. The first related to algorithmic transparency, prominence, and discoverability. News publishers, industry bodies and academics considered that there

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<sup>16</sup> ACCC, [News Media Bargaining Code](#)

<sup>17</sup> Schlosberg, Justin and Freedman, D., 2020, [Opening the gates: plurality regulation in a post digital world](#). *Journal of Digital Media & Policy* 11 (2), pp. 115-132.

<sup>18</sup> Prat, A., 2020, [Measuring and protecting media plurality in a digital age: a political economy approach](#), Knight First Amendment Institute at Columbia University

is a lack of transparency as to how algorithms that serve news content decide on the prominence and discoverability afforded to different news sources and stories. The second related to the risk that algorithms reduce exposure to a plurality of news sources and stories. Several respondents suggested that international and national content is favoured over regional or local content, and that English language content is favoured over minority language content. The third related to media literacy and consumers' ability to understand why algorithms serve them the news content they see online, so that they can critically engage with news content.

- 3.20 News publishers raised concerns about the role algorithms play in controlling the prominence and discoverability of news sources on online intermediary platforms and how transparently those decisions are made. GMG argued that editorial decisions have, to some extent, been redistributed throughout the news media value chain, including to intermediaries' algorithms. Similarly, News UK argued that algorithms are crucial in determining the prominence of news sources and what the user sees, and that they play an editorial function. It went on to raise specific concerns about the lack of transparency over algorithmic decision making, suggesting that this is a barrier for the industry, with impacts for sustainability and media plurality. DMG raised concerns about the basis on which algorithms serve news content to users, suggesting that intermediaries' commercial and political interests may play a role.

"...editorial decisions once held by editors and journalists have to some extent been redistributed throughout the new media value chain. Online platforms serving as intermediaries can now curate the news that is served to end-users both indirectly via algorithms, but also more explicitly as editors themselves (like Apple News which has staff making daily decisions about 'top stories'). People can also now personalise the news that is served to them to a degree not previously possible in traditional media, raising concerns about people inadvertently closing themselves off to challenging news content. It is the combination of news recommendations that find the user, together with the personalisation of recommendations on the basis of traits and characteristics that the user themselves might not fully understand, that raise concerns about the future of a plural open media ecosystem."<sup>19</sup> **GMG**

"The lack of transparency over algorithmic decision making is a significant barrier for the industry. This impacts crucial industry dynamics with effects on its sustainability and plurality. Platform intermediaries routinely make changes to their algorithms without any forewarning, let alone any consultation with the industry. As a result overnight a publishers' traffic to its site can drop and ad revenue can be severely impacted."<sup>20</sup> **News UK**

- 3.21 In terms of which news sources and what types of content benefit most from prominence on algorithmically-driven services, the Media Reform Coalition suggested that digital

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<sup>19</sup> [The Guardian Media Group response](#)

<sup>20</sup> [News UK response](#)

intermediaries' algorithms prioritise large, established news organisations over smaller publishers, and GMG considered that Facebook's algorithm tends to be most responsive to content that is emotive, provocative, divisive, or opinionated. The NMA, ITV and News UK also commented on the incentives algorithmically-driven services create for news publishers and the implications for the quality of news content.

"Global platforms are increasingly guiding and curating the choices of audiences. These platforms are rewarded through views and clicks and are therefore incentivised to show content that is the most 'engaging'. This often means that high quality trustworthy news is demoted in favour of the salacious and sensational. There is plenty of evidence that high quality news suffers in this context."<sup>21</sup> **ITV**

"Through the use of algorithms some content gets preference over others. There have been concerns that search engines operate on political biases but owing to the lack of transparency over algorithmic inputs and decision making this is unknowable. However, we do know that search engines rate recency over provenance, meaning that a news publisher who invested in breaking a story may not receive prominence for that content. Publishers who subsequently cover a story may receive more traffic. This creates a false incentive for publishers, who need traffic."<sup>22</sup> **NMA**

- 3.22 Smaller news publishers provided detail on their experience of distributing their news content on algorithmically-driven intermediary platforms. For instance, S4C noted that while algorithmically-driven intermediary platforms such as Facebook offer it the opportunity to reach new audiences, its ability to capitalise on that opportunity depends on the prominence a platform's algorithm gives to S4C's news content. MG ALBA suggested that algorithms may limit the range of available sources consumers are exposed to. Both S4C and MG ALBA considered that algorithms tended to reward mainstream English-language news outlets and content, and there is a risk that minority language, regional or local news sources and content is "drowned out".

"For minority language media it is essential that accessibility and visibility are paramount. The consumer is faced with a wide variety of choice, they should have the ability to choose news sources which are in their language. Prominence is invaluable for minority language media, which due to its constraints, such as funding and audience, will be unable to generate/buy the prominence."<sup>23</sup> **MG ALBA**

- 3.23 Several respondents said that it is difficult for consumers to understand why they see the news sources and stories they do on algorithmically-driven intermediary platforms. IMPRESS said a lack of transparency as to why certain news sources or stories are being displayed or recommended to users makes it hard for users to critically engage with or evaluate news sources online. The NUJ also raised concerns about the lack of publicly

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<sup>21</sup> [ITV plc response](#)

<sup>22</sup> [NMA response](#)

<sup>23</sup> [MG ALBA response](#)

available information - from both media organisations and online intermediaries - to help consumers understand why they see the online news content they do.

“...there is no transparency for consumers as to why they are receiving or being recommended news by platform algorithms; platforms are not transparent as to why different news providers are given prominence or preferential treatment, and the public cannot evaluate the quality of news sources nor the consistency in application of a platforms’ preferential treatment from news provider to news provider.”<sup>24</sup> **IMPRESS**

- 3.24 Online intermediaries that responded to our call for evidence stated that their algorithmically-driven services play an important role in the news consumption journey of UK consumers and set out their view that their products strongly contribute to media plurality in the UK. Google set out, at a high level, the factors which determine the ranking of news, including relevance, prominence, authoritativeness, freshness, location and usability. Google emphasised that a distinction should be made between applications of algorithms which are known to harm consumers, and the applications of algorithms which benefit consumers. Meta summarised how its algorithms rank content, its algorithmic transparency policies and its engagement with industry on algorithmic changes.

“Algorithms deliver enormous benefits to consumers and businesses. They can be used to save time, provide personalised recommendations, increase efficiency, and enhance product quality. Google aims to make it easier to stay informed by using technology to organise information on the web, including news. When Google ranks content, no individual or set of individuals determines the ranking of any particular website. The algorithm is applied universally to news pages online and ranks them accordingly.”<sup>25</sup>  
**Google**

### Comments on potential changes to the regulatory framework

- 3.25 Respondents who raised concerns about the role of algorithms on news consumption journeys and on the news media landscape tended to suggest that improved algorithmic transparency – for both consumers and regulators, including access to data about how algorithms work to surface news, might be a potential remedy.
- 3.26 GMG suggested that Ofcom should be granted new powers to obtain data from platforms to better understand consumer behaviour and engagement with news content. Similarly, Dr Craufurd Smith and the NUJ favoured greater algorithmic transparency. Dr Craufurd Smith suggested that Ofcom should have new information gathering powers to help accurately measure online news consumption. The NUJ said that Ofcom should have the power to monitor, assess and publicly report on the methodologies and impact of news algorithms in respect of media consumption and plurality. The NUJ suggested that both media organisations and online intermediaries should provide publicly available

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<sup>24</sup> [The Independent Monitor for the Press \(IMPRESS\) response](#)

<sup>25</sup> [Google response](#)

information to help consumers understand why they see the online news content they do. Mr Sameer Padania called for better access to such data for researchers and those working in the public sector, to enable more informed analysis of the media plurality landscape.

“It is vital that Ofcom’s media plurality framework enables the regulator to investigate and understand the impact of platform algorithms on individual users and the broader media environment. Whilst the coronavirus crisis has reaffirmed the importance of a vibrant news ecosystem in a democratic society, it has also put a spotlight on the spread of misinformation across digital platforms. Personalised news feeds, based on as little as a single like on a piece of content, represent new challenges to the commitment to media plurality, not least through the inability to measure the availability of quality journalism, and the opacity of the algorithms to determine what content is seen where.”<sup>26</sup> **GMG**

“There is not enough information in the public domain about algorithms, including related to data and methodologies. The NUJ would like to see more information provided to the public and for authorities to compel the relevant organisations to increase their public transparency in general but also in relation to how algorithms are used to recommend news content to UK consumers. Without knowing the factors that influence the prominence given to different news providers it is not possible to fully understand the patterns, trends or impact. Without more information provided for the public by both media organisations and the online intermediaries, it is impossible to assess the full impact of algorithms on the news consumption journey of UK consumers and the entire UK news media landscape.”<sup>27</sup> **NUJ**

- 3.27 MB ALBA and S4C suggested that, given the concerns raised above, there should be special measures or protected prominence for minority language, regional or local news sources in online environments. IMPRESS also suggested that there should be specific provisions to protect independent news publishers.

“In an age of concern about fake news, it is important that digital news produced by reliable and familiar brands such as S4C News is given priority over less reliable sources. At the moment, news producers are unclear about the way the algorithms work. If they are driven by click numbers (for example), that is not going to favour Welsh language content. When Ofcom considers future regulatory changes, we are asking for measures to ensure that the big technology companies use algorithms to promote reliable PSM news content, including news in Welsh.”<sup>28</sup> **S4C**

- 3.28 Meta stated that it would be inappropriate and set a troubling precedent for any new regulatory framework to require specific algorithmic ranking changes.
- 3.29 We note here work by Professor Dr. Natali Helberger and colleagues for the Canadian Government on ‘diversity by design’, which considers the development of

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<sup>26</sup> [The Guardian Media Group response](#)

<sup>27</sup> [NUJ response](#)

<sup>28</sup> [S4C response \(English\)](#)



recommendation algorithms which promote public values through exposure diversity, rather than simply serving content to optimise ‘clicks’.<sup>29</sup> As noted in the study, recommendation algorithms can play a critical role in ensuring exposure diversity – which is the idea that for diverse media content to have an effect on the way people engage with information, each other and the public debate, it is not enough to concentrate on the diversity that is supplied, but also the amount of, and the conditions under which users (can) consume diverse content. This approach echoes considerations of ‘media literacy by design’, whereby features of platform design can promote media literacy by for instance nudging users to consider the content they are about to read or share.<sup>30</sup>

## Market changes

### Summary of views

3.30 Views diverged in response to our question about market changes outside the context of media merger activity. Several respondents considered that the existing approach to market changes is out of date and should evolve to adapt to new market realities, but other made the case that there should be no amendments made to the existing regulatory framework.

3.31 On the former, Dr Craufurd Smith argued that the existing approach to preventing a concentration of influence requires modernisation. The Media Reform Coalition argued that the framework fails to capture concentrations of power which develop organically, outside of a merger, and it argued, as did the National Union of Journalists, that there is an existing problem of concentration in the market.

“...media power can arise as a result not just of mergers but also from companies leaving the market (as in the local print market and some online services) and consolidation through network effects. The current approach in the Enterprise Act 2002, where action is triggered by a merger situation, is thus inadequate to address the challenges posed to plurality online (or indeed off).”<sup>31</sup> **Dr Craufurd Smith**

3.32 Meta recognised that news organisations have faced challenges, linked to the advent of the internet, but argued that digitisation and market changes brought new opportunities for news publishers. It said that Meta provides UK users with access to high quality journalism from a wider variety of sources, and noted the work Meta has done to sustain local and national journalism and to create more value for news providers.

3.33 Google said that the internet has provided consumers with access to a broader range of high quality news content, and encouraged innovation and innovative business models. It argued that Google’s products provide “a strongly positive contribution to media plurality,

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<sup>29</sup> Prof. Dr. Natali Helberger, Dr. Judith Moeller and Sanne Vrijenhoek, February 2020, [Diversity by design – Diversity of content in the digital age](#)

<sup>30</sup> RAND Europe and Open Evidence for the European Commission, 2019, [Study on media literacy and online empowerment issues raised by algorithm-driven media services](#)

<sup>31</sup> [Craufurd Smith, Dr R response](#)

helping to bring more news from more trusted sources to people than ever before". It noted greater consumer choice had disrupted the news market, increased competition in advertising and changed user behaviour. While this had made "previous business models less relevant", it said that the innovation the internet allowed for provided the means for news publishers to adapt. It noted the work Google has done with news publishers to help them adapt to changes in the market context, and noted that "Google is now one of the largest financial supporters of journalism globally".<sup>32</sup>

- 3.34 Sky stated its view that the primary means of ensuring plurality is through encouraging commercial investment in and growth of the provision of news and current affairs services, and that it is vital that the regulatory environment continues to support this. It stated that the regulatory framework should not be amended as this might disincentivise such investment, and damage media plurality.

### Comments on potential changes to the regulatory framework

- 3.35 Several respondents called for a different approach to be adopted, including new 'trigger mechanisms' that would permit Ofcom to examine potential media plurality concerns outside the context of a specific merger.
- 3.36 Dr Craufurd Smith, the Media Reform Coalition and the NUJ suggested that Ofcom should have an ongoing monitoring role to identify potential reductions of media plurality in the UK media market at an early stage, which may arise through situations outside a merger.
- 3.37 More specifically, the Media Reform Coalition suggested that Ofcom conduct a review of plurality every four years, to account for organic and dynamic market changes that can impact plurality and to address what it perceived to be existing concentrations. The NUJ suggested that there should be a market share cap of 25% across all platforms, including radio, television, print newspapers and online, with the option to force divestment, among other courses of action, if this cap is exceeded.

"Though further guidance from Parliament on plurality sufficiency may be useful, we believe that Ofcom's measurement framework and the precedents set by the Fox/Sky merger review provide a basis on which to carry out such reviews outside of merger activity. We recommend that reviews be conducted every four years, and that they should broadly follow the existing framework for reviews triggered by proposed mergers."<sup>33</sup> **Media Reform Coalition**

"We would support expanding Ofcom's remit to regularly conduct plurality reviews so it can look at the full picture on a regular basis. Any new initiatives must also consider the impact of job cuts and the closure of titles or outlets as part of the review (across print, broadcast and digital). The findings should be open to public consultation."<sup>34</sup> **NUJ**

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<sup>32</sup> [Google response](#)

<sup>33</sup> [Media Reform Coalition response](#)

<sup>34</sup> [National Union of Journalists response](#)

3.38 In addition, we note alternative approaches used elsewhere to identify potential concerns in situations other than media mergers. For instance, the Media Pluralism Monitor takes a risk-based approach, identifying threats to media plurality in European countries across a range of risk indicators in its annual report.<sup>35</sup> In Ireland, the Broadcasting Authority of Ireland conducts post hoc periodic reviews of changes to ownership and control arrangements of media business and of changes in the wider media market, and analyses the effects of such changes on the plurality of the media in Ireland.<sup>36</sup>

## Other features of the news media landscape

3.39 We also asked for stakeholder views on whether there were any other features of the UK news media landscape that may impact on the news consumption journey of UK consumer and the UK news media landscape, and which we should consider as part of our work on the future of media plurality.

3.40 In response, stakeholders raised a broad range of issues in relation to the news media landscape. We note suggestions from Dr Craufurd Smith on the availability of information about media ownership to ensure consumers can make informed choices, as well as comments from the NMA on the role of the BBC in the commercial market, and from IMPRESS on the growth of the independent news publisher market.

3.41 We also received comments from some respondents on the draft Online Safety Bill and proposed Digital Markets Unit. Some respondents also noted that it is difficult for smaller news publishers to engage with the largest online intermediaries, for instance on occasions where the display of their content is disrupted.

3.42 We have shared these with the relevant project teams internally as appropriate, and we will continue to ensure that we take a consistent approach to media plurality across the relevant parts of our work. Our insights have also informed our work with the CMA and newly created DMU, as appropriate, including informing our work on how a code of conduct could govern the relationships between platforms and content providers, such as news providers.

## Our reflections on the responses

3.43 In our previous work on media plurality<sup>37</sup>, we have defined it as contributing to a well-functioning democratic society through:

- informed citizens who are able to access and consume a wide range of viewpoints across TV, radio, online and print media from a variety of media organisations; and

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<sup>35</sup> EUI Centre for Media Pluralism and Media Freedom, 2021, [Media Pluralism Monitor 2021](#)

<sup>36</sup> Broadcasting Authority of Ireland, 2019, [Report on Ownership and Control of Media Businesses in Ireland 2015-2017](#)

<sup>37</sup> Ofcom, November 2015, [Statement: Measurement framework for media plurality: Ofcom's advice to the Secretary of State for Culture, Media and Sport](#)

- preventing too much influence over the political process being exercised by any one media owner.

3.44 We have considered responses to our call for evidence, and our aims for this work, in the context of this definition and the goals it seeks to secure. We consider that there are three key issues which may present a risk to media plurality, in addition to those already addressed by the existing regulatory framework:

- Online intermediaries and their algorithms control the prominence they give to different news sources and stories. This issue presents a potential concern about the level of influence any one intermediary may be able to exercise over the range of viewpoints that citizens can access and consume, including where these might restrict the variety of viewpoints that citizens might be exposed to, and over the political agenda and political process.
- The basis on which online intermediaries serve news via their algorithms is not sufficiently transparent. This issue presents a potential concern about the ability of citizens to be sufficiently informed in their news consumption choices. It also presents a potential concern about our ability as a regulator to fully observe and assess influence over the news agenda and political process.
- Consumers do not always critically engage with the accuracy and partiality of online news sources. This issue also presents a potential concern about the ability of citizens to be sufficiently informed in their news consumption choices. While the same concerns may also relate to more traditional media, the rise of online news, and the potential concerns highlighted above, have increased the scale of the challenge consumers face.

## Our next steps

3.45 As we set out in our call for evidence, the way people in the UK consume news and the way news is served, including via online intermediaries, is changing at pace. We also note that regulators and legislators in other jurisdictions are already developing work on media plurality and related issues, including in France, Australia and Canada.<sup>38</sup>

3.46 We therefore consider it important to act now to assess the evidence for these potential issues, so that we can set out our view on the regulatory framework that could address any concerns on the basis of this assessment. Doing so will ensure that we contribute to the global debate in a way works to the benefit of plurality and democracy in the UK.

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<sup>38</sup> We note that other countries have sought to address the balance of payments between platforms and publishers as part of wider thinking about the news market and media plurality. This includes the [Australian News Media Bargaining Code](#) and the French transposition of the EU Copyright Directive. We also note that the Canadian Government recently published a set of [guiding principles on the diversity of content online](#), aiming to guide measures that foster greater exposure to diverse cultural content, information, and news online.

**Statement: The future of media plurality in the UK**

- 3.47 Our next steps will focus on establishing whether and how the issues set out above present concerns for maintaining media plurality in the UK, and on considering what, if any, the potential options for addressing these concerns might be.
- 3.48 We will also consider new approaches to understanding and measuring online news consumption, as part of our ongoing work to better understand consumers' news consumption behaviours, habits and engagement with news content.
- 3.49 We will progress our consideration of the issues with a view to providing our assessment of the potential concerns for media plurality and any relevant recommendations on potential remedies by the summer of 2022.
- 3.50 To support and inform our work, we will continue to engage with stakeholders, including news publishers, online intermediaries, industry bodies, academics and experts in the UK and internationally. We intend to learn from experiences and best practice in other jurisdictions.
- 3.51 We will continue to co-ordinate our work on media plurality with other areas of Ofcom's work including: our Making Sense of Media programme; our work in connection with Ofcom's proposed online safety duties and responsibilities; our work with members of the DRCF; and our work with the CMA on the non-statutory DMU and advice to the Secretary of State on the role of a code of conduct between online platforms and content providers, including news publishers.

## 4. Media Ownership Rules: Recommendations to the Secretary of State

### Media Ownership Rules Review 2021

- 4.1 Parliament has put in place media ownership rules which, taken together, are intended to protect the public interest by promoting plurality and preventing undue influence by any one, or certain types of, media owner. The rules focus on plurality as delivered to consumers by television, radio and newspapers, and in particular the ownership of these forms of content distribution.
- 4.2 Ofcom has a statutory duty under section 391 of the Communications Act 2003 to carry out regular reviews of the operation of the media ownership rules and to report on each review to the Secretary of State.
- 4.3 Following our consultation on our review of the media ownership rules, Ofcom is now publishing this statement which comprises Ofcom's report to the Secretary of State in discharge of this duty.
- 4.4 This section summarises the proposed recommendations on which we consulted, sets out our analysis of stakeholder responses and explains the final recommendations that we are making to the Secretary of State on the media ownership rules in the light of those responses.

### The National Cross-Media Ownership Rule

- 4.5 The National Cross-Media Ownership Rule<sup>39</sup> prohibits a large newspaper operator with 20% or more of the national market share for print newspapers from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%. The holder of a Channel 3 licence is also prohibited from holding an interest of 20% or more in a large national newspaper operator (i.e. an operator with national market share of 20% or more). The Secretary of State has a broad power to amend or repeal this rule.

### What we proposed

- 4.6 We consulted on our proposal that the national cross-media ownership rule be retained for now.
- 4.7 We set out our view that, although the reach of television news services and print newspapers had declined over time, they still remained important sources in terms of their ability to reach and influence a wide audience across the UK (Consultation, para 4.14). Within this overall context, we indicated that the Channel 3 licences remained important in

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<sup>39</sup> [Schedule 14](#) of the Communications Act 2003.

terms of their ability to reach and influence a wide audience across the UK with the news services provided by the holders of the Channel 3 licences, ITV and STV, which reached on average 34% of UK adults each week in 2020. In addition, we noted that ITV was seen as a highly trustworthy and accurate source by 71% of its regular users for news (Consultation, para 4.15).

- 4.8 We also noted that despite a decline in print readership, we didn't think that the wider influence of the largest newspaper groups had reduced materially, particularly among those titles that had also established the most significant online presence (Consultation, para 4.17). We said that we considered that the largest newspaper groups such as News UK and DMGT had established a significant online presence and remained significant voices in the market.
- 4.9 We said that whilst the largest providers continue to operate both print and online operations, and in view of the present difficulties in quantifying online news consumption, the 20% share of print newspapers adopted as a threshold for the national cross-media ownership rule, still captures most of the potential risk of consolidation between Channel 3 and a large newspaper group (Consultation, paras 4.17-4.18). We pointed out that any consolidation between the largest commercial news providers in the UK (such as ITV, and newspaper groups with over 20% market share, such as News UK and DMGT) would result in a combined entity with a far greater share of news consumption than any of its commercial rivals, increasing the risk that it could exert undue influence and the implications that this would have for plurality in the news market.
- 4.10 We concluded that there was still a good case for securing that Channel 3 remained a distinct voice through some form of cross media ownership rule which should remain an important safeguard to plurality and the position of Channel 3 in the market (Consultation, paras 4.19-4.20). We said that we thought that any cross-media ownership rule should continue to balance ensuring a range and diversity of viewpoints were available in the most prominent sources of news media with the continued sustainability of Channel 3.
- 4.11 Despite this, we did identify certain limitations of the current rule which meant that the longer-term justification for retaining this rule in its current form may become less evident and require an update to the rule in the future with the benefit of further evidence and clarity on the broader plurality concerns beyond traditional media, such as that sought by our Call for evidence (Consultation, paras 4.21-4.24). These limitations included the fact that the rule does not capture potential ownership of Channel 3 by online news providers, that the 20% market share threshold does not allow consideration of qualitative factors such as sustainability of Channel 3, and the possibility that any of the large newspaper groups that are currently captured by the rule might one day close their print operations.

## **Summary of responses**

- 4.12 There was general agreement amongst those who responded to this proposal that the rule should be retained as it plays an important role in protecting plurality within the current framework and limits the potential for a consolidated entity to exert undue influence.

- 4.13 Lord Blunkett said that he thought “that the ownership of the traditional media remained important, but was required to be complemented by a very clear understanding of the power of other major platforms, and what actually constitutes “news” or serious journalism”.<sup>40</sup>
- 4.14 Guardian Media Group (GMG) agreed with our position that the national cross-media ownership rule should be retained. It considered that the rule plays an important role in protecting plurality within the current framework and limits the potential for a consolidated entity to exert undue influence.<sup>41</sup> The Children’s Media Foundation said that retention of this rule seems sensible at a time of media consolidation.<sup>42</sup>
- 4.15 Dr Rachel Craufurd Smith acknowledged that, for the reasons that we articulated in the Consultation, “[prevention of] consolidation between the Channel 3 television licence holder and dominant newspaper interests continued to be desirable to maintain media plurality”. She noted that when the rule was reviewed in the future, there may be the need for specific cross-media regulation online, building on a process of systematic monitoring.<sup>43</sup>
- 4.16 The NUJ noted, in relation to the cross media ownership rule that it did not believe that politicians should have the direct power to make decisions on media ownership as this could lead to undue interference and influence in both politics and the media. It said that it had consistently called for a maximum market share set at 25 per cent across all platforms and on each of the following platforms: radio, television, newspapers, and online. It did support the lower threshold of 20 per cent for cross media ownership in relation to Channel 3 and newspapers but similarly to Dr Craufurd Smith, stated that it wanted to see restrictions apply across all types of media.<sup>44</sup>

## Our final recommendation

- 4.17 We recommend that the Secretary of State retain the national cross-media ownership rule in its current form. No stakeholders that responded to this proposal raised any significant concerns with what we proposed.
- 4.18 We note the NUJ’s point around political influence over the media ownership rules process but consider that that is a wider question that it is outside the scope of our review of the functioning of the rules.
- 4.19 We also note the NUJ and Dr Craufurd Smith’s desire to see the cross-media scope of the rule extended to online (and for the NUJ, radio). This concern reflects the limitation identified in our Consultation (para 4.21) that the focus on ownership by print newspaper groups alone does not capture the potential ownership of Channel 3 by other news creators which might also present plurality concerns, such as online news providers. This concern reflects the limitation identified in our consultation (para 4.21) that the focus on

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<sup>40</sup> [Blunkett, Lord D response](#)

<sup>41</sup> [Guardian Media Group response](#)

<sup>42</sup> [The Children’s Media Foundation response](#)

<sup>43</sup> [Craufurd Smith, Dr R response](#)

<sup>44</sup> [National Union of Journalists response](#)



ownership by print newspaper groups alone does not capture the potential ownership of Channel 3 by other news creators which might also present plurality concerns, such as online news providers. We remain of the view that in future, the justification for retaining the rule in its current form may be less evident, and that the rule may need to be updated to reflect growing online news consumption. However, as we noted in the Consultation, there are currently no accepted industry metrics for online news consumption, in part due to the role of online intermediaries and algorithms in news consumption (Consultation, paras 4.22-4.23). We expect that our review of online news consumption measurement methodologies will consider these challenges and potential ways of overcoming these.

- 4.20 Until this further clarity is achieved, we remain of the view that the share of print newspapers metric adopted by the national cross-media ownership rule still captures most of the potential risk of consolidation between Channel 3 and a large newspaper group. We also remain of the view that the media public interest test operates as an important backstop that would likely capture proposed acquisitions of Channel 3 by media entities other than the print newspapers currently captured by the cross-media ownership rule.

We recommend that the Secretary of State retain the national cross-media ownership rule in its current form.

## The Appointed News Provider Rule

- 4.21 The Appointed News Provider Rule<sup>45</sup> requires the regional Channel 3 licensees to appoint a single news provider among them. Individuals or organisations disqualified from holding a Channel 3 licence are also disqualified from being the Channel 3 appointed news provider. The Secretary of State has the power to amend or modify this rule. She may also create an equivalent rule for Channel 5 if she is satisfied that the audience share for Channel 5 is “broadly equivalent” to that of Channel 3.<sup>46</sup>

## What we proposed

- 4.22 We consulted on our proposal that the appointed news provider rule be retained for now. We considered that the rule still worked to guarantee a degree of plurality in wholesale news provision at scale. We noted that the Channel 3 news still had significant weekly reach, with the average weekly reach of ITV News being 34%,<sup>47</sup> and that it provided a powerful alternative source to the BBC (Consultation, para 4.27).
- 4.23 Our view was that the removal of the requirement to collectively appoint an independent news provider could result in a reduction in wholesale provision at scale if one of the Channel 3 licensees chose to use an alternative provider. We considered that the loss of wholesale supply at scale would have implications for media plurality by potentially

<sup>45</sup> [Section 280](#) of the Communications Act 2003.

<sup>46</sup> [Section 283](#) of the Communications Act 2003.

<sup>47</sup> BARB, Network. Network programming based on 4+ area filter. Genre = national/international news. Channel includes +1 variant. Reach criteria = 3 consecutive minutes. Full weeks used for the correct calculations of weekly averages.

compromising the quality of news provided across the Channel 3 licensees, diminishing an alternative broadcast voice to the BBC, reducing the range and diversity of voices in the UK news media landscape (Consultation, para 4.30). We noted that this could also have wider implications in securing quality news for Channel 4 and Channel 5, who are currently also served by ITN, the current news provider appointed by Channel 3.

- 4.24 As with the national cross-media ownership rule, we considered that if the consumption and influence of print newspapers and TV broadcast news were to continue to decline, the longer-term justification for retaining this rule in its current form may become less evident (Consultation, para 4.31). We also recognised that the original rationale behind the rule may no longer be as relevant as it had been, as the holding of the Channel 3 licences is now significantly less fragmented than it was when the rule was introduced.
- 4.25 As part of our review of the media ownership rules, we are also required to consider whether an appointed news provider rule should be introduced for Channel 5 if the audience share of Channel 5 is broadly equivalent to that of Channel 3 services. In this case, we noted that BARB's 2020 share of broadcast viewing on the TV set (excluding +1 channels) had Channel 3 at 16% and Channel 5 at 4%, so we did not propose to recommend that the Secretary of State created a similar rule for Channel 5 at this time (Consultation, para 4.32).

## **Summary of responses**

- 4.26 Only two stakeholders responded to this proposal, Dr Craufurd Smith and ITV. They both were supportive of our proposal and agreed with our reasoning. ITV noted that it supported retention of the Channel 3 news provider rule as it ensured the presence of a strong a sustainable alternative voice to the BBC.<sup>48</sup>

## **Our final recommendation**

- 4.27 Given that all stakeholders who responded were supportive of our proposals, we remain of the view that the appointed news provider rule still works to guarantee a degree of plurality in wholesale news provision.
- 4.28 We therefore recommend that the appointed news provider rule is retained in its current form.
- 4.29 We do not recommend that the Secretary of State creates a similar rule for Channel 5 at this time.

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<sup>48</sup> [ITV plc response](#)

We recommend that the appointed news provider rule is retained in its current form. We do not recommend that the Secretary of State creates a similar rule for Channel 5 at this time.

## The Media Public Interest Test

- 4.30 The Secretary of State may intervene in a certain qualifying mergers.<sup>49</sup> The Secretary of State may decide to issue an intervention notice that identifies a relevant media public interest consideration<sup>50</sup>, where the merger involves a broadcaster and/or a print newspaper enterprise. This triggers a Media Public Interest Test – a review of whether the merger might result in harm to the public interest, in which Ofcom has a first instance advisory role.<sup>51</sup>
- 4.31 The existing media public interest grounds for referral under section 58 of the Enterprise Act 2002 include:
- a) **sub-section (2A)(a) & (b)**: The need for accurate presentation of news and free expression of opinion in newspapers.
  - b) **sub-section (2B)**: The need for, to the extent that it is reasonable and practicable, a sufficient plurality of views in newspapers in each market for newspapers in the UK (or a part of the UK).
  - c) **sub-section (2C)(a)**: The need, in relation to every different audience in the UK (or in a particular area or locality), for there to be a sufficient plurality of persons with control of the media enterprises serving that audience.
  - d) **sub-section (2C)(b)**: The need for the availability throughout the UK of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests.
  - e) **sub-section (2C)(c)**: The need for persons carrying on media enterprises, and for those with control of such enterprises, to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in section 319 of the Communications Act 2003.
- 4.32 The Secretary of State has powers to<sup>52</sup>: redefine “broadcasting” or “newspaper”; add new media public interest considerations or modify the existing ones; and/or redefine the conditions for a “special merger situation”, which allows mergers that are too small to trigger competition merger control assessment to still be looked at for public interest

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<sup>49</sup> A merger will meet these conditions if it creates a “relevant merger situation” or “special merger situation” in accordance with sections 23 and 59(3) of the Enterprise Act 2002.

<sup>50</sup> The existing media public interest considerations are set out in section 58 of the Enterprise Act 2002 and include, among others, the need for a “sufficient plurality” of views in print newspapers, and of persons with control of broadcasting and print newspaper enterprises. The Secretary of State may however intervene in a merger on grounds not yet set out in section 58, as long as he lays legislation before Parliament to add the new consideration.

<sup>51</sup> [Part 3](#) of the Enterprise Act 2002.

<sup>52</sup> See sections 44(11), 58(3) and 59(6A) of the Enterprise Act 2002.

purposes. Ofcom must advise on these. The Secretary of State may also make orders amending other aspects of the media public interest test framework, but Ofcom does not have a duty to advise on this.

## **The scope of the Media PIT should be expanded beyond print newspapers and broadcasters**

- 4.33 We consulted stakeholders on our initial view that the scope of the Media PIT should be expanded to capture a broader range of media mergers involving “news creators”, rather than being limited to those involving print newspapers and broadcasters.
- 4.34 We said that the rationale for the Media PIT had not changed since our last review, and that it continued to act as an important backstop in securing media plurality. However, we highlighted that the current formulation of the Media PIT only covers mergers involving broadcasters or print newspapers and stated our ongoing concern that it therefore does not take into account public interest concerns that could arise through transactions involving news providers that did not meet the statutory definitions of broadcasters or print newspapers. We noted that this was an issue that we had raised in several of the public interest tests that we had undertaken recently (Consultation, para 4.39), and that the current scope of the Media PIT did not reflect the way in which consumers access and consume news, which is increasingly online.
- 4.35 As outlined below, we therefore, consulted on:
- the scope of the proposed new term “news creators”; and
  - our recommendation to expand certain of the public interest considerations in the Media PIT to allow intervention by the Secretary of State in media mergers involving this category of “news creators” that meet the jurisdictional thresholds.

## **Introduction of a new term: “news creators”**

### **What we proposed**

- 4.36 We proposed that a new term, “news creator”, should be introduced to replace references to “newspaper” and “media enterprise” in certain of the existing public interest grounds. Our view was that this is required to ensure that the Media PIT reflects the way in which consumers access and consume news, as reflected in the market context that we set out in section 2 of the Consultation, and therefore is more likely to address the range of media plurality concerns we might have from mergers or acquisitions involving media enterprises other than broadcasters and print newspapers.
- 4.37 We set out our view that the term should be broad enough to encompass all entities who have editorial control over the creation and publishing of news material by journalists, irrespective of platform (Consultation, para 4.44). We said that this term should continue to capture television and radio broadcasting and print newspapers but should also now capture online news providers. By online news providers, we indicated that this would include online-only news providers such as Vice, traditional sources that have withdrawn

from print such as the Independent, and the online versions of existing print sources, for example the Daily Mail or Guardian websites. We also explained that the term “news creator” should also capture wholesale news providers and magazines with a news or current affairs focus, whose activities also consisted in, or involved the creation of news.

- 4.38 We outlined our view that it is not necessary at this stage to recommend that online intermediaries (such as Facebook or Twitter) should fall within the scope of this new term. We considered that were an online intermediary to acquire a large newspaper publisher or significant UK broadcaster, the transaction would probably be a “relevant merger”, and the Secretary of State would have jurisdiction to intervene on public interest grounds (Consultation, para 4.46). We also said that we considered that should our recommendations be accepted, the acquisition by an online intermediary of a “news creator” would also be caught by the Media PIT if it met the jurisdictional thresholds. We noted that any further changes to the Media PIT to bring online intermediaries more broadly within scope could be considered in future media ownership rules reviews.

### Summary of responses

- 4.39 Respondents agreed that there was a need to expand the current Media PIT framework and there was overall support for our suggestion of the term “news creator”.
- 4.40 Lord Blunkett challenged the “assumption that anything that is online should not be subject to the evaluation, and therefore the rules, which previously applied (albeit loosely) to the print media”. He noted that the fact that it might be perceived as “impossible” to regulate online “inevitably plays directly into the hands of those who had no intention of investing in, or seeking to reflect, the values of professional newsgathering, the separation of that news from views, and an appreciation of what overseeing editorial content really means”.<sup>53</sup>
- 4.41 Radiocentre said that on balance it agreed with our conclusion that it was appropriate to consider a broader range of news creators, including online news providers, in the context of the Media PIT. It agreed with us that restricting the scope of the Media PIT to print newspapers and broadcast enterprises no longer reflected the way that audiences consume news and information or the “business model that ensures the sustainability of these services”.<sup>54</sup> GMG also supported the broadening of the scope with a new term including all online and offline media entities which produce public interest journalism.<sup>55</sup> ITV said that it had no fundamental objection to our proposal to broaden the scope of the Media PIT to include “news creators”. It noted that it appreciated the recognition that the market for news was wider than newspapers/broadcasting and that the rationale for Secretary of State intervention into media mergers might sensibly apply to other operators

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<sup>53</sup> [Blunkett, Lord D response](#)

<sup>54</sup> [Radiocentre response](#)

<sup>55</sup> [Guardian Media Group response](#)

too.<sup>56</sup> The NUJ also supported the widening of scope to reflect better the way in which people access and consume news.<sup>57</sup> IMPRESS also agreed with our proposal.<sup>58</sup>

- 4.42 Dr Craufurd Smith agreed with us that adaptation of the existing public interest considerations to take into account the online as well as offline delivery of news was required. She raised the fact that programme genres beyond news could also be “highly influential” and that the specific focus on news in the “news creator” term “could lead some companies to avoid news provision in order to evade the application of the rules”. However, she concluded that news and current affairs content was of key importance from a democratic perspective, and that “a focus on news could make monitoring and intervention more manageable”.<sup>59</sup>
- 4.43 Some respondents raised concerns that our proposed term of “news creator” was ambiguous. Whilst supportive of our aim to expand the scope of certain public interest considerations in the Media PIT framework beyond print newspapers and broadcasters, Sky said that it was important the term was “properly and explicitly defined” to give new providers certainty as to whether they might be subject to the Media PIT. ITV also highlighted that “a lot turns on the definition of ‘news creator’ and how markets would be defined in this context”. It said that it would appreciate more information explaining how we had approached these issues.<sup>60</sup>
- 4.44 Some respondents considered that the term “news creator” should also include online intermediaries. News UK said that it was concerned that the term “news creator” was weighted towards news publishers and was unclear as to why we had rejected the inclusion of online intermediaries in the term, despite having highlighted their significant role and influence in the market and on consumer access to news.<sup>61</sup> Sky also thought that we should have included online intermediaries within the scope of the term “given their significant influence over the news that people consume”.
- 4.45 The NUJ also believed that “any market share that reaches or is liable to reach 15 per cent should be subject to a public interest test and public consultation”. It suggested that companies should “be required to divest so that their share does not exceed 25 per cent”.<sup>62</sup>

### Our final recommendation

- 4.46 Given that respondents agreed that expanding the scope of the Media PIT to include a broader range of “news creators” would better reflect the way in which people consume

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<sup>56</sup> [ITV plc response](#)

<sup>57</sup> [National Union of Journalists response](#)

<sup>58</sup> [The Independent Monitor for the Press \(IMPRESS\) response](#)

<sup>59</sup> [Craufurd Smith, Dr R response](#)

<sup>60</sup> [ITV plc response](#)

<sup>61</sup> [News UK response](#)

<sup>62</sup> [National Union of Journalists response](#)

news, we have concluded that it is appropriate to recommend the introduction of the term “news creator” as described in paragraph 4.37 above.

- 4.47 We considered the concern expressed by some respondents that the term “news creator” was not clear. However, we consider that we have provided sufficient detail about the relevant characteristics that would qualify a news provider as a “news creator”. The principle adopted in our Consultation (para 4.44) is that the term should be broad enough to encompass all entities who have editorial control over the creation and publishing of news material by journalists, irrespective of platform. We also provided clear categories of organisations that we considered should be in scope of the term, as outlined above at paragraph 4.37.
- 4.48 We believe that this should provide sufficient clarity to stakeholders as to the types of entities that would be potentially subject to a Media PIT referral, and to allow the Secretary of State to apply the term in a flexible but transparent way in exercising her discretion to intervene on public interest grounds. We note that the stakeholders who expressed concern about ambiguity did not suggest how the term could be made any more precise or provide examples of entities that they were unsure would be captured or not.
- 4.49 We consider that were this recommendation to be accepted by the Secretary of State, she may provide further guidance on the scope of the term “news creator” and in any event, she would only intervene where she had identified possible public interest concerns.
- 4.50 In response to ITV’s point, we note that our statutory duty to review the media ownership rules does not require a market definition exercise, nor are we attempting to define a market in proposing the introduction of the term “news creator”. Rather, our intended purpose in making this recommendation is to ensure that the Media PIT better reflects the types of news organisation that could raise public interest concerns should they be involved in a merger.
- 4.51 We also considered the suggestion by some respondents that we should have included online intermediaries within the term “news creator”. As outlined at 4.38, we remain of the view that were an online intermediary to acquire a large newspaper publisher or significant UK broadcaster, the transaction would probably be a “relevant merger”, and the Secretary of State would already have jurisdiction to intervene on public interest grounds. We also still believe that should our recommendations to expand the scope of the Media PIT be accepted, the acquisition by an online intermediary of a “news creator” would also be captured if it met the jurisdictional thresholds.
- 4.52 We continue to hold the view that any further changes to specifically bring online intermediaries within the scope of the Media PIT (for example, mergers between two online intermediaries) should be considered in future media ownership rules reviews when there is more available evidence. We will continue to gather evidence on this question as part of our future work on media plurality.
- 4.53 We also considered the NUJ’s suggestion that a Media PIT should be triggered by any merger involving a “news creator” that will or is likely to result in a market share of 15%.

This would amount to a change to the definition of a “special merger situation”, and a change to the Secretary of State’s discretion whether or not to intervene. A “special merger situation” currently arises when one of the parties to the merger is a government contractor controlled by a UK entity, or one of the parties to the merger had a 25% share of supply of newspapers or broadcasting in the UK or a substantial part of the UK.<sup>63</sup>

- 4.54 We do not consider it appropriate to recommend any changes to this at this stage. We acknowledge that there may be a potential benefit to a jurisdictional threshold that considers market share beyond print newspapers and broadcasting alone. However, we do not consider that there is any evidence as to why 15% is an appropriate cross-media metric. Combined with the lack of accepted industry metrics for online news consumption identified in paragraph 4.19 above, we do not consider that it is appropriate to recommend any changes to the market share threshold adopted by the definition of “special media situation” at this stage. We are also of the view that the threshold for the special merger regime is most likely to affect local newspapers, where newspaper publishers have experienced significant declines in their print circulation and readership and, consequently, circulation revenues. We consider that merger activity could be beneficial for sustainability and that there could be a risk that local papers may exit the market rather than merge if merger control is too onerous. We also consider that any perceived harms could be addressed by competition merger control.
- 4.55 For the reasons set out above and in our consultation, we recommend that the scope of the Media PIT should be expanded to include the new term “news creators”, in accordance with the description outlined in paragraph 4.37 above.

We recommend that the scope of the Media PIT should be expanded to include the new term “news creators”.

## Modifying the existing public interest considerations to capture “news creators”

### What we proposed

- 4.56 We consulted on our recommendation that it would be appropriate to expand of the scope of the Media PIT by extending certain of the existing public interest considerations to refer to our proposed new term of “news creators”.
- 4.57 In particular, we consulted on the following modifications to the public interest considerations specified in section 58 of the Enterprise Act 2002:
- a) **extend sub-section (2A)(a)** to specify “the need for accurate presentation of news **by news creators**”, rather than in newspapers alone. We said that this was because the definition of newspapers is too narrow to capture all of the types of news entities about which we would have concerns in the case of a merger.

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<sup>63</sup> Section 59(3) of the Enterprise Act 2002.



- b) **remove sub-section (2A)(b)**, which specifies “the need for free expression of opinion” in newspapers. This was on the basis that any concerns about free expression of opinion can be examined through the lens of internal plurality through the public interest consideration specified in sub-section (2B) below.
  - c) **extend sub-section (2B)** to specify “the need for, to the extent that it is reasonable and practicable, a sufficient plurality of views ~~in newspapers~~ **created by news creators** on each of their ~~market~~ platforms for ~~newspapers~~ news in the UK (or a part of the UK).” We explain the basis for this below.
  - d) **extend sub-section (2C)(a)** to specify “the need, in relation to every different audience in the UK (or in a particular area or locality), for there to be a sufficient plurality of persons with control of the ~~media enterprises~~ **news creators serving that audience on each of their platforms for news in the UK (or a part of the UK), or across different platforms for news in the UK (or a part of the UK).**” We explain the basis for this below.
- 4.58 As outlined in our Consultation (paras 4.49-4.51), we expressed the view that the public interest considerations identified in sub-section (2B) and (2C)(a) should both be retained as they differentiate respectively between “internal plurality” (which covers the range of information and views that are provided within individual news organisations) and “external plurality” (denoting the number of persons in control of media enterprises). We thought that this distinction made clear that public interest concerns can arise on the basis of internal plurality alone where a transaction might not give rise to a change in levels of external plurality. We also explained that the suggested replacement of the term “market” with “platform” would allow Ofcom to examine public interest grounds on a sector by sector, as well as overall level.
- 4.59 We said that extending these public interest considerations in this way would enable the Secretary of State to refer mergers on plurality grounds relating to online news provision, as well as for print newspapers and broadcasting. We considered that both considerations should enable Ofcom to examine public interest grounds on a sector by sector as well as an overall level.
- 4.60 Finally, we recommended that the public interest considerations specified in sub-sections (2C)(b) and 2(C)(c) should remain in their current form, as the references to Ofcom’s general duties in relation to availability and standards in broadcasting<sup>64</sup> remain relevant and an appropriate ground for intervention.

### Summary of responses

- 4.61 As outlined above at paragraphs 4.39-4.43, stakeholders that responded to this point agreed with our suggested approach to expanding the scope of the Media PIT.

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<sup>64</sup> Section 3(2)(c)-(e) of the Communications Act 2003.

- 4.62 Radiocentre said that taking into account “news creators” across a broader range of platforms when examining media mergers and any public interest considerations is a logical evolution of the existing framework, where the Secretary of State can intervene on certain qualifying mergers.<sup>65</sup> GMG agreed that it was suitable to replace the term “media enterprises” with “news creators”.<sup>66</sup>
- 4.63 Dr Craufurd Smith agreed that our proposal to extend section 58 of the Enterprise Act 2002 to ‘news creators’ across platforms would allow consideration of online media developments and was broadly welcome, as was our proposed retention of the ‘accuracy’ requirement in sub-section 2A(a). However, her view was that this was only part of the solution to media consolidation and that there should be more fundamental reform of the Enterprise Act, in particular removing the influence of the Secretary of State.<sup>67</sup>

### Our final recommendation

- 4.64 Given there were no objections to our proposed modifications, we recommend that certain of the existing public interest considerations be extended to capture “news creators”, in accordance with the modifications outlined in paragraph 4.57 above.

We recommend that certain of the existing public interest considerations be extended to capture “news creators”.

## The Disqualified Persons Restrictions

- 4.65 The Disqualified Persons Restrictions<sup>68</sup> are a series of restrictions on certain entities holding broadcasting licences, such as religious bodies, advertising agencies and political bodies. The bodies restricted are generally those which might be expected to have a singular aim or point-of-view on matters of public policy or public controversy, and the restrictions were therefore primarily intended to prevent undue influence over broadcasting services by these bodies. In our consultation, we noted that the restrictions that Parliament had put in place originated in an era of analogue broadcast technology when there were fewer services and consumer choice was limited. We highlighted that this meant that the degree of influence that could be exerted through broadcast services, particularly by bodies subject to the restrictions, was sufficient as to warrant the restrictions that Parliament put in place.
- 4.66 We said that we considered that the significantly increased consumer choice and wider availability of spectrum today, as well as protections provided by other parts of the regulatory framework, meant that we could now recommend the removal of certain of these restrictions (Consultation, para 4.57).

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<sup>65</sup> [Radiocentre response](#)

<sup>66</sup> [Guardian Media Group response](#)

<sup>67</sup> [Craufurd Smith, Dr R response](#)

<sup>68</sup> Schedule 2 of the Broadcasting Act 1990.

## Religious bodies

4.67 Religious bodies are currently prohibited from holding licences for Channel 3, Channel 5, national sound broadcasting and multiplexes (“non-discretionary prohibition”). For other licence types, Ofcom is given the discretion to determine if it is appropriate for a religious body to hold such a licence (“discretionary prohibition”).<sup>69</sup> The Secretary of State has a power to modify or repeal both the non-discretionary and discretionary prohibitions in relation to religious bodies.<sup>70</sup>

### What we proposed

4.68 We consulted on our recommendation that the non-discretionary prohibition on religious bodies be retained, and that the discretionary prohibition on religious bodies be removed.

4.69 We said that we believed that there was continued justification for maintaining the non-discretionary prohibition (Consultation, para 4.60). This was because, in the case of the Channel 3 and Channel 5 licences, we considered that the scarcity and value of these licence types remained an important justification for the disqualification. Equally, we considered that the potential for Multiplex operators to exert control and influence over which services they chose to make available to consumers justified continued restriction on the holding of multiplex licences by religious bodies. Finally, we noted that whilst it could be appropriate to remove the prohibition on religious bodies holding national analogue radio licences, it would be best to consider this at a future point given that two of the licences had recently been renewed, with the third in the process of renewal, and that the Government was in the middle of a radio review.

4.70 We proposed removing the discretionary prohibition on religious bodies. We said that we were concerned that in practice we may not be able lawfully to exercise this discretion to refuse any religious body a licence, as doing so would appear to conflict with our duties under the Equality Act 2010, which prohibits discrimination on the basis of religion.<sup>71</sup> We said that we believed that we had other appropriate protections in place that would address any perceived risks and that a wide range of religious channels already existed which were broadcast by both religious and non-religious bodies, and which are subject to these additional protections (Consultation, paras 4.62-4.63).

### Summary of responses

4.71 We received two responses to this proposal from Lord Blunkett<sup>72</sup> and IMPRESS<sup>73</sup>, both of which were supportive of our recommendation.

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<sup>69</sup> Schedule 14, Part 4 of the Communications Act 2003.

<sup>70</sup> Section 348(5) (non-discretionary) and Part 4 of Schedule 14 (discretionary) of the Communications Act 2003.

<sup>71</sup> Section 10(1) of the Equality Act 2010 defines “religion” as “any religion” and includes “a lack of religion”.

<sup>72</sup> [Blunkett, Lord D response](#)

<sup>73</sup> [The Independent Monitor for the Press \(IMPRESS\) response](#)

### Our final recommendation

- 4.72 Given that there were no objections to our proposals, we recommend that the non-discretionary prohibition on religious bodies be retained, and that the discretionary prohibition be removed.
- 4.73 We note that the [Government’s Radio and Audio Review](#) has recently been published, which may be helpful in informing our consideration of the non-discretionary prohibition on religious bodies from holding national analogue radio licences in Ofcom’s next media ownership rules review.

We recommend that the non-discretionary prohibition on religious bodies be retained, and that the discretionary prohibition be removed.

### Advertising agencies

- 4.74 Advertising agencies are prohibited from holding any broadcast licences. Ofcom is required to report on the functioning of the prohibition, but primary legislation would be required to change it.

### What we proposed

- 4.75 We consulted on our proposal that the restriction on advertising agencies holding any broadcasting licences should be removed.
- 4.76 We explained that this restriction was initially concerned with the risk of unfair commercial advantage in, and distortion of, the advertising market and undue influence of programming content at a time in which broadcast advertising formed a more substantial part of the overall UK advertising market (Consultation, para 4.66).
- 4.77 We noted that the statutory definition of “advertising agent” as a person who “carries on business involving the selection and purchase of advertising time or space for persons wishing to advertise”, doesn’t capture advertising arms of broadcasters (i.e. sale of ad space) or creative agencies, or the purchase of digital advertising (Consultation, para 4.67).<sup>74</sup>
- 4.78 We noted and set out the market data which illustrated changes to the advertising market over the past decade including the growth in online advertising and corresponding fall in the value of print and direct mail advertising, the stagnation of the traditional linear TV advertising market, and the rapid increase in recent years in online video advertising (Consultation, para 4.68).<sup>75</sup> Revenue from online advertising in the UK has more than tripled in real terms since 2010 from around £5bn to £15.7bn in 2019, increasing from

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<sup>74</sup> In our consultation, we said a person who “carries on business involving the selection and purchase of [Broadcast] advertising time or space for persons wishing to advertise”, which may be an oversimplification – however, in our experience to date, businesses involving non-broadcast advertising generally do not involve the selection and purchase of advertising time or space for persons wishing to advertise.

<sup>75</sup> Ofcom: Media Nations 2020: UK report p.90

around 25% of UK advertising in 2010 to 62% in 2019. By contrast, broadcast advertising revenue has declined over the same period from £5.2bn in 2010 to £4.5bn in 2019, a decrease from 27% of UK advertising in 2010 to 18% in 2019.<sup>76</sup>

- 4.79 Given the changes in the advertising market from broadcast to digital advertising, we considered that Parliament’s competition concerns when deciding to maintain the restriction in the Communications Act 2003 were no longer relevant, as there was unlikely to be any risk of unfair commercial advantage in, or distortion of, the broadcast advertising market by removing this restriction (Consultation, para 4.69).
- 4.80 We also believed that any concerns in relation to unfair commercial advantage or undue influence over programming content would be appropriately addressed through other protections that Ofcom had put in place since 2003, including the rules on the use of commercial references on TV in Section 9 of the Broadcasting Code<sup>77</sup> (along with other pre-existing rules), the Code on Prevention of Undue Discrimination between Broadcast Advertisers which is designed to address risks of self-preferencing of advertising space,<sup>78</sup> and the fair and effective competition conditions included in broadcast licences (Consultation, para 4.70).
- 4.81 Finally, we highlighted the practical challenges in applying the restriction in the context of the licence application process. We explained that the time spent establishing the nature of the business of an applicant and whether it meets the very narrow definition of an advertising agency can cause delays and lack of clarity for applicants (Consultation, paras 4.71-4.72). We said that we thought greater clarity for applicants would result from its removal.

### **Summary of responses**

- 4.82 ITV was strongly in favour of our proposal. It agreed with our arguments for the removal on the basis that the advertising market had changed significantly in the past 30 years, particularly the rise of online advertising. It also agreed that it was increasingly difficult to define “advertising agency” in the context of media ownership rules, resulting in the application of the rules being “cumbersome and arbitrary” and was “outdated” in seeking to control broadcasters’ “ability to innovate in the advertising market”. ITV argued that the rule placed “UK broadcasters at greater legal risk – and significant competitive disadvantage – compared to their online, global competitors”. It said that in this context, the current prohibition looked “increasingly disproportionate, potentially highly distortive and unnecessary”.<sup>79</sup>

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<sup>76</sup> Ofcom: Media Nations 2020: UK report

<sup>77</sup> [Section Nine of the Broadcasting Code](#) includes rules on the use of commercial references on TV, which seek to ensure that the editorial independence of broadcasters and control over programming. For example, Rule 9.1(a) requires that broadcasters ensure that no advertiser exercises editorial influence over the content of programmes.

<sup>78</sup> The [Code on the Prevention of Undue Discrimination between Broadcast Advertisers](#) prevents broadcasters from unduly discriminating between advertisers that seek to have advertising included in a licensed service. For example, discrimination can occur when a broadcaster offers more favourable terms to itself or an associated company wishing to advertise.

<sup>79</sup> [ITV plc response](#)

- 4.83 Radiocentre also agreed with our proposals and saw “no need to continue with this restriction”. It said that it felt that the extent of any demand for a broadcast licence by advertising agencies was “likely to be limited”. It considered that the rationale for this disqualification to prevent undue influence or unfair commercial advantage “would appear to have fallen away”, and agreed with our argument that this restriction had been “superseded by revisions to the Broadcasting Code”.<sup>80</sup>
- 4.84 DAZN also supported the removal of the restriction. It felt that the restriction was “outdated and no longer necessary to achieve the original aims of the law”. It also argued that the legislation was “broad and lacked clarity” leading to disproportionate results by disqualifying applicants with “only very tenuous connections to advertising agencies”. It also said that there is “no clear adverse impact” on a licensed broadcaster “simply because a related party selects and buys ad time/space”. The NUJ supported the proposal but only if the broadcast output was clearly labelled as advertising.<sup>81</sup>
- 4.85 However, some stakeholders were opposed to our proposals. Dr Craufurd Smith was opposed to our proposal and expressed concern that there was a risk that advertising considerations would “come to dictate programme content more directly”.<sup>82</sup> Lord Blunkett said that he found our arguments in favour of lifting the restriction “deeply unconvincing”.<sup>83</sup> DMGT said that it felt that it was difficult to see how ownership of a broadcaster by an advertising agency would be compatible with media plurality, given the consolidation of the advertising industry in recent years.<sup>84</sup>

### Our final recommendation

- 4.86 We note Dr Craufurd Smith’s concerns about the influence of advertising considerations on programming. However, as explained above and in our Consultation, we consider there are sufficient other protections in place that cover the potential for programming to be adversely affected were advertising agencies to hold broadcast licences, as outlined in paragraph 4.80 above. There are a range of protections in the Broadcasting Code that, collectively, would contribute to preventing influence of advertising considerations where an advertising agency holds a licence, including: the rules on material misleadingness (Section Two), due impartiality and due accuracy (Section Five), and rules applying to commercial references that ensure the maintenance of editorial independence (Section Nine).
- 4.87 We have also carefully considered DMGT’s question as to how the removal of the advertising agency restriction would be compatible with media plurality in view of the consolidation of the advertising market. As we noted in our Consultation, we consider that the influence that an advertising agency might exert on broadcast programming if it were to hold a licence is mitigated by the various other protections in place, including those

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<sup>80</sup> [Radiocentre response](#)

<sup>81</sup> [National Union of Journalists response](#)

<sup>82</sup> [Craufurd Smith, Dr R response](#)

<sup>83</sup> [Blunkett, Lord D response](#)

<sup>84</sup> [DMG Media response](#)

outlined in paragraphs 4.80 and 4.86 above. We also consider that were an advertising agency to hold a broadcast licence through the acquisition of a broadcaster, as long as jurisdictional thresholds were met, the Secretary of State would have jurisdiction to intervene on public interest grounds through the Media PIT if she identifies a threat to media plurality. For these reasons, along with the clarity it would bring to the licence application process (see paragraph 4.81 above), it is our view that the removal of the advertising agency restriction would not have a detrimental effect on media plurality.

- 4.88 For these reasons, and the support of the proposal from the other respondents, we recommend that the restriction on advertising agencies holding broadcasting licences be removed.

We recommend that the restriction on advertising agencies holding broadcasting licences be removed.

## Publicly-funded bodies

- 4.89 Bodies which receive more than 50% of their funding from UK public funds (examples include government agencies or advisory bodies and some museums) are currently disqualified from holding most radio licences but are permitted to hold all types of TV licence. Ofcom is required to report on the functioning of the prohibition, but primary legislation would be required to change it.

### What we proposed

- 4.90 We consulted on our proposal to remove the restriction on publicly-funded bodies holding a radio licence. We considered that spectrum scarcity was no longer an argument for maintaining this disqualification and that any concerns of a publicly-funded body with a licence being at risk of political influence or impartiality were sufficiently addressed by our other rules in this area, such as the Broadcasting Code (Consultation, paras 4.74-4.75).
- 4.91 We also considered that there could be some public value in allowing publicly-funded bodies to hold radio licences.

### Summary of responses

- 4.92 There were few responses to this recommendation. The NUJ supported this restriction being removed, although it said it should be made clear to listeners that it was a publicly-funded body behind the radio output.<sup>85</sup> GMG also said that it did not oppose the idea of museums and galleries holding radio licences.<sup>86</sup>
- 4.93 However, Radiocentre did not feel that we had made the case for removing the restriction, pointing to the BBC as an existing publicly-funded intervention in radio and citing the BBC's significant expenditure on UK radio services, large market share, funding advantage and

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<sup>85</sup> [National Union of Journalists response](#)

<sup>86</sup> [Guardian Media Group response](#)

preferential access to spectrum. Given what it called the BBC’s dominant position in radio, and the fact that publicly-funded bodies already have the opportunity to use online platforms and podcasts to make audio content available, it questioned whether an expansion of publicly-funded radio was necessary. Radiocentre was concerned that removing the restriction could risk contributing further to what it saw as the crowding out of commercial services. It also felt that Ofcom should consult separately on this question.<sup>87</sup>

### Our final recommendation

- 4.94 We have considered Radiocentre’s comments, however, we don’t agree that a publicly-funded body, such as a museum, holding a radio licence would have a material impact on commercial services or that the existence of the BBC justifies the retention of the restriction. We believe that the radio service provided by a publicly-funded body would probably be a substantially different offering from commercial radio or the BBC. Further, as we set out in our consultation, we also consider the original rationale to no longer be valid or justify the retention of the restriction.
- 4.95 For these reasons, along with the support of other respondents, we recommend that the restriction on publicly-funded bodies holding radio licences be removed.

We recommend that the restriction on publicly-funded bodies holding radio licences be removed.

### Political bodies and local authorities

- 4.96 Political bodies<sup>88</sup>, such as political parties or issue-groups, are currently prohibited from holding any broadcast licences. Local authorities are disqualified from holding broadcast licences except to operate a broadcast service solely to provide information on their functions and services within their area. Ofcom is required to report on the functioning of these prohibitions, but primary legislation would be required to change them.

### What we proposed

- 4.97 We consulted on our proposal that the restrictions on political bodies and local authorities<sup>89</sup> should be retained. We outlined that Parliament’s intention in introducing these restrictions was to prevent undue influence of political bodies and local authorities over the editorial content and agenda of broadcasts if they were to hold a broadcast licence (Consultation, para 4.77).

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<sup>87</sup> [Radiocentre response](#)

<sup>88</sup> A “political body” includes any “body whose objects are wholly or mainly of a political nature”. Section 321(3) of the Communications Act 2003 defines “objects of a political nature” as including objects aimed at influencing or bringing about a change in laws, elections, policies or decisions in the United Kingdom or elsewhere.

<sup>89</sup> As local authorities are controlled by political parties, we consider that they should be treated in the same manner as political bodies.



4.98 We considered that these disqualifications continued to work effectively alongside other measures that safeguard democratic debate, including the due impartiality rules in the Broadcasting Code, statutory prohibitions on political advertising and strict rules on party political/party election broadcasts.<sup>90</sup> We also considered that broadcast news is still an important counterweight to more partial news sources such as print, such that there is still a fundamental need to maintain a distinction between politics and media.

### Summary of responses

4.99 Of those who responded to this proposal, Lord Blunkett agreed with our recommendation as he saw no argument for allowing political parties or government (at whatever level) to hold a broadcast licence.<sup>91</sup> Dr Craufurd Smith also agreed, noting it is desirable that influential broadcast licences are not held by political bodies or any other bodies that “could have an interest in prioritising their own views or agendas, even where impartiality requirements are in place”.<sup>92</sup>

4.100 The NUJ was the only respondent to disagree with this proposal. It felt that if the output were clearly labelled, there would be a benefit to enabling a wider variety of media, in that it would increase access to media jobs and increase the level of media plurality.

### Our final recommendation

4.101 Although we considered the benefits identified by the NUJ of increasing access to jobs, we remain of the view set out in our consultation that the risk to the public interest of removing the restriction and no longer protecting the separation between political parties and broadcast media outweighs any potential benefits arising from its removal.

4.102 We therefore recommend that the restrictions on political bodies and local authorities holding licences should be retained.

We recommend that the restrictions on political bodies and local authorities holding licences should be retained.

## The BBC, Channel 4 Corporation and S4C

### What we proposed

4.103 We consulted on our proposal of retaining the prohibition on the BBC, Channel 4 Corporation and S4C from holding the licences for Channel 3 and Channel 5. The rationale is to maintain plurality and we considered this to still hold. Ofcom is required to report on the functioning of the prohibition, but primary legislation would be required to change it.

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<sup>90</sup> Sections 321(2) and 333 of the Communications Act 2003.

<sup>91</sup> [Blunkett, Lord D response](#)

<sup>92</sup> [Craufurd Smith, Dr R response](#)

## Summary of comments

- 4.104 We didn't receive any substantive responses to this proposal. Lord Blunkett<sup>93</sup> and GMG<sup>94</sup> indicated their support for the proposal. MG ALBA also agreed with the proposal and highlighted that section 208 of the Communications Act 2003 also prohibits the Gaelic Media Service from providing the Channel 3 and Channel 5 services.<sup>95</sup>

## Our final recommendation

- 4.105 We recommend that the restriction on the BBC, Channel 4 Corporation and S4C from holding the licences for Channel 3 and Channel 5 should be retained.

We recommend that the restriction on the BBC, Channel 4 Corporation and S4C from holding the licences for Channel 3 and Channel 5 should be retained.

## General disqualification on grounds of undue influence by political bodies, local authorities and publicly-funded bodies

- 4.106 There is currently a general disqualification on the holding of a broadcast licence in relation to persons who, in the opinion of Ofcom, are subject to undue influence by specified disqualified persons such as to act against the public interest. For both television and radio licenses, this captures undue influence of political bodies and local authorities (or certain specified connected individuals or bodies), and in the case of radio licences alone, this also captures the undue influence of publicly-funded bodies. Ofcom is required to report on the functioning of the prohibition, but primary legislation would be required to change it.

## What we proposed

- 4.107 We consulted on our proposal to recommend the retention of the general restriction of persons subject to undue influence by political bodies and local authorities, and the removal of the restriction as it applies to publicly-funded bodies.
- 4.108 As outlined above at paragraph 4.97, we considered that the rationale for retaining the overall restriction on political bodies and local authorities still held and therefore by extension, we did not consider it appropriate to remove the general disqualification on grounds of undue influence of political bodies and local authorities, as this remains an important backstop.
- 4.109 In relation to the undue influence of publicly-funded bodies, we referred to our arguments in favour of removing the restriction on publicly-funded bodies holding radio licences outlined in paragraphs 4.90-4.91 above and consequentially, we considered that it was

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<sup>93</sup> [Blunkett, Lord D response](#)

<sup>94</sup> [Guardian Media Group response](#)

<sup>95</sup> [MG ALBA response](#)

necessary to also propose the removal of the general disqualification on grounds of undue influence of publicly-funded bodies.

### Summary of responses

- 4.110 We only received two responses to this proposal from Dr Craufurd Smith<sup>96</sup> and GMG<sup>97</sup>, both were in agreement.

### Our final recommendation

- 4.111 We recommend that the general disqualification on grounds of undue influence of political bodies and local authorities be retained.
- 4.112 We also recommend that the general disqualification on grounds of undue influence of publicly-funded bodies on persons that hold a radio licence be removed.

We recommend that the general disqualification on grounds of undue influence of political bodies and local authorities be retained.

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### Analogue community radio licences

- 4.113 Analogue community radio licences may only be held by bodies corporate and cannot be held by those holding certain other kinds of broadcast licence.<sup>98</sup> The Secretary of State has the power to by order amend these provisions. There are specific rules set out in the [Community Radio Order 2004](#) (SI 2004/1944) which impose restrictions on the ownership of community radio licences. These rules prevent the holders of other specified broadcast licences from also holding a community radio licence and prevent any one person from holding more than one community radio licence.

### What we proposed

- 4.114 We consulted on our proposal to retain the restrictions on ownership of analogue community radio licences.
- 4.115 We outlined that these rules are designed to preserve the essential characteristics of community radio, including by ensuring that services are established for not-for-profit distributing and that they continue to serve specific local communities in local areas (Consultation, para 4.88). We considered that nothing had changed in the community radio sector to undermine the rationale behind the restrictions and that the potential

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<sup>96</sup> [Craufurd Smith, Dr R response](#)

<sup>97</sup> [Guardian Media Group response](#)

<sup>98</sup> The Community Radio Order 2004 (SI 2004/1944).

consolidation in this sector that could follow a removal of the restrictions would not deliver good outcomes for consumers.

### Summary of comments

- 4.116 Lord Blunkett<sup>99</sup> and GMG<sup>100</sup> indicated their support for the recommendation. Radiocentre also supported this proposal and said that community radio should “remain primarily as a set of individual local services that are not-for-profit and required to deliver ‘social gain’”. It said that restrictions helped to support a distinction between community radio and local commercial services, which it said has been “eroded in some cases”.<sup>101</sup>

### Our recommendation

- 4.117 As no respondents opposed this proposal, we recommend that the restrictions on analogue community radio licences be retained.

We recommend that the restrictions on analogue community radio licences be retained.

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<sup>99</sup> [Blunkett, Lord D response](#)

<sup>100</sup> [Guardian Media Group response](#)

<sup>101</sup> [Radiocentre response](#)

## 5. Next steps

### Media Ownership Rules Review

- 5.1 At the same time as publishing this statement, we have also sent a letter from Ofcom's CEO with our recommendations for the media ownership rules to the Secretary of State.
- 5.2 It is for the Secretary of State to decide whether to proceed with the recommendations we have made in this document and make any changes through primary and secondary legislation, as relevant.
- 5.3 Our next review of the media ownership rules will be due in 2024.

### The future of media plurality

- 5.4 As we set out in Section 3, it is important that we act now to consider the potential issues raised by our call for evidence in more detail so that we can set out our view on the regulatory framework in light of these issues, and ensure that we can contribute to the global debate in a way that will work to the benefit of plurality and democracy in the UK.
- 5.5 Our next steps will focus on establishing whether and how the issues set out in Section 3 present concerns for maintaining media plurality in the UK, and on considering what, if any, the potential options for addressing these concerns might be. We will progress this work with a view to setting out our view on the potential threats to media plurality and any relevant recommendations on potential remedies by the summer of 2022.

## A1. How the market context for news has changed

- A1.1 The market for news has changed significantly since Ofcom was established in 2003 and was given duties in relation to media plurality, including the statutory duty to regularly review the operation of the media ownership rules framework. This section provides an overview of the key changes to the market for news in the UK over the years, and the challenges arising as a result – both within the UK and the wider international context.
- A1.2 While here we focus on the changes to the news market that have taken place, our other publications provide a more detailed picture of the current news landscape, including our annual [News Consumption Survey](#), [Media Nations report](#) and [Online Nation report](#) which also takes an in-depth look at news and misinformation in the UK.<sup>102</sup>

### There have been changes to who provides news

#### The growth of online news has driven much of this change

- A1.3 The key market change over recent years has been the large increase in the amount of news available online, which has increased consumer choice in terms of what news is available to consume, and how consumers can access it.
- A1.4 Traditional news sources, such as broadcasters and print newspapers have established and then expanded their online news offerings. In addition, since the early 2000s we have seen the establishment and, in some cases, subsequent withdrawal, of online-only news sources in the UK, such as BuzzFeed, Vice and HuffPost UK.<sup>103</sup>
- A1.5 In addition to the new provision of news online, we have seen the development of online platforms as intermediaries between consumers and news providers. Intermediaries include social media platforms like Facebook, search engines like Google and news aggregators like Apple News, all of whom display the news content of both online-only and traditional news sources. As highlighted in the 2019 Cairncross Review, intermediaries tend

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<sup>102</sup> Ofcom's annual News Consumption Survey provides research into news consumption across television, radio, print, social media, other internet sources and magazines to inform understanding of news consumption across the UK and within each UK nation. This includes the sources and platforms used, the perceived importance of different outlets for news, attitudes towards individual news sources, and local news use. It is conducted on a yearly basis over two waves usually using a mixed online and face-to-face survey methodology. The 2021 survey was conducted in November-December 2020 and February-March 2021 and, due to Covid-19 fieldwork restrictions, it was not possible to conduct face-to-face interviews. These were replaced by Computer Assisted Telephone Interviews (CATI), with online interviews carried out as normal. Due to differences in the questionnaire and differences in how respondents answered questions about individual news sources between the two survey methods used, only platform level data was reported using the combined online and CATI methodology adult sample. All other data reported are based on the online sample only.

<sup>103</sup> While all three digital media companies were originally established in the US around two decades ago, Vice has had a UK presence since 2002, HuffPost created a UK-specific site in 2011 and BuzzFeed News launched a UK edition in 2013. However, all three digital media companies have announced redundancies since early 2019, including reducing or closing UK-based news operations.

to show snippets or single articles in their feeds or search results, as well as bringing together articles from different news sources into one product.<sup>104</sup>

- A1.6 The growth of social media has also provided a platform to individuals, including high-profile individuals such as professional journalists and public figures, as well as citizen journalists and experts in various fields, to deliver news content directly to their followers, bypassing both traditional and online-only news sources.
- A1.7 The growth in online news provision has disrupted the traditional news market, which has seen a trend toward consolidation, such as the merger between Reach plc and Northern & Shell.
- A1.8 As well as consolidation, the news market has also seen numerous examples of exit, especially at the local level. According to analysis by the Press Gazette, at least 265 local newspapers closed in the UK between 2005 and August 2020.<sup>105</sup>
- A1.9 The pressure has extended to news journalism more broadly, including online providers. For example, BuzzFeed closed its UK newsroom in May 2020 and following its acquisition of HuffPost, announced cuts to HuffPost UK editorial staff.<sup>106</sup>

## The ways in which people consume news have also changed

### Online news accounts for a growing proportion of overall news consumption

- A1.10 Although news consumption habits differ by age, overall, online news consumption has increased at the expense of traditional forms of news consumption, namely broadcasters and newspapers. The proportion of UK adults using the internet for news in 2013 was 32%. By 2021, 73% of UK adults used online sources to access news and about one in ten (11%) only used online sources for news.<sup>107</sup>
- A1.11 While traditional news sources remain important and influential platforms for news as exemplified throughout the Covid-19 pandemic<sup>108</sup>, they are more likely to be used by older consumers. In 2021, TV was used to access news by nine in ten of those aged 55+, but by just six in ten 16-24s. Similarly, the use of print newspapers peaked among those aged 75+

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<sup>104</sup> The Cairncross Review: A sustainable future for journalism, DCMS, February 2019:

<https://www.gov.uk/government/publications/the-cairncross-review-a-sustainable-future-for-journalism>

<sup>105</sup> Press Gazette, [UK local newspaper closures: At least 265 titles gone since 2005, but the pace of decline has slowed](#), August 2020

<sup>106</sup> The Guardian, [HuffPost UK staff face redundancy as national news operation closes down](#), 12 March 2021. BBC, [Buzzfeed closing UK and Australian news operations](#), 13 May 2020.

<sup>107</sup> The 2013-16 and 2021 Ofcom News Consumption Surveys are not directly comparable due to methodology changes, but the difference between 2013 and 2021 is indicative of growth over the period.

<sup>108</sup> BARB data shows that the reach of news viewing on broadcast TV increased and appeared to remain elevated throughout most of 2020.

but they were used by under a fifth of 16-24s,<sup>109</sup> and print circulations have long been in decline.<sup>110</sup>

Figure 1: Use of main platforms for news nowadays 2021 – by age

Platform	Total	16-24	25-34	35-44	45-54	55-64	65-74	75+
Television	79%	61%	67%	77%	82%	91%	92%	95%
Internet*	73%	89%	85%	80%	72%	66%	54%	43%
Social media	49%	79%	67%	58%	44%	33%	19%	16%
Radio	46%	29%	40%	49%	51%	57%	51%	49%
Newspapers (print)	32%	16%	22%	28%	34%	37%	49%	53%

Source: Ofcom News Consumption Survey 2021. Question: C1. Which of the following platforms do you use for news nowadays? Base: All Adults 16+ 2021 - Total=4605, 16-24=839, 25-34=668, 35-44=831, 45-54=750, 55-64=582, 65-74=537, 75+=398

\*Internet figures include use of social media, podcasts and all other websites/apps accessed via any device.

A1.12 Meanwhile, a significant proportion of consumers, particularly younger people, are more likely to use the internet and social media for news, making their role in the news media landscape more important. Given the differences in news consumption between older and younger audiences, the long-term picture for traditional ways to access news may become one of overall decline.

A1.13 These changes in the market context at the platform level are also reflected at the individual news source level. When the BBC News website first launched in 1997, there were fewer than ten million people online in the UK.<sup>111</sup> In the twelve months to March 2021, an average of over 19 million adults a week used BBC News Online.<sup>112</sup> This contrasts with the long term decline in the average weekly reach of news on BBC One, prior to Covid-19.<sup>113</sup>

A1.14 Print newspaper titles' own websites and apps have been used by a growing number of people as their print circulations have faltered. While the Daily Mail's circulation figures fell from 1.4m to just over 984,000 between March 2017 and March 2021<sup>114</sup>, the proportion of online UK adults accessing The Mail Online/The Daily Mail online increased from 70% in March 2017 to 83% in March 2021. This makes it the print newspaper title with the highest

<sup>109</sup> Ofcom, News Consumption Survey, 2021

<sup>110</sup> The circulation of national daily print newspapers has fallen from around 10 million (2010) on average per day to less than 5 million (2019) - ABC/Ofcom analysis

<sup>111</sup> BBC News, [How the BBC News website has changed over the past 20 years](#), November 2017. ONS, [Dataset: Internet access – households and individuals](#), 1998-2004

<sup>112</sup> BBC, [Annual Plan 2021/22](#), March 2021

<sup>113</sup> BARB. Average weekly reach 3+ consecutive minutes to the national/international news genre. For more information, please see Ofcom, [News Consumption Report 2021](#), and Ofcom, [News Consumption Report 2020](#).

<sup>114</sup> Press Gazette, [National press ABCs: Sunday People and Sunday Post down by fifth compared to September 2020](#), October 2021.



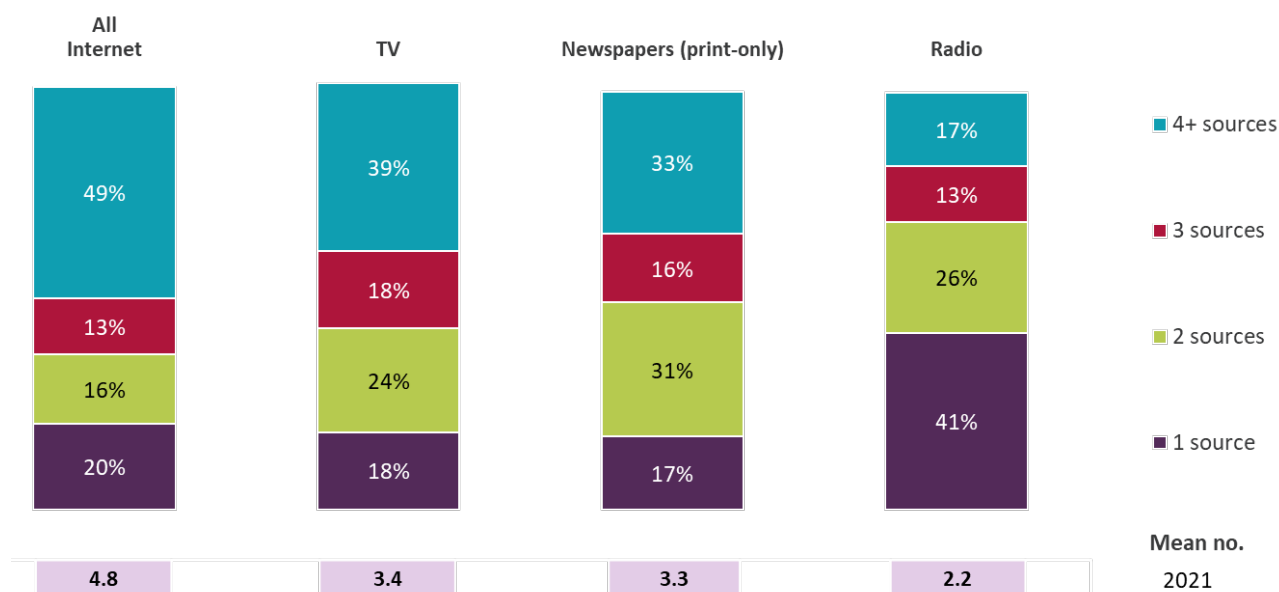
online reach in the UK. Despite its paywall, The Times was accessed by 35% of UK online adults in March 2021, more than double the 15% that accessed it in March 2017 – although not all who clicked to access the site will have been able to read the content on it. Some online-only news titles have also seen growth in recent years; reach to The Independent grew from 41% of online adults in April 2017 to 55% by March 2021.<sup>115</sup>

## The ways in which people access and engage with news has also changed

A1.15 It’s not just where people are getting their news from that has changed, but also how they get it. From our research, we know that the way people find and consume news online is different from the way they might do it when watching TV news or reading a print newspaper.

A1.16 Firstly, people who use the internet for news are more likely to use a larger number of different news sources (multi-source) than those who use other platforms. In 2021 almost half (49%) of those who used the internet for news used four or more online sources, compared to the 39% of those who used TV for news using four or more TV sources.<sup>116</sup>

**Figure 2: Number of individual sources used 2021 – by platform**



Source: Ofcom News Consumption Survey 2021. Question: D2a-D8a. Thinking specifically about <platform>, which of the following do you use for news nowadays?

Base: All using each platform for news 2021 – All internet=2461, TV=2561, Newspapers=1104, Radio=1576.

Note: Columns do not sum to 100% as some respondents did not name specific sources within a platform (zero sources)

<sup>115</sup> Comscore MMX Multi-platform, age 18+, Mar & April 2017 & Mar 2021, UK. Note: March 2017 data on The Independent is unavailable.

<sup>116</sup> Ofcom, News Consumption Survey, 2021, online sample only

*Note: Columns do not sum to 100% as some respondents did not name specific sources within a platform (zero sources)*

- A1.17 Secondly, the introduction and use of intermediaries has changed how people both find and engage with news. These services help people navigate the wealth of information available online, often using algorithms to select content that may be relevant to users based on what they know about that user. Social media platforms, search engines and news aggregators now play an important role within the news consumption journey. In 2021, 49% of UK adults said they used some form of social media for news.<sup>117</sup> Over a third of UK online adults said they use Facebook for news, while 17% reported that they use Google search for news.<sup>118</sup> In addition, almost all smartphones now have a news aggregator pre-installed on them, such as Apple News on iPhones, Upday on Samsung devices and Google News on some other Android devices. News aggregators such as these were used by one in five UK online adults (19%) in 2021.
- A1.18 Our data shows that intermediaries have become a common route to news consumption. Of those who consume news on social media, 33% reported that they were likely to mostly get their online news from ‘posts’ rather than direct from news organisations’ websites or apps.<sup>119</sup>
- A1.19 Finally, we have seen in our qualitative research on news consumption that consumer engagement with news content online, particularly on smartphones, tends to be passive. On social media, news may be consumed incidentally as part of a broader feed, and our research indicates that people tend to skim-read news headlines online, rather than clicking on articles to read them in full.<sup>120</sup>

## **These changes present new challenges to ensuring media plurality**

- A1.20 These changes to what news is provided, what news is consumed and how people access and engage with it have brought potential benefits, such as providing opportunities for online news sources to reach new audiences, and providing alternative portals through which consumers can easily access news content that is relevant to them. But they also present a range of challenges to the existing regulatory framework for media plurality.

## **The growth of online news challenges our ability to consider media plurality**

- A1.21 The ability to identify and assess changes to media plurality is critical to Ofcom’s duties and responsibilities with respect to media plurality. But the introduction of online intermediaries, and the lack of transparency as to the algorithms they use to serve news, has made this role much harder by challenging our ability to measure accurately what

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<sup>117</sup> Ofcom, News Consumption Survey, 2021

<sup>118</sup> Ofcom, News Consumption Survey, 2021, online sample only

<sup>119</sup> Ofcom, News Consumption Survey, 2021, online sample only

<sup>120</sup> Revealing Reality for Ofcom, [BBC News and Current Affairs review: Observing real news behaviours](#), October 2019

news people are consuming, and to understand the significance and influence of different news sources.

- A1.22 Industry metrics (such as Comscore, BARB, RAJAR) allow us to measure the consumption of news sources when they are accessed directly via the original source. News accessed via intermediaries cannot be measured or captured in the same way. Market research studies also allow us to measure the consumption of news sources through respondents self-reporting their news consumption habits. But our research suggests that when people consume news incidentally on social media or news aggregators, they are less aware of the original source of the news story they read or watch, potentially making it difficult for research respondents to accurately recall and report the news sources they engage with online.<sup>121</sup> We therefore face new challenges in tracking and attributing the use and significance of different sources of news.
- A1.23 In addition, we also face a challenge in understanding who or what influences the news content that is surfaced to consumers via intermediaries, and on what basis. Given that algorithms control much, but not necessarily all, of the online news to which consumers are exposed via intermediaries, the use of algorithms presents a particularly significant challenge to understanding media plurality.
- A1.24 Not only has the shift online made it more difficult to measure and to assess plurality, but it has also potentially created new plurality concerns, or exacerbated existing ones – which makes it even more important to address our reduced ability to assess plurality accurately. Below we set out how the challenges to news sustainability and the transparency challenges consumers face online may both lead to potential plurality concerns that increase the need for accurate measurement and assessment.

## Challenges to news sustainability raise the importance of measuring plurality

- A1.25 The shift in advertising spend from traditional media to online has created sustainability challenges for news providers. Substantial revenues from classified advertising, for example, have diminished with little offsetting reduction in cost. News providers have updated their business models in various ways in response, for example through digital subscriptions or donation models, but have not been able to close the revenue gap. This issue was well covered in the Cairncross Review.<sup>122</sup>
- A1.26 As news providers' ability to earn revenue by selling a bundle of news in the form of print newspapers has declined, they have grown increasingly reliant on selling advertising space alongside news articles online, or online subscriptions. Given the wealth of alternative content sources online, news providers have found it more challenging to attract

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<sup>121</sup> Revealing Reality for Ofcom, [BBC News and Current Affairs review: Observing real news behaviours](#), 24 October 2019. For more on news brand attribution online, please see: Kalogeropoulos A, Fletcher R, Nielsen RK. [News brand attribution in distributed environments: Do people know where they get their news?](#) *New Media & Society*. 2019;21(3):583-601.

<sup>122</sup> [The Cairncross Review: A sustainable future for journalism](#), DCMS, February 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779882/021919\\_DC\\_MS\\_Cairncross\\_Review\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779882/021919_DC_MS_Cairncross_Review_.pdf) See in particular chapter 3, p.39.

advertising spend. In addition, intermediaries have facilitated the spread of consumer attention across a wide range of news sources, making it harder for news providers to build brand loyalty and increasing their reliance on earning revenue from visits to individual articles on their website. The Reuters Institute's 2021 Digital News Report indicates that only 8% of UK online adults pay for online news, while 88% of those who don't pay say they are unlikely to pay for online news in the next 12 months.<sup>123</sup>

- A1.27 The shift towards online advertising has also created new opportunities to use data to target advertisements more effectively at consumers. This may further exacerbate news providers' ability to raise advertising revenue, particularly where they do not have access to sufficient data to target users as effectively as other online content providers. For example, they may lack transparency over how consumers interact with their content when it is consumed on other platforms. When their content is consumed via an intermediary, it is the intermediary that collects the user data in the first instance. News providers are then reliant on the amount of user data that the intermediary chooses to share with them. If this information is not shared in full, news providers may be prevented from gaining the insights they might need in order to engage and to maintain audiences, to target advertising on their own websites or to understand the value of their product.

### **Challenges faced by consumers add to the importance of measuring plurality**

- A1.28 The shift to online news provision and consumption may have increased exposure to inaccurate and untrustworthy news and created a more significant challenge for consumers in terms of discerning accuracy, trustworthiness, and impartiality. Both developments could cause plurality concerns if the impact of inaccurate and untrustworthy news becomes disproportionate.
- A1.29 While disinformation and misinformation are not new problems, the internet has accelerated how fast and far false information can spread, which increases the likelihood that consumers will be exposed to inaccurate and untrustworthy news.
- A1.30 While most people think critically about the information they see online, therefore mitigating the risks of this exposure, our research shows that as many as one third of adult internet users said they believed that all or most of the information they found online was truthful.<sup>124</sup> We also found that when people consumed news incidentally online – when scrolling through social media or news aggregators for instance – they focused primarily on the headline and paid less attention to the source of the news story.<sup>125</sup> These findings could present implications for media literacy, as identifying a news source is important in making judgments about partiality, accuracy and reliability, while also raising the risk that exposure to false information online could present concerns about the impact and influence of inaccurate and untrustworthy news.

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<sup>123</sup> Reuters Institute, [Digital News Report 2021](#), June 2021.

<sup>124</sup> Ofcom, [Adults' Media Literacy Tracker, 2020/21](#)

<sup>125</sup> Revealing Reality for Ofcom, [BBC News and Current Affairs review: Observing real news behaviours](#), October 2019

- A1.31 The ways in which consumers access news may also raise concerns about impact and influence. When accessing news through intermediaries, it may be difficult for some consumers to understand why they see the news stories they do, particularly when the content is surfaced by algorithms, and the basis on which certain stories or sources are given prominence is not clear. This lack of transparency may have implications for how consumers consider or trust different sources. In addition, where algorithms look to engage users by serving like-minded content, reducing the variety of opinions to which consumers are exposed may raise further concerns about the relative impact and influence of different news sources.