



Report to the Secretary of State
(Culture, Media and Sport) on the
operation of the media ownership
rules listed under Section 391 of
the Communications Act 2003

Statement

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Section 1

Executive Summary

Our approach to this review

- 1.1 Ofcom has a statutory duty to review the media ownership rules regularly and make recommendations for any change to the Secretary of State. Changes to the rules since 2009 mean the scope of this review is narrower than previous years. The wider public policy debate about media ownership is ongoing and so the recommendations in this report will need to be considered in light of any changes to the legislative and policy framework.

National cross-media ownership rules

- 1.2 The current rule prohibits a newspaper group with more than 20% of national newspaper share from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%¹.
- 1.3 Our advice on measuring media plurality set out that it is for Parliament to decide if and when this rule should be modified or removed and that the conclusion of the first periodic review of plurality is likely to provide greater certainty than is currently available. As such, we do not recommend any changes to this rule in this review.

Restrictions on broadcast licences

- 1.4 The current rules disqualify certain persons from holding broadcast licences generally, others from holding certain kinds of broadcast licences, and still others from holding broadcast licences unless Ofcom has determined that it is appropriate for them to do so. Parliament has not indicated that it believes the policy rationale for these rules to have changed and the market context in which they operate remains relatively stable. As such, we are recommending no change to these restrictions.

Appointed news provider rule

- 1.5 Ofcom is required to ensure that regional Channel 3 licensees broadcast nationally news programmes which are able to compete effectively with other national television news, by requiring them to appoint a single news provider between them. Persons who would be disqualified from holding a Channel 3 licence are also disqualified from being the Channel 3 appointed news provider. The original rationale for these rules holds true. As such, we are recommending no change to these restrictions.

The media public interest test

- 1.6 The Secretary of State may issue an intervention notice in relation to mergers which meet jurisdictional thresholds, which triggers a review of whether the merger may be expected to operate against the public interest.
- 1.7 Our recommendations on measuring media plurality are now a matter for Government to consider. As such, we are not recommending any further changes as a result of this review.

¹ The participation threshold is 20%.

Section 2

Our approach to this review

Ofcom has a statutory duty to review the media ownership rules regularly and make recommendations for any change to the Secretary of State

- 2.1 Parliament has put in place media ownership rules for television, radio and newspapers. In the interests of democracy, the rules aim to help protect plurality of viewpoints and give citizens access to a variety of sources of news, information and opinion.
- 2.2 Ofcom has a statutory duty under section 391 of the Communications Act 2003 to review the operation of the media ownership rules listed in that section, including the media public interest test. Ofcom must also set out recommendations on whether or not the Secretary of State should exercise her powers to make secondary legislation which would change the rules.
- 2.3 We must report to the Secretary of State (Culture, Media and Sport) at least every three years. Our last review was in November 2009.

The scope of this review

- 2.4 Ofcom's previous review of the media ownership rules was published in 2009. The report set out in detail why Parliament put the media ownership rules in place and the assumptions made when it did so. It then tested whether the rules were achieving their intended purpose.
- 2.5 As a result of the review and, at the request of the Secretary of State, a subsequent follow-up report looked specifically at the local cross media ownership rules. Following this, the Government removed the rules concerning: local radio service ownership; local and national radio multiplex ownership; and local cross-media ownership. The 2012 review therefore focuses only on those rules which have remained in force since 2009-10. A full list of these rules is contained in annex 1.
- 2.6 Ofcom has this year provided advice in two reports to the Secretary of State on measuring media plurality, which contained recommendations for revision of the regime touching on the media public interest considerations for mergers². This report incorporates those pieces of work. In preparation for the plurality work, Ofcom issued an invitation³ to comment in relation to our work on plurality, and also took submissions on the application of the existing framework to the two media mergers that have taken place since our last report, in relation to which the Secretary of State issued public interest intervention notices.

² *Measuring media plurality, Ofcom's advice to the Secretary of State for Culture, Olympics, Media and Sport* (published 19 June 2012) (our "**Advice on plurality**"); and *Measuring Media Plurality: Supplementary advice to the Secretary of State for Culture, Media and Sport and the Leveson Inquiry* published 5 October 2012 (our "**Supplementary advice**");

<http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-pluralityOLD1/statement/statement.pdf>; and

<http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/letters/advice.pdf>.

³ <http://stakeholders.ofcom.org.uk/consultations/measuring-plurality/?a=0>.

- 2.7 Ofcom's recommendations in relation to plurality regulation would, if adopted by Parliament, lead to some important changes in the way that plurality of news media markets is regulated.
- 2.8 In addition, the media ownership rules on which Ofcom has a duty to report are a subset of a much wider framework of rules affecting the media, which are a matter of ongoing public debate, including being captured in the remit of the Leveson Inquiry.
- 2.9 The recommendations in this report should therefore be considered in the context of the broader debate about media ownership.

Section 3

National cross-media ownership rules

The current rules and policy goals

- 3.1 The current rule prohibits a newspaper group with more than 20% of national newspaper share from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%⁴.
- 3.2 The rule was put in place in 2003 to prevent an unacceptable concentration of influence among newspaper groups and Channel 3 licensees⁵.

The 2009 position

- 3.3 In 2009, we recommended retaining the rule as it was, because it was reasonable to conclude that Parliament's rationale for putting the rules in place was still applicable.
- 3.4 At that time we noted that the evidence available suggested that that the way people consumed national news had not yet changed significantly (National free-to-air television and newspapers were still important sources of national news and ITV1 remained the second most significant free-to-air national news provider after the BBC).

Developments since last review

- 3.5 More recent evidence, from both the *Advice on plurality* and the *PSB Annual Report*, suggests consumption of these services remains substantial and that they are valued by consumers.
- 3.6 Research by Kantar Media⁶ shows that 95% of all UK adults claim to follow the news via at least one platform. Television has the highest reach at 85%, followed by newspapers and radio with 53% each, while 41% claim to follow news on the internet.
- 3.7 We set out some data on how communications markets and the news media industry have evolved since 2003 in paragraph 8.10 of our recent *Supplementary advice*⁷. This showed that:
- the penetration of digital television is higher than in 2003⁸
 - the BBC's share of national and international news has increased, while ITV's has decreased⁹

⁴ The participation threshold is 20%.

⁵ A broader version of the rule existed in the Broadcasting Act 1990.

⁶ Measuring News Consumption and Attitudes, Annex 5 to Ofcom's advice to the Secretary of State for Culture, Olympics, Media and Sport

⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/letters/advice.pdf>.

⁸ See Figure 2.4. Ofcom Communications Market Report 2012:

<http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr12/>.

- the average net circulation of national newspapers has decreased significantly¹⁰
- broadband and smartphone penetration have increased and use of online news is growing¹¹

Conclusions

3.8 As set out in both our *Advice on plurality* and our *Supplementary advice*, it is for Parliament to decide if and when this rule should be modified or removed. We have, in response to the Secretary of State's request, set out in our *Supplementary advice* what we believe to be the key questions and the factors that might be relevant. In particular we have suggested that Parliament may wish to ask two distinct questions:

- Is the underlying concern that the 20/20 rule was designed to address (an unacceptable concentration of influence) still relevant?
- To the extent that the underlying concern is still relevant, is the 20/20 rule the most effective way of addressing it?

3.9 Our recommendation was that in both cases, the conclusion of the first periodic review we have recommended be instituted is likely to provide greater certainty than is currently available. In particular, we said that the main factor that might inform the second of the two questions is the extent to which a new regulatory regime, based on periodic reviews, might address these same aims. This can only be decided with any certainty once the first periodic review is complete.

3.10 As such, we do not recommend any changes to this rule as part of this review.

⁹ Source: BARB, All Adults 16+, National/International News genre. See paragraph A4.84 of Annex 4 to our June 2012 report on measuring media plurality:

<http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/statement/Annex4.pdf>.

¹⁰ ABC figures - total average net circulation for all national newspapers, including national and Sunday titles.

¹¹ See Figures 1.3 and 1.4. Ofcom Communications Market Report 2012.

Section 4

Restrictions on the holders of broadcast licences

The current rules and policy goals

- 4.1 The current rules disqualify certain persons from holding broadcast licences generally, others from holding certain kinds of broadcast licences, and still others from holding broadcast licences unless Ofcom has determined that it is appropriate for them to do so.
- 4.2 Parliament has created these restrictions mainly to protect against undue influence through television and radio by owners (including for example political bodies and religious bodies) whose influence might cause concern.

The 2009 position

- 4.3 Our evidence showed that despite the growth of digital media, television and radio remained influential. We therefore did not recommend any change to these restrictions because the original rationale for Parliament setting the rules remained.

Developments since last review

- 4.4 As outlined in section three above, in 2012 it remains the case that television and radio are still important platforms for news consumption.
- 4.5 Research by Kantar¹² shows that television accounts for 44% of all news consumption across platforms. Radio is the second most used platform at 24%. The internet accounts for 21% of consumption. Although newspapers had equal levels of reach with radio (53% of all UK adults use each), it has the lowest share of references with 11% - due to the lower frequency of use.
- 4.6 The research also shows that radio plays a distinct role versus other platforms, being particularly valued for breaking stories, phone-ins and debate.

Conclusions

- 4.7 Parliament has not indicated that it believes the policy rationale for these rules to have changed and, as outlined above, the market context in which they operate remains relatively stable. As such, we are recommending no change to these restrictions.

¹² Measuring News Consumption and Attitudes, Annex 5 to Ofcom's advice to the Secretary of State for Culture, Olympics, Media and Sport.

Section 5

Appointed news provider rule

The current rules and policy goals

- 5.1 Ofcom is required to ensure that regional Channel 3 licensees broadcast nationally news programmes which are able to compete effectively with other national television news, by requiring them to appoint a single news provider between them. Persons who would be disqualified from holding a Channel 3 licence are also disqualified from being the Channel 3 appointed news provider.
- 5.2 The aim of the rule is to ensure that the provision of national and international news to Channel 3 is appropriately funded and provides effective competition to the BBC.
- 5.3 The Secretary of State has a power, which has not been used, to create a similar regime for Channel 5, if he or she is satisfied that the audience share of Channel 5 is broadly the same as that of Channel 3¹³.

The 2009 position

- 5.4 In 2009, Channel 3 was still the most watched source of broadcast news after the BBC, as it was when the rules were liberalised in 2003. As a result, we recommended retaining the appointed news provider rule because the original rationale for Parliament setting the rules remained.

Developments since last review

- 5.5 BARB data shows that in terms of the average weekly reach of national and international news, ITV remains the second most watched source of broadcast news after the BBC¹⁴.
- 5.6 Our Kantar research¹⁵ demonstrates that, in terms of TV channels used 'nowadays' for news, Channel 3 (including ITV Wales, STV and UTV) is the second most used channel, behind BBC One.
- 5.7 Both BARB and Kantar data show that on both the above measures, and reflective of overall channel share¹⁶, Channel 5 remains some way behind Channel 3 in terms of audience share, as it was in 2009.

Conclusions

- 5.8 The rationale for this rule remains the same today as in our previous review and so we are proposing to recommend no change to these restrictions.

¹³ Communications Act 2003, Section 283(5).

¹⁴ Source: BARB, All Adults 16+, National/International News genre. Reach criteria = 3 consecutive minutes.

¹⁵ Measuring News Consumption and Attitudes, Annex 5 to Ofcom's advice to the Secretary of State for Culture, Olympics, Media and Sport.

¹⁶ Communications Market Report 2012.

Section 6

The media public interest test

The current rules and policy goals

- 6.1 The Secretary of State may issue an intervention notice in relation to mergers which meet jurisdictional thresholds, which triggers a review of whether the merger may be expected to operate against the public interest. She may specify an existing public interest consideration, or a new one.
- 6.2 Our review of the media ownership rules must consider this regime “so far as” it relates to intervention by the Secretary of State “in connection with newspapers or other media enterprises”. An enterprise is a media enterprise if it “consists in or involves broadcasting”¹⁷.
- 6.3 The existing grounds for intervention in connection with newspapers or other media enterprises are:
- The need for (a) accurate presentation of news; and (b) free expression of opinion; in newspapers;
 - 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 United Kingdom or a part of the United Kingdom is specified in this section;
 - The need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience;
 - The need for the availability throughout the United Kingdom 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; and
 - 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.
- 6.4 The media public interest test allows the Secretary of State (DCMS) to take into account factors other than competition issues which may be relevant to the merger, which may act against the public interest.

The 2009 position

- 6.5 We concluded that it was appropriate to recommend making no changes to the public interest test because it played an important role as a final safeguard that could be invoked by the Secretary of State (for BIS in 2009 – this has since changed to DCMS) should she feel the need arises, for example, in order to protect plurality in the event of a media merger.

¹⁷ Section 58A(1) Enterprise Act 2002. See section 44(9) for the definition of “broadcasting”.

- 6.6 We set out our belief that the rationale for Parliament's decision to include a media public interest test had not changed. In addition, we suggested that if other media ownership rules were relaxed (which they ultimately were) then the role of the test in acting as a safeguard of the public interest, for example in plurality, could become more important.

Developments since last review

- 6.7 As set out above, a number of the other media ownership rules were relaxed.
- 6.8 The public interest test has been used twice by the Secretary of State since our last review in 2009: in 2010 regarding the proposed acquisition of British Sky Broadcasting Group plc by News Corporation and in 2012 regarding Global Radio's acquisition of the Guardian Media Group's radio services.

Conclusions

- 6.9 Our advice to the Secretary of State on measuring media plurality has dealt with a range of issues, including whether the merger control regime is adequate in itself to address plurality concerns, whether the regime should capture enterprises other than newspapers and broadcasters and what metrics should be used to consider plurality. On the other hand, it has only addressed the public interest considerations set out above to the extent that they are relevant to the question of plurality.
- 6.10 We have proposed some significant changes to the existing framework¹⁸, including a periodic plurality review to be carried out every 4 or 5 years and the extension of the regime to online news providers. We have said that further consideration is required to determine whether the existing media public interest test for mergers sits within a new plurality regime or continues in parallel to it. We recommended that if Parliament chose to update the legislation surrounding the public interest, new grounds for intervention should be based on the policy goals (ensuring a diversity of viewpoints and preventing any one media owner or voice having too much influence over public opinion and the political agenda) and mechanisms for plurality regulation set out in our *Advice on plurality*. Such new grounds should be cross-media, and be applicable to mergers and periodic reviews alike¹⁹.
- 6.11 Our recommendations on measuring media plurality are now a matter for Government to consider. The Leveson Inquiry, which is expected to report shortly, will make a series of recommendations with potentially major implications for the future of press regulation. It will be for Government to decide whether to accept these recommendations and so they are likely to represent the focal point for debate. The policy choices made in relation to plurality public interest interventions clearly have the potential to affect the regime and grounds for intervention which relate to newspapers and broadcasters but which are not, or not directly, to do with plurality.
- 6.12 We do not believe it is appropriate to recommend changes to this rule in isolation from this broader debate. As such, we are not recommending any further changes as a result of this review.

¹⁸ <http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/statement/statement.pdf>.

¹⁹ *Supplementary advice*, para 2.20.

Annex 1

The current media ownership rules

The media ownership rules

A1.1 The “media ownership rules” are those set out in section 391 Communications Act 2003, i.e.:

- the provisions of Schedule 2 to the Broadcasting Act 1990;
- the provision made by or under Schedule 14 to the Communications Act 2003;
- the provisions of sections 280 and 281 of the Communications Act 2003;
- whatever provision (if any) has been made under section 283 of the Communications Act 2003; and
- the provisions of Part 3 of the Enterprise Act 2002 so far as they relate to intervention by the Secretary of State in connection with newspapers or other media enterprises.

A1.2 This Annex summarises these rules in turn.

Schedule 2 Broadcasting Act 1990

A1.3 Schedule 2 of the Broadcasting Act 1990 disqualifies the following from holding broadcast licences:

- A local authority (except to the extent it is providing a service exclusively to provide information relating to its own activities);
- A body whose objects are wholly or mainly of a political nature;
- A body “affiliated” to a body whose objects are wholly or mainly of a political nature;
- A body corporate (e.g. a company) which controls, or is controlled by, or shares a common controller with a body whose objects are wholly or mainly of a political nature;
- A body corporate (e.g. a company) which controls, or is controlled by, or shares a common controller with a body which is affiliated to a body whose objects are wholly or mainly of a political nature;
- A body corporate, (and any body corporate it controls), in which any of the above is a participant with more than a 5% interest;
- An individual who is an officer (e.g. a director) of a body (e.g. a company) of which the objects are wholly or mainly of a political nature;

- An individual who is an officer (e.g. a director) of a body (e.g. a company) which is affiliated to a body whose objects are wholly or mainly of a political nature;
- A body which is controlled by any one, or two or more taken together, of: a local authority, a body whose objects are wholly or mainly of a political nature; a body affiliated to a body whose objects are wholly or mainly of a political nature; an individual who is an officer of a body of which the objects are wholly or mainly of a political nature; an individual who is an officer of a body which is affiliated to a body whose objects are wholly or mainly of a political nature; a body corporate which controls, or is controlled by, or shares a common controller with a body whose objects are wholly or mainly of a political nature; or a body corporate which controls, or is controlled by, or shares a common controller with a body which is affiliated to a body whose objects are wholly or mainly of a political nature.
- A body corporate in which the following is a participant with more than a 5% interest: a body which is controlled by any one, or two or more taken together, of the following, (unless it is controlled by one or more of an individual who is an officer of a body of which the objects are wholly or mainly of a political nature; an individual who is an officer of a body which is affiliated to a body whose objects are wholly or mainly of a political nature): a local authority; a body whose objects are wholly or mainly of a political nature; a body affiliated to a body whose objects are wholly or mainly of a political nature; an individual who is an officer of a body of which the objects are wholly or mainly of a political nature; an individual who is an officer of a body which is affiliated to a body whose objects are wholly or mainly of a political nature; a body corporate which controls, or is controlled by, or shares a common controller with a body whose objects are wholly or mainly of a political nature; or a body corporate which controls, or is controlled by, or shares a common controller with a body which is affiliated to a body whose objects are wholly or mainly of a political nature.
- The BBC.
- The Welsh Authority.
- An advertising agency, together with any of its directors or employees, any spouse, relative or partner, any body corporate which controls, or is controlled by, or shares a common controller with it, any body that any of these (taken together) control, any corporate body in which one of them is a participant with more than a 5% interest.

A1.4 Bodies receiving more than half of their income from public funds (other than the BBC, the Welsh Authority and local authorities) may not hold independent sound broadcasting licences or digital terrestrial sound broadcasting licences, and nor may any body which is controlled by such a body or any body corporate in which either is a participant with more than a 5% interest.

A1.5 The Act disqualifies a person from holding a licence if “any relevant body” is exerting influence over its activities which has led, is leading or is likely to lead to results which are adverse to the public interest. Exerting influence can include the giving of financial assistance. What counts as a relevant body differs for television and radio services. For both, it is local authorities and bodies whose objects are wholly or mainly of a political nature, together with various linked persons and

combinations of such persons as set out above. For radio, there is an additional exclusion for bodies which are more than half publicly funded, which corresponds to that set out above.

A1.6 The Act also prevents certain kinds of licences from being held by bodies whose objects are wholly or mainly of a religious nature, together with their officers, those they control, or are controlled by, or share a controller with, bodies corporate in which any of these have a 5% interest, and bodies controlled by one or more officers of bodies whose objects are wholly or mainly of a religious nature. The licences so restricted are:

- Channel 3;
- Channel 5;
- National sound broadcasting;
- Public teletext;
- Additional television service; and
- Television or radio multiplex.

A1.7 The Secretary of State has a power under section 348(5) of the Communications Act 2003 to repeal or modify this disqualification of religious bodies.

A1.8 Finally, there are some specific exclusions:

- A BBC company, a Channel 4 company and an S4C company are each disqualified in relation to regional or national Channel 3 services or Channel 5;
- A BBC company is a disqualified person in relation to independent radio services.

Schedule 14 Communications Act 2003

A1.9 Schedule 14 Communications Act prevents any person from holding a licence to provide a Channel 3 service if he runs a national newspaper or newspapers which have a national market share of 20 per cent or more. The ban affects both the Channel 3 licence holder himself and “every person connected with” the Channel 3 licence holder, which includes those controlling, controlled by, or sharing a controller with the licensee, together with directors.

A1.10 There is also a ban on the proprietor of a national newspaper or newspapers with a market share of 20 per cent or more from holding more than a 20% interest in a body corporate (e.g. a company) which holds a Channel 3 licence. A Channel 3 licence holder, similarly, may not be a participant with more than a 20 per cent interest in a body corporate which is a “relevant national newspaper proprietor” (i.e. a person who runs a national newspaper or newspapers with a market share of 20 per cent or more). Finally, there is a ban on a body corporate in which a relevant national newspaper proprietor is a participant with more than a 20 per cent interest from being a participant with more than a 20 per cent interest in a body corporate which holds a licence to provide a Channel 3 service.

- A1.11 The restrictions imposed on participation in a body corporate which is the holder of a Channel 3 licence apply equally to participation in a body corporate which controls the holder of such a licence, and restrictions on participation apply as if the newspaper proprietor/Channel 3 licensee and every person connected with him were one person.
- A1.12 The Secretary of State has a power to modify or repeal any of these provisions by order.
- A1.13 The Secretary of State has a power to make an order prohibiting the holding at the same time by the same person, in specified circumstances, of more than a specified number of local sound broadcasting licences, or of just one local sound broadcasting licence. The power has been used to prevent a body corporate from holding more than one community radio licence at a time²⁰. There is a separate power to limit the number of local digital sound programme licences that a person is permitted to provide.
- A1.14 Finally, the Schedule prevents religious bodies from holding any broadcasting licence not listed in the relevant paragraph of Schedule 2 of the Broadcasting Act 1990, unless Ofcom has determined that it is appropriate.
- A1.15 The Secretary of State has a power to amend or repeal this restriction.

Sections 280 and 281 of the Communications Act 2003

- A1.16 Section 280 Communications Act 2003 requires Ofcom to include as a condition of each regional Channel 3 licence, an obligation for each licensee to be part of arrangements to appoint a single news provider for them all. The obligations are there to ensure that the regional Channel 3 services (taken together) broadcast news programmes that are able to compete effectively with other nationwide news broadcasts in the UK.
- A1.17 Section 281 disqualifies certain persons from being the appointed news provider – essentially, anyone who would be prohibited from holding a Channel 3 licence themselves is also prohibited from being the appointed news provider.
- A1.18 The Secretary of State has a power to repeal or modify these sections by order.

Any provision made under section 283 of the Communications Act 2003

- A1.19 Section 283 Communications Act 2003 gives the Secretary of State a power to make an order, if she considers it appropriate, making provision requiring news programmes in Channel 5 to be provided by a person appointed as a news provider in accordance with the order.
- A1.20 No such order has been made.

²⁰ Community Radio Order 2004 (SI 2004/1944).

Part 3 of the Enterprise Act 2002 relating to intervention by the Secretary of State in connection with newspapers or other media enterprises.

- A1.21 Under Part 3 of the Enterprise Act 2002, the Secretary of State may issue an intervention notice in relation to mergers which meet jurisdictional thresholds, specifying a “public interest consideration” in relation to the merger.
- A1.22 An intervention notice triggers review of the merger to determine whether or not it operates or may be expected to operate against the public interest.
- A1.23 A public interest consideration may be one that is already specified in the Act, or one which the Secretary of State proposes at the time (in which case it must then be “finalised” by statutory instrument).
- A1.24 The considerations relating to newspapers or other media enterprises are known collectively as the “media public interest considerations”. They are:
- The need for (a) accurate presentation of news; and (b) free expression of opinion; in newspapers;
 - 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 United Kingdom or a part of the United Kingdom is specified in this section;
 - The need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience;
 - The need for the availability throughout the United Kingdom 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; and
 - 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.
- A1.25 An enterprise is a media enterprise if it “consists in or involves broadcasting”²¹.
- A1.26 The Secretary of State has a power under section 44(11) Enterprise Act 2002 to amend the definitions of “broadcasting” and “newspapers”. She has a power under section 58(3) to modify the list of public interest considerations in the Act, which could be used to create a new consideration or remove or amend the existing ones. She has a power under section 59(6A) to amend the jurisdictional threshold which catches mergers that do not qualify for review on competition grounds, i.e. that one of the parties to the merger supplies at least a quarter of all newspapers of a particular description, or all broadcasting of a particular description.

²¹ Section 58A(1) Enterprise Act 2002. See also s.58A(2) for the inclusion of newspapers. See section 44(9) for the definition of “broadcasting”.