

## Call for Evidence and Consultation response form

### Your response

#### Call for Evidence

Question	Your response
<p>We are seeking views and information on the role and impact of online intermediaries on the news consumption journey of UK consumers and the UK news media landscape.</p>	<p>No response</p>
<p>We are seeking views and information on whether the role and impact of online intermediaries gives rise to new media plurality concerns; and, if so, how the regulatory framework might be updated to mitigate such concerns.</p>	<p>Ofcom's own consultation document clearly identifies the impact of online intermediaries both on how individuals access news and the nature of that content. Faced with the network power of key social media and search engines, news producers have lost significant control over their own content. As indicated at para 2.18 of the consultation report only 29% of those who access news on social media do so through direct access to the news media organisation's website or app (also paras. 2.25-2.27). As a result, countries such as Australia have sought to rebalance the relationship between content producers and distributors. To address media plurality, consideration thus needs to be given to the bargaining power of different media producers (small and large), and the basis for allowing collective negotiations, particularly for smaller operators, to ensure that they receive a fair return for their content. In negotiating for a fair return for the use of content, consideration should be given to how content is to be displayed and organised, with the democratic importance of media plurality and diversity taken into account in the competition assessment.</p>

<p>We are seeking views and information on how the algorithms used to recommend news content to UK consumers work in determining the prominence given to different news providers.</p>	<p>No response</p>
<p>We are seeking views and information on whether the role and impact of algorithms on the news consumption journey of UK consumers and the UK news media landscape.</p>	<p>Greater clarity/transparency as to the role and impact of algorithms on news consumption is essential, both to identify latent challenges to media plurality but also to give individuals and consumers meaningful choice. To date, key social media and search companies have had a significant influence (through network effects) on the way in which news is relayed and consumed, with limited scope for meaningful consumer engagement in shaping the services that are available, or indeed choice. In the broadcast context Ofcom has engaged with consumer panels but there is currently limited scope for such structured review online.</p>
<p>We are seeking views and information on whether the role and impact of algorithms gives rise to new media plurality concerns and if so, how the regulatory framework might be updated to mitigate such concerns.</p>	<p>No response</p>
<p>We are seeking views and information on the role and impact of market change, outside the context of a merger, on the news consumption journey of UK consumers and the UK news media landscape.</p>	<p>As indicated in the Consultation Report, 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). Para.4.23 of the Report indicates that news consumption online is difficult to quantify with precision due to the role of intermediaries and algorithms. Effective market intervention thus requires that data of this type can be obtained by the regulator and that further work is done to develop robust online metrics.</p>
<p>We are seeking views and information on whether the role and impact of market change, outside the context of a merger, gives rise to new media plurality concerns, and if so, how the regulatory framework might be updated to mitigate such concerns.</p>	<p>Ofcom already engages in regular monitoring of media plurality, but with specific reference to the existing media plurality rules and their adequacy. Ongoing review to identify potential reductions in media plurality at an early stage, and in contexts outside a merger situation, is</p>

thus desirable. This would offer a valuable time line indicating ongoing market developments. The Dutch News Monitor could here provide an interesting example, which considers both media plurality across the various media sectors – print/broadcast and new sites – but also coverage of ‘remarkable news events’ and the representation of political parties/politicians in the various media sectors. Ofcom’s share of reference metric or a modified system based on the HHI could be used to identify potential areas of problematic consolidation or power imbalances. Horizontal, vertical and cross-media consolidation can all pose challenges to media plurality and diversity and should be considered.

We are seeking views and information on whether there are other features of the UK news media landscape whose roles and impact on the news consumption journey of UK consumers and the UK news media landscape we should consider.

Independence of the designated regulator from political and economic pressure is essential for there to be trust in the regulatory framework. Appointments at all levels of the regulator should be determined through an independent appointments process based solely on merit and competence for the post.

For consumers to make informed choices, easy access to media ownership information is also highly desirable. This could be provided on the media organisation's website. The Council of Europe Committee of Ministers Recommendation on Media Pluralism and Transparency of Media Ownership (Recommendation CM/Rec(2018)1[1]) sets out a number of important guidelines in these areas.

We are seeking views and information on whether there are other features which give rise to new media plurality concerns and if so, how the regulatory framework might be updated to mitigate these concerns.

Intuitive and easy access to public media services is of considerable importance in protecting media diversity online. Such services are subject to the requirement to provide accurate and impartial news, and can provide an important counter-weight to mis/disinformation. This is because the element of 'balance' in these services may lead those who do access problematic sites to at least view/read the public service content as well – in a way they would not be prepared to access services that express clear counter views to their own. Findability should thus be a key requirement here, whether on smart devices or online services. Ofcom has made important proposals in relation to prominence and commissioning of content in July 2021, which should be taken forward.

## Consultation

Question	Your response
<p>We are seeking views and supporting evidence on our recommendation that the national cross-media ownership rule should be retained in its current form.</p>	<p>For the reasons set out by Ofcom in their report, consolidation between the Channel 3 television licence holder and dominant newspaper interests continues to be desirable to maintain media plurality. The rule suggests that consolidation across video/audio and text media may raise particular concerns and, if to be reviewed in the future, may point to the need for specific cross-media regulation online, building on a process of systematic monitoring.</p>
<p>We are seeking views and supporting evidence on our recommendation that the appointed news provider rule should be retained in its current form.</p>	<p>Again, for the reasons Ofcom set out, this also should be retained.</p>
<p>We are seeking views on our proposed scope of the term “news creator” and in particular, whether the categories that we have identified as being important to be captured within this new definition are the right ones.</p>	<p>Adaptation of the existing rules to take into account the online as well as offline delivery of news is required. Programme genres beyond news can, however, be highly influential and a specific focus on news could lead some companies to avoid news provision in order to evade the application of the rules. Note the suggestion to ‘spin-off’ Sky news during previous merger debates. From a democratic perspective, news and current affairs content is of key importance, however, and a focus on news may make monitoring and intervention manageable.</p>
<p>We are seeking views on our proposed modifications to the existing public interest considerations specified in section 58 of the Enterprise Act 2002 to extend these considerations to “news creators”.</p>	<p>The proposal to extend section 58 of the Enterprise Act 2002 to ‘news creators’ across platforms will allow consideration of online media developments and is broadly to be welcome, as is the retention of the ‘accuracy’ requirement in sub-section 2A(a). This can only be a part of the solution to media consolidation, however, in that controls beyond merger situations are required (see above).</p>

	<p>More fundamental reform of the Enterprise Act rules is required. In particular, the influence of the Secretary of State in this context should be removed completely. The potential for political considerations to affect intervention is palpable and, though intervention is to be undertaken on a 'quasi-judicial basis', where an influential media organisation is involved, it is important that the public have trust in the integrity of the process.</p>
<p><b>We are seeking views and supporting evidence on our recommendation that the restriction on advertising agencies holding any broadcasting licences should be removed.</b></p>	<p>Although a broadcast licence holder will be influenced by the marketability of potential programme ideas for advertising it is a step further in terms of commercial integration to allow advertising agents to hold broadcasting licences. There is a risk that strategic decisions will be reversed and advertising considerations come to dictate programme content more directly. For this reason I would be opposed to this development.</p>
<p><b>We are seeking views and supporting evidence on our recommendation that the restriction on political bodies and local authorities holding all licences should be retained in their current form.</b></p>	<p>It is desirable that influential broadcast licences are not held by political bodies, or indeed other bodies, that could have an interest in prioritising their own views or agendas, even where impartiality requirements are in place.</p>
<p><b>We are seeking views and supporting evidence on our recommendation that the restriction on the BBC, Channel 4 Corporation and S4C holding Channel 3 or Channel 5 licences should be retained in their current form.</b></p>	<p>No response</p>
<p><b>We are seeking views and supporting evidence on our recommendation that the general disqualification on grounds of undue influence of political bodies and local authorities should be retained, but the general disqualification on grounds of undue influence of publicly-funded bodies should be removed.</b></p>	<p>Agreed.</p>
<p><b>We are seeking views and supporting evidence on our recommendation that the restrictions on analogue community radio licences should be retained.</b></p>	<p>No response</p>