

Submission to the Media Ownership Rules Review Consultation from Ofcom's Advisory Committee for Scotland

Introduction

ACS acknowledges the need to review these rules at a time when the media market-place is changing rapidly, both for consumers and media owners. Clearly, outmoded rules should not obstruct pragmatic consolidation that might prevent some outlets disappearing for ever. But nor should Ofcom regard itself as having an overwhelming duty to protect the industry at all costs. There is a view that while consolidation may have helped some to survive, other small radio stations and newspapers might well have adapted more nimbly to the changing media environments if they had remained independent.

In general we remain concerned about allowing media owners to become too dominant in any significant market place. It is evident that some conglomerates both in the UK and overseas wield excessive power and influence. At the pan-Scottish and local and regional levels in Scotland, similar dominance is both a possibility and a concern. For example, in Scotland a single owner of the main agenda-setting quality press (*The Herald* and *The Scotsman*) might also be able to control all the radio services and perhaps even new local TV stations as a result of only one or two mergers or takeovers. This is not in the public interest. Inappropriately, under current legislation, if a public interest test were to be applied to growing concentration in Scotland, this would be in the hands of a London-based government minister and a London-based regulator. As there is no guarantee that the specific communicative needs of Scotland would be recognised within a UK framework, this is clearly not an ideal situation.

ACS found the research results informative and very valuable, but notes that only one Scottish sample (that of Glasgow) was involved. We consider that some issues peculiar to Scotland may therefore have been understated in the data. Not least, that Scotland has its own political institutions and that local editorial diversity is vital to provide the Scottish public with a balanced debate on policy agendas.

Questions:

1. We welcome further evidence on our assessment of the media economic landscape, including key examples of international regulatory best practice that you believe may be relevant to this review.

ACS qualifiedly accepts the key thrust of the argument – namely, that the media world is changing and in some respects the threat of ownership aggregation to plurality of information sources is diminished. However, this certainly should not be over-estimated, as there is an inherent tendency to concentration in media markets and new technologies are in themselves no guarantee of plurality of access and distribution.

There is also no doubt that the advertising market is fluid and less predictable. We are not entirely persuaded, however, that local advertising markets in radio have been as seriously affected as other sectors. Newspapers, for instance, have clearly lost a large proportion of their classified revenues such as local authority advertising, property,

motors and recruitment. The more adaptable companies, of course, have moved into online models, however these have yet to mature and provide significant income streams.

We note the conclusion that the Internet is a growing source of news but also observe that it has yet to make a serious dent in the importance of regional TV, newspapers and radio as the prime sources for the public. However, it will grow in importance and it is important that ownership of Internet news sources be properly considered in the equation. We consider that it is likely that existing local media owners are likely to become the main sources of web-based news (as they are well-placed to drive consumers to their sites) and this should not be ignored. In addition, media owners are now actively investigating the feasibility of charging for online news content. A consolidation of media ownership could mean that consumer access to news is limited and that editorial bias goes unchallenged.

One of the key conclusions in Ofcom's research is that consumers would be comfortable if they have at least one alternative to local BBC radio. We must point out that the situation does not apply in Scotland, where the BBC does not provide a truly local radio service. Radio Scotland is a national service from Shetland to the Borders with only a few brief local news 'opt-outs' and limited web-based local news. This means that unlike for example, Manchester, there is no local service for Glasgow, Edinburgh, Aberdeen, Dundee or Inverness, and so forth, other than the commercial services.

It is also worth pointing out that, uniquely in the UK, the national Scottish newspapers do play a significant role in setting the news agenda for the nation, particularly in providing comment on Scottish political and policy news.

2. We seek views and supporting evidence on our recommendation to remove the local radio service level ownership rules.

ACS accepts that the original thinking which led to these complex rules is now largely obsolete. However, as we have pointed out, the assumption that an alternative BBC local service is available does not apply in Scotland. If the Scottish (currently largely German-owned) commercial radio sector were to consolidate further, one unintended consequence could be that all the local radio services in Scotland's cities end up under the one owner with no effective local competition, since the BBC only provides a national service.

3. We seek views and supporting evidence on our recommendation that local cross media ownership rules be liberalised.

Again, ACS appreciates and understands the logic of liberalising these rules. However, we need to point out what this might lead to in Scotland. As discussed in our introduction, one owner might acquire all the radio services (barring a few community stations); they might then merge or be bought by the owner of the major press titles in Scotland. Between them, they might also own or control most of the Internet local news providers. From a UK regulatory perspective, this would be very difficult to counter.

Competition rules might come into play, but these would relate only to commercial advertising markets.

A public interest test might be applied, but it is not clear how this would be triggered by consolidation in Scotland and we have reservations about it being applied exclusively from London, where ministers and regulators are unlikely to understand the peculiarities of the Scottish media system. We expand on this point at 8, below.

4. We seek views and supporting evidence on our recommendation to retain the national cross media ownership rules.

ACS has nothing to add to this recommendation, although ‘national’ has a different meaning north of the border. For example, in Scotland *The Scotsman*, *The Herald* and the *Daily Record* are seen as Scottish ‘national’ titles although their circulation base would classify them as ‘regional’ newspapers in a UK context.

5. We seek views and supporting evidence on our recommendation to remove national multiplex rules

ACS broadly supports this proposal. Our only concern would be to ensure that a reasonable range of services is offered on DAB to give the growing DAB listener cohort alternatives to UK BBC services. We also consider that, while there is a possibility that a Scotland-wide, non-BBC, service on DAB might emerge, the regulatory framework should enable this in the interests of competition and greater consumer choice.

6. We seek views and supporting evidence on our recommendation to retain the restrictions on broadcasting licenses.

ACS supports this proposal.

7. We seek views and supporting evidence on our recommendation to retain the appointed news provider rule.

ACS supports this proposal.

8. We seek views and supporting evidence on our recommendation to retain the media public interest test in its current form.

As discussed above, if many of the local restrictions are lifted as recommended, we consider that the public interest test would become even more important to prevent undue aggregation of media power within a region or nation. In fact, we would advocate a review of how the cross-media and broadcast tests are applied to local and regional circumstances. This is surely overdue, given a decade of devolution. Bearing in mind the Scottish view of what ‘national’, ‘regional’ and ‘local’ represent, these definitions surely have to be more fully aligned with the devolved order of the UK. We note that the UK Secretary of State retains the exclusive power to make decisions about media ownership and consider that the formal involvement of the devolved institutions is required for decision-making sensitive to the political diversity of the UK.

Advisory Committee for Scotland
16 September 2009