Media Pluralism: regulation or universal service obligation?

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Introduction.

Concerns about media pluralism are pervasive, recurrent and remarkable. In Australia, media ownership regulation came under review in 2001 (updated in 2002, 2003 and 2006) and again in 2007 (Parliament of Australia 2001 and 2007). In Canada, the Canadian Radio-television and Telecommunications Commission (CRTC) promulgated new media ownership rules in 2008 (CRTC 2008). In October 2011, a European Commission Vice-President, Neelie Kroes, established a Committee on Freedom and Pluralism of the Media “to advise and provide recommendations for the respect, protection, support and promotion of media freedom and pluralism in Europe” (European Commission 2011) following extensive earlier studies and publications (e.g., Council of Europe 1994, European Commission 2007 and KUL 2009). In the USA, the Federal Communications Commission (FCC) began the latest of its four yearly reviews of media ownership in 2010 (FCC 2010), though in 2011 most of its earlier recommendations for liberalisation of media ownership in the USA were blocked by a judgement of the US Court of Appeals (see United States Court of Appeals for the Third Circuit 2011). In Germany, the Kommission zur Ermittlung der Konzentration im Medienbereich (see KEK 2010 and 2011) regulates commercial broadcasting to secure diversity of opinion (Meinungsvielfalt), and in the UK Jeremy Hunt, the Secretary of State for Culture, Media and Sport, announced that he has asked Ofcom to look at whether or not it is practical or advisable to set absolute limits on news market share; whether they believe a framework for measuring levels of plurality could or should include websites and if so which ones; and whether or how it should include the BBC (Hunt 2011).

Hunt’s mandate to Ofcom followed numerous UK studies on media ownership (see, inter alia, House of Lords 2008) and Ofcom’s most recent report (like the FCC, Ofcom is charged with regularly reviewing media ownership rules – though triennially rather than in a quadrennial cycle) in which, like the FCC, it had recommended (modest) liberalisation (Ofcom 2009). Scholarly activity has been no less energetic – see for example the special section of the International Journal of Communication on media pluralism (IJOC 2010), Doyle 2002, Meier 2005 etc.
Why are such concerns both so widespread and recurrent? For three reasons, first, there is abundant empirical evidence that pluralism is diminishing: in most developed countries a long established media business model, advertising finance, is eroding resulting in closures and merger. Second, in democratic societies, the mass media are supposed to have an important political role – both in their purported capacity to influence political behaviour (notably voting) and in their purported duty to hold power to account. If media ownership is wrongly apportioned, by being insufficiently diverse or/and insufficiently national, then democracy, and the social solidarity on which it is based, may be perverted. Regulation, requiring either or both national and diverse ownership, is supposed to step into the breach and mitigate these adverse trends either by making unlawful patterns of ownership deemed undesirable or by subsidising and otherwise promoting those deemed desirable. Here, we will focus on ownership regulation to secure pluralism, rather than national ownership, but observe only that in some jurisdictions a striving for national media ownership has had the unwanted effect of diminishing media pluralism.

Many theories of democracy, including those most cited in debates about media policy and regulation (notably Millian, Habermasian and Mouffian – see Karpinnen, Moe and Svensson 2008), emphasise the importance of diversity, albeit inflecting the case for diversity somewhat differently: Millians foregrounding the arguments from *On Liberty* "if any opinion is compelled to silence, that opinion may, for ought we can certainly know, be true." (Mill 1986: 115); Habermasians the need for an untrammelled forum for collective and rational deliberation and Mouffians the inherent pluralism and incommensurability of values in modern societies. But all these viewpoints may shelter under the umbrella of a common, core, rationale which is, as McEwan put it in a report for the CRTC (citing Bagdikian), that “Modern democracies need a choice of politics and ideas, and that choice requires access to truly diverse and competing sources of news, literature, entertainment and popular culture” (Bagdikian 1987: 3 cited at McEwan 2007).

There can be little doubt that democracy is unlikely to thrive without diverse and competing sources of news (whilst diversity in literature, entertainment and popular culture may be desirable it is not *prima facie* clear that such diversity is required for democracy). Moreover, diversity and competition in news may not be sufficient in themselves – accuracy, comprehensiveness and intelligibility also seem to be essential news “must haves” for modern democracies. But much is left out here: including attributes such as the independence...
of news and the ability of the media to hold power, whether economic or political, to account. And can there be too much diversity? This may seem a fanciful question when the contemporary media landscape is, generally, one of diminishing diversity and pluralism in news supply. But too much diversity may lead to fragmentation of the collectivity (polity, demos, state, nation or something else) in question. Indeed, this is (one of) the rationale(s) underpinning national media content and ownership rules – too much exogenous content (ownership) may lead to a lethal erosion of identification with the demos.

Too much diversity may also weaken the ability of the media to hold power to account. Further, the presumption that diversity of ownership will necessarily lead to diversity in content has seldom been tested - and remains to be demonstrated. For example, Milyo’s recent study for the FCC found that:

local television newscasts for cross-owned stations contain on average about 1-2 minutes more news coverage overall, or 4%-8% more than the average for non-cross-owned stations. Newspaper cross-ownership is also significantly and positively associated with both local news coverage and local political news coverage. Newspaper cross-ownership is also associated with more candidate coverage, more candidate speaking time and more coverage of opinion polls. With regard to the partisan slant of news coverage, there is little consistent and significant difference between cross-owned stations and other major network-affiliated stations in the same market(Milyo 2007: npp).

It would be unwarranted to claim that Milyo’s findings, which refer to a specific United States context, are widely generalisable but they are remarkable both for exemplifying a rare empirical enquiry into the ownership/content nexus and for putting into question conventional wisdom concerning the relationship between media content and ownership. Such multiple uncertainties and contradictions may explain why debates about media ownership seem never to go away and never to reach a resolution Why not?

First, any proposals for change are likely to disadvantage media incumbents, and their political allies, and they are likely to resist such changes. Those, whether businesses or politicians, likely to benefit will do the reverse. All this is simply to state the obvious: media ownership regulation is highly political and scholarship is often highly politicised. Change, at least in part, depends not on rational argument but on political interest. And this suggests that
the vast, rationalist, architecture of the Media Pluralism Monitor (MPM) – the weighty fruit of a scholarship inspired by the European Commission’s most recent engagement with the media ownership question (see KUL 2009) and which, almost certainly, constitutes the most fully elaborated attempt to construct an instrument to measure media pluralism – may never be unleashed in anger.

The MPM provides an eloquent demonstration of the difficulty of reaching rational, impartial, objective and, above all, operationalisable assessments of the media ownership issue. Its 166 indices, 75 possible threats and 43 distinct risks (KUL 2009: 89, 92) testify to the heroic labour required for any actual implementation of the MPM – to reach a conclusion on one of the 166 individual indicators, that for determining the extent to which “Political bias in the media” is present, requires a “Quantitative content analysis for measuring the proportion of actors representing different political viewpoints and groupings by dividing them into 4 groups: government, governing parties, opposition parties, and other political and ideological groupings” (KUL 2009: 46). The labour involved in reaching such a judgement needs no emphasis and neither does the extent to which the judgments involved in making such distinctions are likely to be open to question and challenge. Moreover, the MPM methodology’s attribution of “equal weight to all indicators” (KUL 2009: 26) is highly contestable: are magazines, radio, television and newspapers equivalent and equal in their importance? The problem signified by this question is amplified when the importance of book publishing companies, web sites, cable stations and others (KUL 2009: 78) has to be taken into consideration. Further, the MPM’s recourse to criteria such as “excessive” and “insufficient” (KUL 2009: 35, 37) suggests that considerable uncertainty is likely to surround any judgements based on its methodology and that any real life use of the MPM is likely to provide ample employment for lawyers.

Such contradictions and discontinuities in both the rationale and the means of implementing any action on media pluralism helps to explain why the issue remains, seemingly immovably, on the policy and scholarly agendas without resolution. Its high contemporary salience though may reflect recent changes in the economics of the mass media which have proven unfriendly to media pluralism.

The commercial background: advertising budgets switch from legacy media to the internet.
Price Waterhouse Coopers (PWC) recently estimated that the global advertising market fell 12% between 2008 and 2009, further to this (possibly cyclical) absolute fall there has been a major, though unevenly experienced, redistribution of advertising revenues in major developed economies from “legacy” media (notably newspapers and free to air broadcasting) to the internet (and particularly to search advertising). The significance of this shift, particularly within the context of an overall fall in advertising spend, is that the funding model (advertising plus subscription/cover price) for content production and distribution, notably news and current affairs, is in crisis. Advertising revenues, which once funded content production and distribution, including news, are now received by firms which do not produce content – Google, Yahoo and the like. The Guardian’s strapline of April 2011 Google's UK ad revenue to overtake ITV (Guardian 2011) is emblematic of this shift tracked in ; the Internet Advertising Bureau’s (IAB) most recent survey (for the first half of 2011) which found that UK online adspend in H1 2011 had reached a new high of £2,256.2m; that spending on internet advertising had grown by 13.5% year-on-year; and that, whilst the advertising industry as a whole grew only by 1.4%, online’s share grew to 27% for the first half of the year in 2011 marking an increased rate of growth relative to 2010 when internet advertising grew by 25% (IAB/PWC survey 2011 at http://www.iabuk.net/media/images/iabresearch_adspend_adspendfctshth12011_8439.pdf).

In consequence, the UK has seen significant numbers of newspaper closures and mergers, notably in the local/regional sector but the economic health of the national press also remains shaky: papers have reduced pagination (eg the Financial Times), closed free access to websites (The Times) and raised prices (the Financial Times raised its price from £1 in mid 2007 to £2 in mid 2010). Further, in television, Channel 3 has foreshadowed closure of its regional news services. Despite this downward trend in advertising revenues, legacy media claim, and sometimes experience, reverses in fortune. For example, the UK’s main advertising funded television firm, ITV, reported that in the first six months of 2011 its advertising revenues grew by 2% (with growth slowing to a further 1% in the 3rd quarter). However, this growth in revenue roughly matched the growth in ITV’s audience share suggesting that its success was enjoyed at the expense of legacy media rivals rather than indicating an increased competitiveness of legacy media vis à vis the internet (ITV 2011).

How far are such concerns about the impact on content production and availability arising from a changed UK advertising market justified in other contexts? What data are available point clearly towards there being a notable internet effect although this internet effect appears...
to differ between countries. Our discussion principally draws on UK data and examples and exemplifies our belief that UK experience represents and/or foreshadows general trends and concerns.

**International experience.**

Ofcom’s bi-annual International Communications Market Report (Ofcom 2010) shows conveniently and authoritatively how the internet’s share of advertising expenditure has risen in all of the 12 countries tracked. The shared trend of growth in internet advertising, at the expense of legacy media, is clear but, for some reason(s) the shift of advertising revenue to the internet appears more pronounced in the UK than elsewhere.

Figure 1.

![Figure 5.6 Internet share of total advertising expenditure](image)


The reasons for the particularly high salience of internet advertising in the UK are not clear. True, internet access at home in the UK is high – at c73% of homes (Ofcom 2010: 235) but other countries also enjoy similarly high, and sometime higher, levels of penetration. A more nuanced picture emerges when the BRICs (Brazil, Russia, India, China) are considered, there, notably in China and India, the newspaper sector is growingiv, and television advertising funding is growingv.
The decline in advertising spend accruing to “legacy” media thus has several important consequences: public access to affordable content (most importantly, news) is likely to decline; the quality of content is likely to decline and the plurality of sources of content (most importantly, news) may decline – not least in consequence of mergers as firms seek to reduce costs in response to diminishing revenues and/or as control of bottleneck essential facilities (subscription management systems, encryption and API protocols, transmission and distribution platforms etc) endow a few firms with sufficient market power to exercise dominance. None of these potential consequences are inevitable or inescapable but all can currently be seen in actual and existing media regimes. This contributes to pervasive disquiet about the future of a robust and pluralistic “fourth estate” – a disquiet for which media concentration provides a convenient lightening rod and one particularly attractive when, in the UK, the largest commercial media player, putatively exemplifying the baleful consequences of concentration, is the Rupert Murdoch/News Corporation/BSkyB nexus of media interests. The growth of the internet – in volumes of content available, penetration and use – amplifies long established concerns about the adverse impact of exogenous media content on established, putatively national, identities and on the durability and legitimacy of nation based states.

What can be done? First we consider the possibilities, and difficulties, of rigorously measuring media concentration – a necessary basis for any legal and/or regulatory prohibition of further concentration - and then, given our view that economic changes in the sector driving closures and mergers are likely to be of long standing, whether effective alternative remedies are available to policy makers.

Assessing plurality.

There is no quick fix to the assessment, still less the measurement, of media plurality. But as it becomes a regulatory concept, pronounced upon by agencies and litigated in the courts, it is inevitable that a journey will be begun along the long road towards the development of more practicable data-driven ways of assisting judgement. This process has already been started in the US, the EU and the UK – with mixed results. In our view, some of the pessimism is due either to a mismatch between the degree of elaboration of the concepts underlying plurality and the available data, or to unrealistic expectations about what measurement can do. The task may prove to be impossible, or to be too heavily contested to do much good, but this is not yet proven.
Any assessment or attempt to assign numerical values to pluralism must start with decisions about the scope of the content the plurality of which is to be assessed, the degree of granularity in specifying the relevant audiences, the universe of media capable of contributing to a plural supply, and the basic source of evidence or data. These issues are usefully discussed in Ofcom’s work on plurality (Ofcom 2010a) undertaken as part of its evaluation of the consequences for plurality of a proposed takeover in the UK, now abandoned, by News Corporation of BSkyB, the satellite broadcaster and broadband supplier. An assessment was required of the Secretary of State of whether the transaction conflicted with the need ‘in relation to every different audience….for there to be a sufficient plurality of persons with control of the media enterprises serving that audience’ (Ofcom 2010a: 4). The Secretary of State sought a report from Ofcom.

In relation to the first issue – the scope of content whose plurality of supply is being tested – there is a considerable range of possible options, all or most of which might be appropriate in particular circumstances. For example, if the fundamental question concerned plurality in matters concerning the underlying values of society, the coverage, and any process of evidence-gathering, would have necessarily to be wide. If, however, the issue at stake was political impact, then a restricted focus on the supply of news and current affairs would be appropriate (though this would not imply that fiction is free from political implications). Further, consideration would need to be given to the geographical scope of the enquiry: in the UK case the statute refers to ‘every different audience in the United Kingdom or in a particular area of locality of the United Kingdom’……… (Ofcom 2010a: 4).

What range of media would be included? If the focus were political, then those supplying news and current affairs would naturally be included. However, the principal platforms – newspapers, television and on-line – provide content of all sorts. In principle, non-news and current affairs access should be excluded. Online included? The case for including on-line sources of news and current affairs gets stronger day by day. This immediately raises the issue of weighting. Some platforms, for example those using video, may provide a preferred service with a greater impact. Alternatively different platforms may have their own particular advantages. Any decisions about weighting (which also arise when “legacy” media are concerned – is the impact of radio equivalent to television, to a newspaper, to a magazine etc?) will depend on objective data, such as levels of consumption/circulation, but also on matters which can be determined with less certainty – is the impact of broadcasting greater
than that of print; does the “pull” nature of online media amplify/discount their effect relative to “push” media such as broadcasting?

The final issue concerns the source of the basic data. Where is strong interest in rates of change, this will be determined to a large extent by data coverage in early periods (and the periodisation chosen may significantly influence findings). It is likely that any such inquiry will include the collection of data on both reach (proportion of audience using a service at least once in a time period) and consumption (in hours per week or in proportion of audience self-reporting as regular users) and further, here one platform subcontracts its provision to another, a decision has to be made about whether to allocate the audience to the wholesale provider or to the retailer (or to split it).

Ofcom decided:

- the focus was exclusively on news and current affairs;
- the audience was a national one;
- the platforms included newspapers, radio and television but excluded on-line services;
- both reach and wholesale and retail consumption shares were utilised.

In relation to reach and wholesale consumption, the resulting data are shown below:

Figure 2.
The search for measures (or indicators) of plurality can be, and has been, likened to the search in competition law and policy for measures or indicators of market power. It took several decades to generate the consensus that operates today – that data, including share data, have a role to play in making an assessment of market power, but there is no ‘silver bullet,’ in the form of a single piece of evidence, which can take the relevant agency immediately to an accurate evaluation of market power.

It is also fundamental to market power appraisals in competition law that they are made with reference to a defined market, which contains the relevant substitutes from the customers’ point of view. Although analytical procedures are available to determine the relevant market, in most cases it relies on the decision-makers’ judgement, just as a decision as to whether to include on-line sources of news and current affairs does in the case under consideration here.

In competition law and policy, the best known single index of market concentration is the Hirschman-Herfindahl index or HHI. It provides a neat and economical way of assessing concentration and is calculated by expressing the market shares of all participants as percentages, squaring the individual percentages and adding up the result. It can range between 10,000 in the case of a 100% monopoly and 0 where there are a very large number of firms each with a vanishingly small market share. The application of the squaring rule has the effect of giving high weight to large firms. Thus a firm with a 20% share will add 400 points to the index, which is twice the combined contribution of 200 points of two firms each with a share of 10%.

Is there a logic behind the formula? In fact it can be shown that under conditions there is an interesting direct link between the size of the index and the expected mark up over costs in the product market (Belleflamme and Peitz 2010: 58-9). Nonetheless, its principal use in competition law is as one characterisation of market structure and as a filter to identify merger proposals where their impact on concentration is insufficient to warrant further examination.

It may be extending the analogy too far to apply the HHI to the Ofcom consumption data, but if we do we derive the following contribution to the index of each media firm:

<table>
<thead>
<tr>
<th>Media Firm</th>
<th>Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBC</td>
<td>1369</td>
</tr>
<tr>
<td>News Corporation</td>
<td>144</td>
</tr>
<tr>
<td>Media House</td>
<td>Value (index)</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>ITN</td>
<td>144</td>
</tr>
<tr>
<td>Sky</td>
<td>100</td>
</tr>
<tr>
<td>DMGT</td>
<td>25</td>
</tr>
<tr>
<td>Trinity Mirror</td>
<td>16</td>
</tr>
<tr>
<td>Northern &amp; Shell</td>
<td>9</td>
</tr>
<tr>
<td>Guardian</td>
<td>9</td>
</tr>
<tr>
<td>Telegraph</td>
<td>4</td>
</tr>
<tr>
<td>Others (estimate)</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1830</strong></td>
</tr>
</tbody>
</table>

On this basis a merger of News Corporation and Sky increases the index by 240. However, it’s notable that the resulting firm would still account for a share considerably lower than that of the BBC.

So far, we have emphasised the parallels between indicators of pluralism and indicators of market power. But there are profound differences as well. One concerns ‘internal pluralism’, the possibility that one part of a media firm will adopt a different stance on current issues than another. Doing so may enhance profitability, but it less likely that strongly competitive internal competition between two goods or services produced within a single group will do so. The question of internal pluralism acquires a particular salience when a media firm, such as the BBC, is under a statutory or other obligation of impartiality. Secondly, the fact that consumers of news and current affairs multi-sourcing (relying for news on different firms over the same period) may have different effects than applies in the case of multi-sourcing other goods or services. In the latter case, multi-sourcing may show the ability to switch, but overall consumption market share may still be a useful partial indicator of market power. In relation to plurality, limited exposure at the consumer’s discretion to alternative sources of news may be enough to meet the public interest requirement for plurality.

As noted above, it took decades for a consensus to become established about how to assess market power, by applying expert judgement to a variety of structural and behavioural observations, and commissioning research into particular aspects. We return below to the
question of whether it is desirable to embark on a similar journey in relation to media pluralism.

**Public finance – a remedy?**

The consequences of the impact on content (particularly news) production of the above-noted shift of advertising revenues away from “legacy” media and to the internet (particularly to search engines) has been addressed differently in different countries. In Europe, France and the UK, as ever, provide a convenient vignette of the range of responses. In both countries, and in most other European states (Australia, Canada, Japan, South Korea and elsewhere provide further cases in point), there is already a high (and in some countries very high) level of public intervention in media markets through the provision of public service broadcasting and, less important and not so widely spread, press subsidies) but recent developments have stimulated proposals for and the implementation of new forms of public intervention. France, with customary active interventionism, the Government has required public service broadcasting to cease to take advertising (with obvious benefits to advertising funded commercial television in France); increased subsidies to the newspaper sector – notably by providing 600m euros in support over three years; offered free hard copy newspapers to young people; and levied 0.9% of the turnover of telcos and ISPs for a content fund.

There have been no such bold initiatives in the UK, though Ofcom tentatively proposed diverting some of the funds devoted to public service broadcasting to support a “Public Service Publisher” and the last Labour government (which lost office in May 2010) proposed to fund three pilot schemes to provide news (located in northern England, Scotland and Wales). The pilots were scheduled to receive funding of up to £47m (from an underspent budget line, funded from the BBC licence fee, initially identified for digital television switchover) over two years. However, the clause which would permit establishment of Independently Funded News Consortia (IFNCs) was deleted from the Digital Economy Bill on its final Parliamentary reading in the pre-election “wash up” on April 7th 2010. This means that IFNCs cannot be established without new primary legislation. And this is unlikely in the foreseeable future, the Conservative/Liberal Democrat Coalition Government, which took office in May 2010, has stated that there will be no commitment to IFNCs. This is not surprising given the poor state of UK public finances and the Coalition’s policies of cost reduction and reduction of public spending.
New initiatives and entrants.

The decline of legacy media has been accompanied by a collapse of entry barriers and the blossoming of a host of specialist internet based media: websites; e-zines; Web 2.0 collaborations manifesting the flourishing of what’s variously been called “citizen”, “distributed” or “networked” (Beckett 2008) journalism or, in a particularly felicitous coining, a “fifth estate” (Dutton 2007). And in the USA (and Australia), “crowd financed” or “community funded” sites, such as www.spot.us, have developed through which readers/supporters can contribute to the financing of enquiries, resulting in publication, proposed by journalists. However, despite the growth of news and comment internet sites/media and a host of blogs such sites tend to have a mayfly life.

Despite the promise of “fifth estate” journalism and the contributions to pluralism made by new web based entrants to the UK media there are solid grounds for supposing that the basis on which authoritative, affordable and pluralistic public media have been available for around the last hundred years is falling away. In television resources, slowly followed by consumption, are shifting way from free to air to subscription (pay wall protected) television; in radio (hardly considered by me today) no viable subscription model has been developed but, in the UK at least, advertising revenues are falling slowly though consumption is shifting faster to licence fee funded services; and in the press sector, advertising funded newspapers are (with the qualified exception of free sheets) in decline with no viable pay wall or other alternative emerging.

The change in the advertising market seems, if the trends identified above are sustained, to presage a significant qualitative change in the general mass media environment: for legacy media, threats seem most salient; for new media, opportunities. But in both legacy and new media these changes point to considerable uncertainty about how the core social and political role of public media – to provide pervasive and affordable access to diverse, high quality, content – is to be sustained particularly in a context where mergers, closures and diminishing legacy media pluralism seems inevitable.

How far, then, are online media satisfactory substitutes for legacy media? We believe that online media are not yet a satisfactory substitute for legacy media. Despite the OxIS (Dutton, Helsper and Gerber 2009: 19) finding that “The Internet has become the first port of call when people look for information” and important though the potential of “crowd sourced”
media such as www.spot.us; “webzines” such as www.openDemocracy.net; and the expansion of the consumption base of “legacy” media made possible by online access (enabling the UK based Guardian newspaper to aspire to the status of “the world’s leading liberal voice”xiii) are, online media neither have the salience, authority or resources yet to challenge effectively legacy media, either in holding to account the powerful or in acting as conduits for the democratic functions variously identified by Millians, Habermasians and Mouffians.

Compare, for example, the UK’s most important political story of recent years, the Daily Telegraph’s 2009 release of data concerning UK Members of Parliament’s (MPs’) abuse of the Parliamentary expenses system and WikiLeaks’ 2010 release of US military and diplomatic Documents (c500,000). The Daily Telegraph’s release resulted in changes to the rules governing UK MPs’ expenses; MPs’ resignations; successful criminal prosecutions and so on. Whereas WikiLeaks’ release, though orchestrated with highly legitimised legacy institutions, has yet to exert a comparable impact - there have been no resignations, no trials and relevant parties have not effectively been held to account – as they were by The Daily Telegraph. Perhaps because the WikiLeaks releases were constructed as a personal utterance by Julian Assangexiv rather than as an institutional intervention by a body assigned a holding-to-account role. In the future, new media may acquire an institutional force comparable to contemporary legacy media’s. But, to date, they have not done so. However, there can be no doubt that legacy media’s capacity to hold the powerful to account is declining – and without a commensurate rise in the capacity of the online “fifth estate”xv to hold politicians to account. But this decline is not a consequence of declining media pluralism – rather both declining media pluralism and declining mediacapacity to hold the powerful to account stem from falling media revenues.

**What can be done?**

The difficulties of objective measurement of concentration; the pressure of a changing advertising market, increasingly compromising the economic viability of “legacy” media and leading (almost) inevitably to further closures and mergers in many (but not all – see the BRICs) media markets; and the public service broadcasting elephant in the room, making regulatory action directed only towards private sector media concentration intellectually
indefensible, makes recourse to traditional remedies – prohibiting mergers, requiring disaggregation etc – unlikely to be effective. What alternatives exist?

First, a conceptual shift is needed. Focusing on prohibition of mergers and establishing a floor level for media concentration is unlikely to be effective when the economic base, on which a pluralistic mass media has been established, is fast eroding. Already we have seen perverse outcomes arising from the implementation of “legacy” concentration regulation – eg the forced closure, as a consequence of regulatory requirements designed to inhibit concentration of ownership, of radio services following the merger of EMAP and Scottish Radio Holdings\(^{xvi}\) Rather than conceiving of media pluralism as an objective to be realised by prohibiting mergers it should be thought of as an aspect of universal service pointing, where necessary, towards intervention designed to facilitate and encourage entry. Here Ofcom’s 2005 proposal for establishment of a Public Service Publisher (PSP) deserves resurrection, in relation to the media content and structure under discussion here. Much would need to be done to develop criteria for eligibility for funding and assessment of performance but these matters are not our concern here. However, we note that in a context where extraordinary, and damaging, economies are being made in news gathering and provision (the report, in Ofcom’s study (Ofcom 2011) of the proposed merger of Kent Messenger Newspapers and Northcliffe Media, that there is only one political correspondent in the whole UK local newspaper sector suggests that simply ensuring that there is a satisfactory number – whatever that number is to be – of media enterprises operating in a particular market is unlikely adequately to safeguard the public interest. Hence our proposals for re-thinking matters in terms of a wider universal service remit rather than simply as a matter of concentration of ownership).

Second, both “old style” concerns about excessive concentration and the exercise of dominance and “new style” proposals for consideration of public support, eg on PSP lines, for qualifying firms (and particularly new entrants) point towards a review of established public interventions and notably public service broadcasting. Recall the BBC monolith’s contribution to news concentration in the UK, when it is assessed by transferring the HHI market concentration methodology\(^{xvii}\), amounts to 1369 in a total score of 1830. This adds additional grounds, at a time of overall public expenditure cuts, for allocating a portion of the broadcasting licence fee to non-BBC media players.\(^{xviii}\)
And third, in a context of diminishing diversity in domestic media, access to exogenous media and foreign ownership may be better seen as positive elements in a particular media and political landscape rather than, as they often have been, matters of public concern requiring public policy remedies.

References.


Endnotes.

ii In the first eight months of 2010, UK television advertising revenues grew by 15-16% http://www.ft.com/cms/s/0/09983bec-8b88-11df-ab4d-00144feab49a.html
iii See, for example, the table showing declining circulations of twenty representative non-national UK newspapers over twenty years compiled by Peter Robins in August 2010 at http://www.guardian.co.uk/media/organgrinder/2010/aug/25/long-fall-local-press
v World Press Trends 2009 (World Association of Newspapers 2009: 312) states that 2008 advertising revenues in China grew 13.22% for television, 10.21% for the internet and 6.36% for newspapers. Newspaper circulation in China has grown year on year between 2004 and 2007 as has, with a downward blip in 2005, the number of newspaper titles (World Association of Newspapers 2009: 315). In India, both circulation and number of newspaper titles has grown consistently between 2004 and 2007 (World Association of Newspapers 2009: 492).
vi This is not to imply that drama, documentaries and other programming genres are unimportant only that issues are both more acute in news and analytically more manageable when focused on the single genre of news. For an excellent discussion of the issues in respect of news see Ofcom 2007.
vii (22 x 22) – (12 x12+10 x10). Co-incidentally, an increase of this size in the HHI based on market shares would render a merger subject to further investigation by the USA Department of Justice. If alternatively, Sky left the market, and half of its audience share went to the BBC, the index would increase by 395, simply because the BBC was so large to begin with.
viii See EUBusiness 2010. The conformity of the French levy with European Union stipulations is a matter of dispute.

http://www.culture.gov.uk/what_we_do/broadcasting/6549.aspx
http://www.culture.gov.uk/what_we_do/broadcasting/6721.aspx
xi For informative and penetrating analyses of these issues in the UK context see House of Commons 2010, House of Lords 2008 and Ofcom 2007.
xii Much of the content of such sites, eg Wikinews, may be dependent on material derived from legacy media. Paterson (2005) found that news websites were heavily dependent on a few sources, notably the international news agencies Reuters, AP, AFP and the BBC and Davies’ (2008) account of a content analysis of more than 2207 stories drawn from five top UK national daily newspapers argued that more than 70% of stories are derived from press releases or news agency sources and, at most, 20% (and possibly as few as 12%) were originated by journalists.
xv Our distinction between legacy and online media is a convenient analytical distinction, of course most legacy media have an online presence (though, thus far, without making much of a contribution to the bottom line), online and legacy media are symbiotic with respect to content; hybridised on/offline entities have developed and so on.
xvi The Smash Hits service in Aberdeen, Ayr and Dundee closed so that the post-merger service offer conformed to what was then Ofcom’s concentration of ownership regulations. See Guardian 2006.
xvii We repeat our earlier caveat about this ‘read across’.
xviii Precedents have been established by reserving a portion of the licence fee to fund the introduction of commercial television in the 1950s (in the event funding from the BBC was not required) and more recently by funding S4C from the licence fee.