



Response to the European Commission Issues Paper on Media Pluralism

The Campaign For Press and Broadcasting Freedom

1. The CPBF was established in 1979. It is the leading independent membership organisation dealing with questions of freedom, diversity and accountability in the UK media. It is membership based, drawing its support from individuals, trade unions and community based organisations. It has consistently developed policies designed to encourage a more pluralistic media in the UK and to promote accountability, diversity and plurality in mass communications.

2. The CPBF has made general comments on the revision of the Television without Frontiers Directive in a separate document, and detailed submissions on three Issues Papers. These are the papers on *Commercial Communications*, *Protection of Minors and Human Dignity*, *Right of Reply* and *Media Pluralism*.

Background

3. Every year the process of media concentration and integration is increasing and with it comes growing concern for the impact on media quality, pluralism and diversity. The revision of the TVWF Directive presents an opportunity to revisit the question of European wide limits on concentration of media ownership.

4. Public concern about corporate and political dominance over media and information services is greater than ever. Confidence among readers, viewers, listeners and users of information is low and there is an increasing perception that journalism is failing to carry out its watchdog role in society because of the vested interests that drive the media business. Not surprisingly, politicians are worried, too. The media concentration process has paralysed policy makers and it is time to stimulate fresh debate and prepare concrete actions to confront the challenge of corporate power in mass media.

5. Some of the major problems are:

Political and Private Threats to Public Service Broadcasting: with limited finances, public broadcasting cannot compete against the massive resources that large global media groups can draw on to develop programming, acquire sports rights and launch new subscription and pay-per-view channels.

Power in The Hands of Few: a handful of powerful global media groups take control of the expanding media and leisure market spanning film, television, book publishing, music, new online media, theme parks, sport, the print media and even the theatre. Deregulation has boosted both the commercial power of global corporations, but it also gives them political power. They are currently demanding even greater relaxation

of rules on media ownership, spending enormous sums on political donations while lobbying key politicians.

Concentration supported by national laws: Most European Union governments have enacted legislation to speed up the process of concentration. The threats to diversity and plurality in our media have never been greater, and there will also be a damaging impact both culturally and on the range and quality of the work that journalists produce.

6. The CPBF believes that the market itself cannot protect pluralism and diversity. The public's need to be properly informed means that information services must be regulated beyond the market framework of ratings, profits and commercial objectives. We believe that the case for limiting media ownership has a sound democratic and cultural basis. The revision of the TVWF Directive presents an opportunity to revisit the question of limits on media concentration and to promote and encourage wider participation in the media and reverse, not promote further concentration of media ownership.

7. We welcome the statement made in the Issues paper that 'European competition law cannot replace - nor does it intend to do so - national media concentration controls and measures to ensure media pluralism. Article 21(4) of the Merger Regulation 4 allows Member States to apply additional controls in order to protect pluralism in the media.' While competition regulation can successfully tackle economic competition between firms, it has widely acknowledged limitations as a means of regulating for media pluralism and diversity. As the former EC Competition Commissioner Van Miert stated in 1997: 'My personal opinion is that I am convinced of a need for European legislation on media concentration... We cannot use competition rules to govern democratic issues.' (cited in Barendt and Hitchens 2000: 264, *Media Law: Cases and Materials*, Harlow: Longman).

8. Competition regulation may tolerate players who, while not dominant in any single media market, nevertheless have accumulated considerable media power. Further, in assessing market power through economic considerations, competition law is thus unable to grasp more complex forms of media power which regulation for media pluralism has traditionally sought to address. Above all, competition regulation may tolerate monopoly or oligopoly provided that markets are economically speaking 'contestable' and so allow conditions that may threaten pluralism. In contrast, the public policy concept underpinning anti-monopoly measures concerns the effects of concentration on the public interest rather than on competition. Communications regulation needs to be based on the recognition that media contribute to pluralism, diversity and quality of information and require a separate regulatory structure from that which governs other parts of the national and global economy.

9. The Issues paper very briefly acknowledges a range of important issues including 'editorial freedom, working conditions of journalists, the question of the relationship between media and political actors'. The problems arising from media ownership are certainly not restricted to possible limitations on the supply of news and information. There are a host of considerations which media ownership measures should address, and against which the effectiveness of measures on media pluralism must be assessed. These include:

- i. Programme variety and cultural diversity
- ii. Media access (social, cultural and economic access for individuals and groups in society, especially marginalized groups)
- iii. Independence of creators, programmers and journalists
- iv. Owner influence affecting media content and performance in entertainment, fiction and factual programmes as well as in 'news'
- v. Separation of editorial and commercial speech
- vi. Transparency of owners' corporate or commercial interests in editorial and media content
- vii. Plurality of sources of funding for media (especially in broadcasting)

Measures to foster media pluralism

10. The CPBF supports the proposals from the European Federation of Journalists (*Legislating for a Democratic Media in Europe, Brussels, January 2003*) which called for:

- i. Harmonising of national laws governing the concentration of media ownership at the highest level;
- ii. Restricting the extension of media groups' activities through merger, anti-trust and cross-ownership legislation;
- iii. Regulating the activities of Community-based media groups in the accession countries;
- iv. Obliging transnational media enterprises to disclose the full extent of their global holdings in each of the countries in which they operate;
- v. Limiting concentration of media ownership;
- vi. Divesting existing media properties where there are unacceptable levels of concentration.

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