



***Independent Study on
Indicators for Media Pluralism
in the Member States – Towards
a Risk-based Approach***

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by

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Final Report - Annex III

COUNTRY REPORTS

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Important Notice

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The country reports are not in any way intended to be an implementation of the Media Pluralism Monitor in the Member States. They were drafted during the initial stages of the study, with the intention of obtaining a better view of regulatory measures in the broad sense – including co- and self-regulatory measures – adopted in the Member States to promote or safeguard, directly or indirectly, pluralism in the media. The intention was to obtain a high-level snapshot of possible implementation problems and not to express any value judgements on existing rules. The resulting overview facilitated the development of methods for assessing the effective implementation of regulatory safeguards, which had to be, according to the Terms of Reference for the study, an intrinsic element of the legal indicators. We strongly recommend that you also download the file containing our Introduction as it sets out our approach to the initial stages of the project in detail and includes a short manual on how to read the country reports. We draw your attention to the Overview file as well.

Please note that the country reports were finalized in the middle of 2008 and do not therefore reflect progress made with the transposition of the Audiovisual Media Services Directive or any subsequent initiative by Member States. They are made available not as final deliverables of the study, but as interim deliverables, intended to illuminate part of the route taken by the study team and thereby to contribute towards the full transparency of the MPM project.

27. Overview of legal and policy measures promoting/supporting media pluralism

[UNITED KINGDOM]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

Broadcasting Act 1990 (c. 42)

Broadcasting Act 1996 (c. 55)

Communications Act 2003 (c. 21)

Community Radio Order 2004 (SI 2004 No. 1944)

Office of Communications Act 2002 (c. 11)

Radio Multiplex Services (Required Percentage of Digital Capacity) Order 2006
(SI 2006 No. 2130)

The Broadcasting Act 1990 (Independent Radio Services Exceptions) Order 2007

The Media Ownership (Local Radio and Appointed News Provider) Order 2003 (SI 2003 No. 3299)

Wireless Telegraphy Act 2006 (c. 36)

- *General legislation*

Competition Act 1998 (c. 41)

Contempt of Court Act 1981 (c. 49)

Enterprise Act 2002 (c. 40)

Freedom of Information Act 2000 (c. 36)

Freedom of Information Act 2000 (c. 36)

Human Rights Act 1998 (c. 42)

- **Codes of conduct**

Editors' Code of Practice of the Press Complaints Commission, 7.8.2006

OFCOM Broadcasting Code, 2005

OFCOM Code on EPGs

OFCOM Rules on the amount and distribution of advertising, as last amended 10.7.2006

OFCOM Statement on European Production Quotas, 10.2.2005

The extension of the PCC's remit to include editorial audio-visual material on websites (2007)

The National Union of Journalists ' Code of Conduct [NUJ Code]

- **Other**

BBC Charter, 19.9.2006

BBC Trust, BBC Protocol A1– Appointments to and Remuneration of the Executive Board, January 2007

BBC Trust, BBC Protocol E2 – Audience Councils, January 2007

Broadcasting – An Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 30.6.2006
[BBC Broadcasting Agreement]

Memorandum of association of the Press Complaints Commission, 26.4.2006

OFCOM, Radio Licensable Content Service Licences. Notes of Guidance for Applicants, July 2005

OFCOM, Television Licensable Content Services. Guidance Notes for Applicants, 31.3.2008

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Human Rights Act 1998 Section 1 i.c.w. Schedule 1; Section 12	P, AAVM	Everyone has the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The British courts, in considering whether or not to grant relief against respondents acting, <i>inter alia</i> , as journalists, shall have regard to the likely effects for the freedom of expression. Applications for relief shall not prejudice publication unless the court considers it likely that the applicant will be able to establish that publication should not be allowed.
<i>Implementation problem: In reaching its decision, the court shall have regard to applicable privacy codes. Pursuant to paragraph 2 (1) of Part 2 of Schedule 2 to the 1990 Broadcasting Act, religious bodies are generally banned from holding broadcast licences; paragraph 2 (2) of that Schedule allows, however, for derogations where OFCOM considers it appropriate for such a body to hold a licence for the provision of a satellite TV, a licensable programme service or any other licence other than a national licence to be granted under Part III of that Act. Furthermore, paragraph 15 (1) of Schedule 14 to the Communications Act 2003 further provides the opportunity for OFCOM to allow holding of such licences other than the ones mentioned in 2 (1A) of Part 2 of Schedule 2 to the 1990 Broadcasting Act.</i>			
	Editors' Code of Practice	N	There is a public interest in the freedom of expression itself.
	Section 58 (2B), (2C) Enterprise Act		The need for free expression of opinion in newspapers constitutes a specified consideration which requires the OFT to bring to the attention of the Secretary of State any completed or anticipated merger case affecting it.
1.2. Freedom of/right to information	See 1.1		
Is there – besides constitutional provisions – a specific act dealing with citizens' or journalists' access to public sector information?	Section 1 Freedom of Information Act		Everybody can request information from public authorities which are under a duty to confirm or deny whether they hold the pertinent information, and make it accessible to the extent it is not subject to the exemptions provided for and the request is not vexatious.
<i>Implementation problem: Freedom of Information plays an important role in the media's supervisory role as the fourth estate and the ICO publishes a collection of stories showcasing the application of this right on a recurrent basis to illustrate its function. This general success notwithstanding there continue to be concerns over case handling times, e.g., time taken by the ICO to initiate contact with government bodies from whom access to information has been unsuccessfully sought by journalists. At the same time, concern has been expressed by about media organisations' own handling of information requests, including the release of employee data even where these acted in a professional rather than in a private fashion. As workload implications of increased use of freedom of information requests become clear and organisations, especially large organisations, increasingly favour cost coverage solutions to recover costs incurred in answering requests, this may have adverse effects on investigative use of the instrument, in addition to wait times imposed by the need for complaints and case handling times.</i>			
Are there specific rules dealing with journalists' access to events for news reporting?	N/a		
1.3. Explicit recognition of media pluralism			
	Section 3 (2) (c) Communications Act	R, TV	It shall be an explicit objective of OFCOM's activities to ensure the maintenance of a sufficient plurality of providers of different television and radio services.

	Section 85 (2) Broadcasting Act 1990	R	In carrying out its licensing function, OFCOM shall secure the provision of a diversity of national and local services which cater to the tastes of different audiences.
	Section 12 (3) Broadcasting Act 1996	TV	Where the holder of television multiplex licence applies to OFCOM for a variation of the licence conditions, such variation shall only be granted if this does not lead to an unacceptable reduction in the appeal of the programmes offered to a variety of tastes and interests.
	Section 277 (1) Communications Act	TV	The regulatory regime for every licensed public service channel is to include the conditions that OFCOM consider appropriate for securing that, in each year, not less than 25 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions.
	Section 309 Communications Act	TV	Every digital television programme service that is not comprised in a licensed public service channel shall devote no less than 10 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the service to the broadcasting of a range and diversity of independent productions.
	Section 58 (2B), (2C) Enterprise Act		A sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom is recognized as a legitimate public interest consideration for purposes of applying the merger regime of the Enterprise Act. Similar recognition is given to: (i) a sufficient plurality of persons with control of the media enterprises serving every different audience in the United Kingdom or in a particular area or locality of the United Kingdom; (ii) 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 (iii) the need for persons carrying on media enterprises, and for those with control of such enterprises, to be committed to the attainment in relation to broadcasting of the standards objectives specified by Section 319 of the Communications Act.
1.4. Protection of journalistic sources			
	Section 14 Editors' Code of Practice	N	Journalists have a moral obligation to protect confidential sources.

	Section 10 Contempt of Court Act		No court may require a person to disclose, nor is any person guilty of contempt of court for refusing to disclose, the source of information contained in a publication ¹ for which he is responsible, unless it be established to the satisfaction of the court that disclosure is necessary in the interests of justice or national security or for the prevention of disorder or crime.
<i>Implementation problem: With new legislation, such as the Terrorism Act 2000, incarceration has become the only viable way of protecting sources in an increasing number of cases and journalistic freedoms have been seen to suffer as a result.</i>			
	Section 11 Contempt of Court Act		A court may allow a name or other matter to be withheld from the public and give directions prohibiting the publication of that name or matter in connection with the proceedings.
<i>Implementation problem: There has been some concern over the provision being applied too favourably for the defendant, e.g., in an attempt to protect relatives (such as the children of paedophiles). In the interest of open justice, a strict interpretation must be retained to make sure that it serves the function of witness protection. Postponement orders may suffice to prevent prejudicing effects of reporting before or during trial. Due to a lack of prosecution of offending media practices and an overreliance on judges' mediating role, contempt proceedings are difficult to institute in England.</i>			
	Section 7 NUJ Code of Conduct		Journalists shall protect confidential sources of information.
1.5. Right of reply			
	Section 2 Editors' Code of Practice	N	A fair opportunity for reply to inaccuracies must be given when reasonably called for.
	Rule 7.11 OFCOM Broadcasting Code		In case a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an opportunity to respond (7.11).
1.6. Ratification of international instruments: - CoE's Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	-Yes -Yes		

¹ Section 2 (1) specifies that a publication 'includes any speech, writing, programme included in a cable programme service or other communication in whatever form, which is addressed to the public at large or any section of the public.'

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 6 BBC Charter		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs, subject to any other provisions included in the Charter, in any Framework Agreement or laid down by law.
	S 2, 8, 9, 14 NUJ Code of Conduct		Journalists shall defend the freedom of the press and other media with regard to the collection of information and the expression of comment and criticism (S 2). Journalists must not accept bribes or other inducements to influence performance of their professional duties (S 8). Advertising or other considerations shall not affect the truthfulness of reporting (S 9), and journalists are not to endorse by way of advertising any product save his own or that of the medium by which he is employed (S 14).
	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
2.2. News / information programmes	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
2.3. Other media content	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)	Section 27 Communications Act	R, TV	OFCOM shall takes initiatives to promote training and retraining of persons for employment by radio and TV operators.
2.5. Consultative programming structure for participation of the public/citizens to media (i.e. a mechanism to allow citizens to participate in editorial decisions, under the form of e.g. an ombudsman, ethics or liaison committee, "Société des rédacteurs")	Section 3 (4) Community Radio Order 2004	R	Every community radio service must afford members of the community it is intended to serve opportunities to participate in the operation and management of the service.
	Section 105 (1) (f) Broadcasting Act 1990 / Paragraph 5(1)(d) Schedule Community Radio Order 2004	R	Providers of community radio services shall demonstrate the procedures used to remain accountable to the relevant community.

	Art. 26 BBC Charter		The BBC Trust must adopt protocols outlining how it will engage licence fee payers; these protocols must themselves be made subject to public consultation prior to adoption.
	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		There shall be an Audience Council for each of the British nations whose task is to bring the diverse perspectives of licence fee payers to bear on the work of the trust (39 (1) i.c.w. 39(3)). These Councils shall also advise the BBC trust on how well the BBC is discharging its public interest functions (39 (2)), and their consultation is required on all proposals subject to a Public Value Test (39 (6)). Audience Council members must make a formal Declaration of Interest on an annual basis to ensure independence of their work (Protocol).

TABLE 3. Cultural pluralism

Measure	Source	Scope of application	Key features
3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)	Section 12(1)(e) Broadcasting Act 1996	TV	Television multiplex licences shall include conditions that ensure that licence holders in their contracting of digital programme services or digital additional services do not unduly discriminate against or in favour of a particular supplier of such services.
3.1.1. Special representation requirements in media company structures			
3.1.2. Special representation requirements in media advisory bodies	BBC Protocol E2 – Audience Councils		Regional Audience Council members are drawn from a range of backgrounds and balanced as far as possible to be broadly reflective of the views of audiences throughout the transmission area, for example in terms of geographical location, disability, ethnic or national origin, gender, and age.
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Section 27 (2) i.c.w. (4) Communications Act; Section 27 (3) Communications Act		OFCOM shall promote equality of opportunity between men and women, different racial groups (Subsection 4) and for the disabled (Subsection 3) in relation to employment by TV and radio operators.
	Section 337 Communications Act	TV, R	For every Broadcasting Act licensee who employs (or is likely to employ) more than 20 individuals and provides his services for more than 31 days a year, OFCOM shall define conditions that promote, in relation to employment with the licence holder, equality of opportunity (a) between men and women; and (b) between persons of different racial groups (Subsection 1). This also includes the equalisation of opportunities for disabled persons (Subsection 2). The Secretary of State may include other equality considerations as he sees fit and vary the numeric thresholds which determine the applicability of this provision to a given service provider.
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works			
	OFCOM Statement on European Production Quotas, Annex 1	TV	Television broadcasters shall ensure that a majority of their transmission time is made up of European programming

3.2.2.2. <i>Promotion of European independent works</i>	Section 277 (1) Communications Act	TV	The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions.
	Section 285 Communications Act	TV	Every public licensed channel shall be required to draw up a code setting out the principles it will apply when agreeing terms for the commissioning of independent productions.
	Section 309 Communications Act	TV	Every digital television programme service that is not comprised in a licensed public service channel shall devote no less than 10 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the service to the broadcasting of a range and diversity of independent productions.
	OFCOM Statement on European Production Quotas, Annex 1	TV	Television broadcasters shall ensure that at least 10 percent of their transmission time or programming budget is devoted to European programming created by producers who are independent of broadcasters, and at least 50 percent of the transmission time under this rule shall be dedicated to such programmes that are no more than five years old.
	Clause 54 BBC Broadcasting Agreement		The BBC must ensure that, in each year, not less than the Relevant Percentage of the total amount of time allocated to the broadcasting of Qualifying Programmes included in BBC One and BBC Two is allocated to the broadcasting of a range and diversity of independent productions. The values obtaining for each are to be determined separately.
3.2.2.3. <i>Promotion of national/regional works</i>			
	Section 286, 288 Communications Act	TV	The regulatory regime for every Channel 3, the Channel 5 (Section 286 (1) and (3)) and the Channel 4 (Section 288(1)) service includes the conditions that OFCOM consider appropriate in the case of that service for Securing (a) a suitable proportion of programmes made in the United Kingdom for viewing on those channels are programmes made outside the M25 area; (b) that the programmes that are made outside the M25 area (taken together) constitute a suitable range of programmes; (c) that a suitable proportion of the expenditure of the providers of Channel 3 / Channel 5 / Channel 4 services programmes made in the United Kingdom is referable to programme production at different production centres outside the M25 area; and [...]

			<p>[...]</p> <p>(d) that the different programme production centres to which that expenditure is referable constitute a suitable range of such production centres. At OFCOM’s discretion, these considerations may be extended to a national Channel 3 licence (Section 286 (2)). To be suitable, the proportions stipulated must be significant in relation to the programme or expenditure in question (Sections 286 (6); 288 (4)).</p>
	Section 287 (1), (2), (4) Communications Act	TV	<p>For regional, local and national Channel 3 programmes, there shall be requirements for (i) inclusion of a sufficient amount of time being given to a suitable range of programmes, which in the case of regional and local services shall be of particular interest to persons living within those areas, or, in the case of a national service, diverse areas of the UK; (ii) the regional or local content, as the case may be, to be of high quality; (iii) the regional or local programmes included in the service to have been produced, in a suitable proportion, within the areas served; (iv) service area-related news programmes to be dispersed throughout transmission time; (v) other programmes to be available, in a suitable proportion, during peak-viewing and other times. To be suitable, the proportions stipulated must be significant in relation to the programme or expenditure in question (Subsection 7).</p>
	Section 289 (1) Communications Act	TV	<p>The regulatory regime for the public teletext service includes the conditions that OFCOM consider appropriate for securing that the service includes what appears to them to be an appropriate proportion of material that is of particular interest to persons living in different parts of the United Kingdom.</p>
	Section 351 (5) Communications Act	TV	<p>When a change of control of a Channel 3 service is announced or has been brought about, OFCOM shall review, inter alia, the effects of this change with respect to:</p> <p>[Subsection 5]</p> <p>(a) the extent to which Channel 3 programmes made in the United Kingdom that are included in the service are programmes made outside the M25 area;</p> <p>(b) the range of Channel 3 programmes made in the United Kingdom outside that area that are included in the service;</p> <p>(c) the extent to which the expenditure of the provider of the service on Channel 3 programmes is referable to programme production at different production centres outside the M25 area;</p> <p>(d) the range of different such production centres to which that expenditure is referable.</p>

	Section 351 (6) Communications Ac	TV	[Subsection 6] (a) the quality and range of regional programmes included in the service; (b) the quality and range of other programmes included in the service which contribute to the regional character of the service; (c) the quality and range of the programmes made available by the licence holder for the purposes of inclusion in nationwide Channel 3 service.
	Section 351 (7) Communications Ac	TV	[Subsection 7] (a) the amount of time allotted to regional programmes; and programmes included in the service which contribute to the regional character of the service; (b) the proportion of regional programmes included in the service which are made within the area for which the service is provided; (c) the extent of the use, in connection with the service, of the services of persons employed (whether by the licence holder or any other person) within that area; (d) the extent to which managerial or editorial decisions relating to programmes to be included in the service are taken by persons so employed within that area.
<p><i>Implementation problem: Under Section 352 (1), (3), (4), OFCOM may impose new or varied conditions of a more onerous character on the licensee, if a change of control, actual or potential, stands to affect the regional programming or the regional character of the service in question adversely. Subsection 5 stipulates, however, that variations must not provide for the inclusion of a new or varied condition in a licence unless the new condition, or the condition as varied, is one which (with any necessary modifications) would have been satisfied by the licence holder throughout the twelve months immediately before the relevant date. This seems to render the remedy far less effective than potentially possible.</i></p>			
	Clause 50 BBC Broadcasting Agreement		The BBC Trust is to ensure that BBC1 and BBC2 devote a sufficient amount of time to programmes of regional interest, which are of high quality. A suitable proportion shall be produced in the relevant area (Northern Ireland, Scotland, Wales, or any region of England in relation to which there is a regional variation of the television service concerned). Subject to conditions, the Trust shall not agree to any requirements that would lead to a fall in the number of hours or the proportion of programming dedicated to regional programmes below the level obtaining in the year 2002.
3.2.2.4. Language requirements	Section 205 (5) Communications Act	TV	Any additional programme services offered by the Welsh Authority must consist of a substantial proportion of programmes in Welsh.
	Section 208 (3) Communications Act		The Gaelic Media Service shall secure availability of a wide and diverse range of high quality programmes in Gaelic to persons in Scotland.
	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of appropriate provision in minority languages.

3.2.3. Representation of minorities in the media (e.g. presenting the news, in drama, movies...; can be engagement in an internal charter or can be imposed statutory)	Section 10 NUJ Code		A journalist shall only mention a person's age, race, colour, creed, illegitimacy, marital status (or lack of it), gender or sexual orientation if this information is strictly relevant. A journalist shall neither originate nor process material which encourages discrimination, ridicule, prejudice or hatred on any of the above-mentioned grounds.
	Section 12 (ii) Editors' Code of Practice of the Press Complaints Commission	N	Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to a story.
	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of reflecting different religious and other beliefs and of appropriate provision in minority languages
3.2.4. Subsidies (apart from general PSB funding)	Section 359 Communications Act	R, TV	OFCOM may make grants as they consider appropriate to providers of community radio services; furthermore, the Secretary of State may provide by order that OFCOM can also make grants to providers of local digital television services.
<i>Implementation problem: No order for the support of local digital television has yet been issued by the Secretary of State.</i>			
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			
	Section 10 (1) Communications Act		OFCOM shall encourage the development of domestic communications equipment that is easily usable by the widest possible range of individuals, including those with disabilities, and that this is as widely as possible available for acquisition.
	Section 21 Communications Act		OFCOM shall establish an Advisory committee on elderly and disabled persons.
	Sections 303 (1), (4) , (5), 306 Communications Act	TV: (a) S4C Digital or any other digital TV programme service provided by the Welsh Authority; (b) any licensed public service channel; (c) a digital television programme service but not an EPG; (d) a television licensable content service but not an EPG; (e) a restricted television service.	OFCOM shall draw up, and periodically revise a code giving guidance as to (a) the extent to which services should promote the understanding and enjoyment by (i) persons who are deaf or hard of hearing, (ii) persons who are blind or partially-sighted, and (iii) persons with a dual sensory impairment, of the programmes to be included in such services; and (b) the means by which such understanding and enjoyment should be promoted (Subsection 1). From the fifth anniversary of the service, at least 60 percent of qualifying programmes must be provided with subtitling (Subsection 4). [...]

			<p>[...]</p> <p>From the tenth anniversary, (a) at least 90 percent of a Channel 3 service or of Channel 4 as consists of programmes that are not excluded programmes must be accompanied by subtitling;</p> <p>(b) at least 80 per cent of every other service to which this provision applies that are not excluded programmes must be accompanied by subtitling;</p> <p>(c) at least 10 per cent of every service to which this provision applies that are not excluded programmes must be accompanied by audio-description for the blind; and</p> <p>(d) at least 5 per cent of every service to which this provision applies that are not excluded programmes must be presented in, or translated into, sign language (Subsection 5). The Secretary of State is competent to alter these targets (Section 306).</p>
	Clause 59 BBC Broadcasting Agreement	TV	<p>Modified application of section 303 to the BBC (provision for the deaf and visually impaired): The notion of excluded programmes shall be defined specifically with regard to the BBC. They may include (a) different descriptions of programmes in relation to different UK Public Television Services provided by the BBC; and (b) in the case of a UK Public Television Service which the parties are satisfied is a special case, all the programmes included in the service. The BBC must publish anything agreed for the purposes of this clause in such manner as it considers appropriate, having regard to the need for access of (a) persons who are deaf or hard of hearing, and (b) persons who are blind or partially sighted.</p>
	Section 308 Communications Act	TV	<p>The regulatory regime for the public teletext service includes the conditions that OFCOM consider appropriate for securing, as far as it is reasonable and practicable, the inclusion of features in that service to enable persons with disabilities affecting their sight to make use of the service.</p>
	Section 310 (3) Communications Act; Section 5 EPG Code		<p>OFCOM shall oblige EPG providers to incorporate features in their EPGs to enable, so far as practicable, visually or hearing impaired people to use the EPGs for the same purposes as people without such disabilities.</p>
	Paragraph 64 Television Licensable Content Services. Guidance Notes	TV	<p>A television service achieving an average audience share of all UK households of 0.05% or more may be required to provide subtitling, signing and audio description, subject to passing an affordability threshold and not facing technical difficulties that are impracticable to surmount.</p>

TABLE 4. Political pluralism

Measure	Source	Scope of application	Key features
4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Part II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990	TV, R	Individuals who are officers of bodies whose objects are wholly or mainly of a political nature and their affiliated bodies, including corporate bodies, are ineligible for obtaining a broadcasting licence.
4.1.2. Requirements of independence from political parties / politicians	Part II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990; Paragraph 8 (1) Schedule Community Radio Order 2004	TV, R	Bodies whose objects are wholly or mainly of a political nature and their affiliated bodies, including corporate bodies, are barred from obtaining a licence, as are bodies in which any of the aforementioned hold a share of five percent or more or which are controlled by them. However, individuals who are officers of such bodies as well as certain publicly funded bodies are allowed to hold community radio licences.
	Art. 6 BBC Charter		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Pt II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990		Individuals who are officers of bodies pursuing wholly or mainly political objects and their affiliated bodies, including corporate bodies, are barred from obtaining a licence
<i>Implementation problem: This disqualification clause has been rendered inapplicable by Paragraph 8 (1) Schedule Community Radio Order 2004.</i>			
	BBC Protocol E2 – Audience Councils		Audience Council members must make a formal Declaration of Interest on an annual basis to ensure independence of their work.
4.1.4. Representation requirements in media companies' bodies (board of directors...)			
4.1.5. Representation requirements in media advisory bodies and/or regulators			
4.2. Content rules (relating to media programmes, press articles, other content)			
4.2.1. Equal/proportionate access to media for political groupings			

	Section 333 Communications Act	R, TV	The regulatory regime for every licensed public service channel, and for every national radio service, includes (a) conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and (b) conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts defined by OFCOM. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).
	Part 2 Section 18 Schedule 12 Communications Act	TV	The Welsh Authority must include (a) party political broadcasts, and (b) referendum campaign broadcasts, in every designated public service of theirs (S4C, S4C Digital, any other public TV services designated by order under Section 205). The Welsh Authority shall draw up a policy for such inclusion, which may, in particular, regulate (a) the political parties on whose behalf party political broadcasts may be made; (b) for each of those parties, the length and frequency of the broadcasts; and (c) in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).
	Clause 48 BBC Broadcasting Agreement		The BBC must include, in some or all of its UK broadcasting services, party political broadcasts and referendum campaign broadcasts. It is for the BBC Trust to determine the conditions on which such inclusion shall take place, including the identification of registered political parties on whose behalf party political broadcasts may be made and the length and frequency of such broadcasts.
4.2.2. Government announcements			
	Section 336 Communications Act	TV, R	The Secretary of State or any other Minister require OFCOM to give a direction to licensees under the Broadcasting Act to include in their broadcasts government announcements.
	Section 142 (1AA) Local Government Act 1972; Section 349 Communications Act		Local Government Authorities may provide broadcasting or electronic communications services to distribute information concerning their functions and the services provided by them or other authorities as defined by the Local Government Act
4.2.3. Impartiality obligations	Section 319 (2)(c) i.c.w. (8) Communications Act	R, TV	News included in radio and television services shall be presented with due impartiality, no matter what their format.

	Section 320 (1) Communications Act	R, TV	Providers of TV and radio services that are not restricted services (cf. Section 245) are not to pronounce themselves on matters of political or industrial controversy and on matters relating to current public policy; due impartiality has to be reserved with respect to these subjects in every TV programme service, teletext service, national radio service and national digital sound programme service. Local radio, digital sound programme and licensable content services must not give undue prominence to the opinions of particular persons.
	Clause 6 (1), (2) (a) BBC Broadcasting Agreement		In fulfilling its purpose of sustaining citizenship and civil society, the BBC Trust must seek to ensure that the BBC gives information about the world through accurate and impartial news, other information, and analysis of current events and idea. This includes notably an obligation to promote understanding of the UK political system, including through dedicated coverage of Parliamentary matters, and an impartial account day by day of the proceedings in both Houses of Parliament.
	Clause 44 BBC Broadcasting Agreement		The BBC’s UK Public Services (cf. clause 11) must not contain any output which expresses the opinion of the BBC or of its Trust or Executive Board on current affairs or matters of public policy other than broadcasting or the provision of online services. This does not apply to output consisting of proceedings in either House of Parliament; proceedings in the Scottish Parliament, the Welsh Assembly or the Northern Ireland Assembly; or proceedings of a local authority or a committee of two or more local authorities.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Section 333 Communications Act	R, TV	The regulatory regime for every licensed public service channel, and for every national radio service, includes (a) conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and (b) conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts defined by OFCOM. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).

	Section 107 Broadcasting Act 1996; Clause 45 BBC Broadcasting Agreement		A code on unjust or unfair treatment in programmes drawn up by OFCOM (OFCOM Fairness Code) shall apply to any programme broadcast by the BBC, by the Welsh Authority and any programme included in a licensed service.
	Part 2 Section 17 Schedule 12 Communications Act	TV	It shall be the duty of the Welsh Authority to secure the observance (a) in connection with the provision of their public television services, and (b) in relation to the programmes included in those services, of the OFCOM Fairness Code.
	Rules 7.6, 7.9 to 7.11, 7.13 OFCOM Broadcasting Code		When a programme is edited, contributions should be represented fairly (7.6). Factual programmes as well as dramas and factually based dramas should not present or omit facts in a manner that is unfair to an individual or organisation (7.9, 7.10), and anyone whose omission might be unfair should be given an opportunity to contribute (7.9). In case a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an opportunity to respond (7.11). Programmes must represent the views of persons or organisations not participating therein in a fair manner (7.13).
	Clause 48 BBC Broadcasting Agreement		The BBC must include, in some or all of its UK broadcasting services, party political broadcasts and referendum campaign broadcasts. It is for the BBC Trust to determine the conditions on which such inclusion shall take place, including the identification of registered political parties on whose behalf party political broadcasts may be made and the length and frequency of such broadcasts.
4.2.5. Advertising for political and religious organizations			
	Section 2 (1) Local Government Act 1986		Prohibition of political publicity: Local authorities must not publish, or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party.
	Section 4 (1) Local Government Act 1986		The Secretary of State may issue one or more codes of recommended practice as regards local authority publicity, and local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.

	<p>Sections 319 (2) (g), 321 (2), (7) Communications Act</p>	<p>R, TV</p>	<p>An advertisement contravenes the prohibition on political advertising if it is (a) inserted by or on behalf of a body whose objects are wholly or mainly of a political nature; (b) directed towards a political end; or (c) is linked to an industrial dispute. This ban does not extend to advertisements of a public service nature inserted by, or on behalf of, a government department, or party political and referendum campaign broadcasts the inclusion of which is required by a condition imposed under section 333 or by paragraph 18 of Schedule 12 to this Act</p>
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TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media			
	Section 3(2) Community Radio Order 2004	R	Community radio services are characterized by serving one or more communities.
	Paragraph 5(1)(c) Schedule Community Radio Order 2004	R	When awarding a licence for a community radio service, OFCOM shall take into account how the content adds to other existing local services serving the same area in whole or in part.
<i>Implementation problem: Paragraph 5(3) of the Schedule holds that the licence award decision shall take into consideration the economic viability of other local services alongside community radio broadcasting. As community radio operations are defined as being predominantly motivated by non-economic objectives (Art. 3(1), (3)), this provision tends to prefer economic viability at the expense of community service.</i>			
	Paragraph 2 Independent Radio Services Exceptions Order 2007	R	Community Audio Distribution Systems may operate without a broadcasting licence.
	Section 213 Communications Act	TV	This section abolishes the need for a licence to provide local cable delivery services.
	Section 244 Communications Act	TV	The Secretary of State may by order apply, inter alia, the general provisions on the licensing of television licensable content services to services which are local in the sense of Subsections 3 and 4. In this context, a service is to be considered as meeting the needs of a particular area or locality only if (a) their provision brings social or economic benefits to that area or locality, or to different categories of persons living or working in that area or locality; or (b) if they cater for the tastes, interests and needs of some or all of the different descriptions of people living or working in the area or locality.
	Section 287 Communications Act	TV	Regional, local and national Channel 3 services, shall include suitable proportions of regional (in the case of regional and national services) or local (in the case of local services) programmes.
	Section 314 (1) Communications Act	R	OFCOM shall carry out its functions in relation to local sound broadcasting services in a way that is most apt to guarantee that local material is included to the extent it considers appropriate; in those cases, a suitable proportion shall be devoted to locally-made programmes, i.e. programmes made wholly or partly at premises in the area or locality for which the service is provided.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)			

5.3. Content obligations: requirements to cover local events, etc.	Art. 2 (2), 3(2) Community Radio Order 2004	R	A community radio service delivers social gain to the community that it serves, inter alia, when it contributes to the better understanding of that community and the strengthening of links within it. Like the characteristic of serving one or more communities, this requires coverage of the community itself. The obligation here then is a characteristic by design.
	Section 314 (1) Communications Act	R	OFCOM shall carry out its functions in relation to local sound broadcasting services in a way that is most apt to guarantee that local material is included to the extent it considers appropriate; in those cases, a suitable proportion shall be devoted to locally-made programmes, i.e. programmes made wholly or partly at premises in the area or locality for which the service is provided.
	Section 289 (1) Communications Act	TTX	OFCOM is to define conditions for the public teletext service that secure that the latter includes what appears to them to be an appropriate proportion of material that is of particular interest to persons living in different parts of the United Kingdom.
5.4. Regional State Aids	Section 359 Communications Act	R, TV	OFCOM may make grants as they consider appropriate to providers of community radio services; furthermore, the Secretary of State may provide by order that OFCOM can also make grants to providers of local digital television services.
<i>Implementation problem: No order for the support of local digital television has yet been issued by the Secretary of State.</i>			
5.5. Rules on national minorities	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of appropriate provision in minority languages.
5.6. Rules on social inclusion of remote areas (Aménagement du territoire)	Section 12 (5) Communications Act		Members of OFCOM’s Content Board shall be appointed, inter alia, with a view to their ability to represent the interests of different parts of the UK (England, Scotland, Wales, Northern Ireland).
	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		The members of the BBC Audience Councils acting in an advisory function to the BBC Trust must be recruited to ensure that they reflect the diversity of the UK have connections with communities, and are able to take a view on how the Public Purposes should be promoted. The Audience Council England is supported in its function by a number of Regional Audience Councils (RACs). Each RAC has a minimum of 16 members including the Chair who acts as the Audience Council England member for that region. Members are drawn from a range of backgrounds and balanced as far as possible to be broadly reflective of the views of audiences throughout the transmission area, for example in terms of geographical location, disability, ethnic or national origin, gender, and age.
	Section 13 (3) (b) Communications Act		In determining the functions of the Content Board, OFCOM shall ensure that it has a significant say in matters affecting the different parts of the UK.

	Section 20 (1) Communications Act		England, Scotland, Wales, Northern Ireland shall each be represented via an advisory committee that advises OFCOM as to the interests and opinions of people in that part of the country for which they are responsible. They may also advise the Consumer Panel at its request (Subsection 5), if consented to by OFCOM.
	Clause 12(3) BBC Broadcasting Agreement		The BBC may opt, where doing so is both cost effective and beneficial, to make available services primarily designed for viewers, listeners or other users in particular parts of the UK, more widely.
	Art. 14 BBC Charter		Among the ordinary members of the BBC Trust, there shall be one member for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). These members shall be qualified their knowledge of the culture, characteristics and affairs of the people in the nation for which they are designated, and their close touch with opinion in that nation
5.7. Other	Section 3 EPG code		When giving appropriate prominence to PSB channels, EPGs should enable viewers in a region to select the appropriate regional versions of those channels.

TABLE 6. Pluralism of ownership/control

Measure	Source	Scope of application	Key features
6.1. Sector specific rules limiting media ownership			
6.1.1. Moment of intervention			
6.1.1.1. At moment of market entry (licensing procedure)	Section 316 Communications Act	R, TV	For every licensed service, OFCOM shall define, as appropriate, conditions that help to ensure fair and effective competition in the provision of licensed services or of connected services.
	Sections 5, 88 Broadcasting Act 1990; Section 5, 44 Broadcasting Act 1996; Section 350 Communications Act	R, TV	A person must not become the holder of a licence if this would lead to a contravention of the ownership restrictions set out under Schedule 14 to the Communications Act 2003.
	Part II Paragraph 2 Schedule 2 Broadcasting Act 1990; Paragraph 15 Schedule 14 Communications Act	R, TV	Bodies whose objectives are mainly religious in nature as well as bodies controlling, controlled by them and associated to them are banned from holding any of the following licences: (a) a Channel 3 licence; (b) a Channel 5 licence; (c) a national sound broadcasting licence; (d) a public teletext licence; (e) an additional television service licence; (f) a television multiplex licence; or (g) a radio multiplex licence (Para. 2). Where religious bodies are admitted to holding a licence, this can happen only where OFCOM have made in that case, upon application, a determination as respects a description of licences applicable to that licence; and that determination remains in force (Para. 15).
	Part II Paragraph 3 Schedule 2 Broadcasting Act 1990	R	Bodies which have received in the last year more than half their income from public funds, are controlled by one or several such bodies, or have either of the aforementioned types of bodies as participants with more than 5 per cent interest, are disqualified from holding radio licences other than restricted licences. The restrictions imposed on local authorities, the Welsh Authority and the BBC are not affected by this provision.
<i>Implementation problem: This disqualification clause has been rendered inapplicable by Paragraph 8 (1) Schedule Community Radio Order 2004.</i>			
	Part II Paragraph 4 Schedule 2 Broadcasting Act 1990	R, TV	A person is barred from holding a licence under either the 1990 or the 1996 Broadcasting Act if in OFCOM's opinion (a) any relevant body (cf. Paragraph 4(2)) is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.
	Part II Paragraph 5 Schedule 2 Broadcasting Act 1990	R, TV	The BBC and the Welsh Authority are barred from holding a licence under either the 1990 or the 1996 Broadcasting Act.

	Part II Paragraph 5A Schedule 2 Broadcasting Act 1990	R, TV	A BBC company, a Channel 4 company or an S4C company is a disqualified person in relation any licence to provide regional or national Channel 3 services or Channel 5. BBC companies are also disqualified in respect of any licence to provide a national, local or restricted radio service.
	Part II Paragraph 6 Schedule 2 Broadcasting Act 1990		No (a) advertising agency, (b) associate of an advertising agency, (c) body controlled by either one or several of the aforementioned entities; (d) body corporate in any of the aforementioned is a participant with more than a 5 per cent interest can hold a broadcasting licence under either the 1990 or the 1996 Broadcasting Act.
	Section 85 (2) Broadcasting Act 1990	R	In carrying out its licensing function, OFCOM shall secure the provision of a diversity of national and local services which cater to the tastes of different audiences.
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	Section 59 Enterprise Act; Sections 378-380 Communications Act		Specific provisions have been introduced with the extension of the merger regime to cover certain media mergers. This includes a number of public interest considerations specific to the media, as they are described in Table 1, Section 1.3 above.
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Section 391 Communications Act; Section 119A Enterprise Act		OFCOM must carry out regular reviews of the operations of the provisions concerning ownership restrictions as defined under Schedule 14 of the Act; the provision of news to Channel 3 and Channel 5; the provisions of the Enterprise Act 2002 so far as they relate to newspapers or other media enterprises; the second schedule of the 1990 Broadcasting Act. The report of the review must clearly state OFCOM's recommendations to the Secretary of State for action. Moreover, OFCOM have the function of obtaining, compiling and keeping under review information about matters relating to the carrying out of their functions in relation to media mergers under the Enterprise Act (Section 119A (1)).
6.1.2. <i>Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)</i>			
6.1.2.1. <i>Monomedia</i>	Paragraph 7+8 Schedule 14 Communications Act	R	A person is not to hold more than one national radio multiplex licence (Paragraph 7) or two local radio multiplex licences at the same time if the potential audiences of both overlap to an extent of more than 50 per cent (Paragraph 8). While exceptions to the latter rule may be acceptable for historical reasons, any change of holdership will necessitate a renewed assessment.
	Paragraph 11 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit a person from holding one or more local sound broadcasting licences.
	Paragraph 12 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit persons holding local digital sound programme licences from holding more than a specific number of licences.

	Art. 5 Media Ownership Order 2003	R	A person holding at least two local sound broadcasting licences may not hold a further such licence if this led to a situation where that licence overlapped with any two of the other licences being held that were themselves overlapping and the concentration limit of 55 percent in relation to a point system, defined in Art. 8, was being exceeded (Art. 6 (4)).
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 11 Media Ownership Order 2003	R	A provider of local digital sound programme services under the authority of a local digital sound programme licence may not provide a further such service where he is already providing four or more of such services and the number of points attributable to these services in the market area of the relevant multiplex service represents more than 55 per cent of all the points attributable.
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 7 Community Radio Order 2004	R	No body corporate may hold more than one community radio licence at any given time.
6.1.2.2. Crossmedia	Paragraph 1 Schedule 14 Communications Act	TV	Both at the regional and national levels, persons running one or several newspapers that alone or cumulatively have a share in the relevant market (local or national) of more than 20 percent, are not allowed to provide a Channel 3 service at that level.
	Paragraph 2 (1), (3) Schedule 14 Communications Act	N, TV	Proprietors of one or several newspapers that alone or cumulatively have a share of more than 20 percent in the national market, are not to hold more than 20 percent of shares in a body corporate which is the holder of a licence to provide a Channel 3 service (Sub-para. 1). A body corporate in which a national newspaper proprietor is a participant with more than 20 percent interest must not hold more than 20 percent in a body corporate that is a Channel 3 licensee (Sub-para.3).
	Paragraph 2 (2) Schedule 14 Communications Act	TV, N	A holder of a Channel 3 service licence is not to be a participant with more than a 20 per cent. interest in a body corporate which is a relevant national newspaper proprietor.
	Paragraph 11 (2) (e) (f) (g) Schedule 14 Communications Act	R	In determining whether a given person may hold one or several local sound broadcasting licences, the Secretary of State may have regard to whether the person runs one or more national newspapers and their market share (sub-para. e), whether the person controls a local newspaper in the coverage area of the local sound broadcasting licence (sub-para. f) and whether an overlap exists between the coverage area of that licence and of that of a Channel 3 service for which the person holds a licence.

	Art. 6 Media Ownership Order 2003	R	A person is barred from holding a local sound broadcasting licence if he runs one or more local newspapers that have a local market share of 50 or more percent in the coverage area concerned, or if he holds a regional Channel 3 licence and 50 or more percent of the potential audience for that service reside within the regional coverage area, and the licence in question overlaps with any two other local sound broadcasting licences that themselves overlap, leading to the concentration limit of 45 percent in relation to a point system, defined in Art. 8, being exceeded (Art. 6 (4)).
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.2.3. Vertical integration with networks			
6.1.2.4. Integration with advertising sector			
	Part II Paragraph 6 Schedule 2 Broadcasting Act 1990		Advertising agencies, their associates and bodies corporate controlled by them or in which either one has more than a five percent interest are banned from holding a licence awarded by OFCOM.
6.1.2.5. Integration with other (e.g. energy) sectors			
6.1.2.6. Control over both commercial and public media			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences			
	Paragraph 7+8 Schedule 14 Communications Act	R	A person is not to hold more than one national radio multiplex licence (Paragraph 7) or two local radio multiplex licences at the same time (Paragraph 8). While exceptions to the latter rule may be acceptable for historical reasons, any change of holdership will necessitate a renewed assessment.
	Paragraph 11 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit a person from holding one or more local sound broadcasting licences.
	Paragraph 12 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit persons holding local digital sound programme licences from holding more than a specific number of licences.
	Art. 11 (3) Media Ownership Order	R	The threshold number of local digital sound programme services is four such services, including both significant and intermittent services.
	Art. 7 Community Radio Order 2004	R	No body corporate may hold more than one community radio licence at any given time.
6.1.3.2. Market shares			

	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.3. <i>Circulation and audience shares</i>	Paragraph 11 (2) (c) (d) Schedule 14 Communications Act	R	In determining whether a given person may hold one or several local sound broadcasting licences, the Secretary of State may have regard to the potential audiences for those services and their overlap with audiences for other services.
	Paragraph 12 (2) (c) (d) Schedule 14 Communications Act	R	In determining the number of local digital sound programme licences that can be awarded to a licence holder, the Secretary of State may have regard to the potential audiences for those services.
	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.4. <i>Capital shares</i>			
6.1.3.5. <i>Voting shares</i>			
6.1.3.6. <i>Advertising revenues</i>	Paragraph 5(5) Schedule Community Radio Order 2004	R	OFCOM may lay down conditions for the award of community radio licences stipulating a maximum threshold for advertising and sponsorship revenues from specific arrangements.
6.1.3.7. <i>Involvement in number of media sectors</i>	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.8. <i>Operating revenue</i>	Paragraph 5(2) Schedule Community Radio Order 2004	R	Community radio licences may not be awarded to any applicant who proposes to receive more than 50 percent of income necessary to provide the service each year from one source or one source and other sources connected with him.
6.2. Sector specific rules preventing cooperation between media companies	Section 281 Communications Act	TV	A body cannot be appointed news provider to a regional Channel 3 service providers if this would be in contravention of the media ownership restrictions stipulated by Schedule 14 of the Communications Act.
6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership			Limitations on foreign licence ownership were repealed by Section 348 Communications Act
6.4. General competition rules			
6.4.1. Antitrust			

<p>6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i></p>	<p>Section 58 (2B), (2C) Enterprise Act</p>		<p>A sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom is recognized as a legitimate public interest consideration for purposes of applying the merger regime of the Enterprise Act. Similar recognition is given to: (i) a sufficient plurality of persons with control of the media enterprises serving every different audience in the United Kingdom or in a particular area or locality of the United Kingdom; (ii) 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 (iii) the need for persons carrying on media enterprises, and for those with control of such enterprises, to be committed to the attainment in relation to broadcasting of the standards objectives specified by Section 319 of the Communications Act.</p>
<p>6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i></p>			
<p>6.4.2. Merger control</p>			
<p>6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i></p>	<p>Section 59 Enterprise Act; Sections 378-380 Communications Act</p>		<p>Specific provisions have been introduced with the extension of the merger regime to cover certain media mergers. This includes a number of public interest considerations specific to the media, as they are described in Table 1, Section 1.3 above.</p>
<p>6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i></p>			
<p>6.5. Transparency obligations</p>			
<p>6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)</p>	<p>Art. 27 (1) BBC Charter</p>		<p>The BBC Trust must adopt Protocols to ensure that, as far as is reasonable, the principal points of its proceedings and the reasons and key considerations behind important decisions are made public.</p>
<p>6.5.2. Transparency obligations towards regulator or in general (info on capital structure, balance sheets, either in specific media laws or in general company laws...)</p>	<p>Section 5 (2) (d), (da) Broadcasting Act 1990</p>	<p>TV</p>	<p>OFCOM may impose on any corporate licence holder an obligation to</p> <ul style="list-style-type: none"> - inform the authority in advance of any proposals affecting shareholdings in the body or its directors where it is aware of such proposals; - inform the authority after any changes, events or transactions affecting either the shareholdings of the body or its directors have taken place, irrespective of whether these had been previously notified;

	Paragraph 67-69 Television Licensable Content Services. Guidance Notes	TV	Licensee must supply Ofcom with any information required for the exercise of its supervisory duties. This includes (but is not limited to) information about the licensee's corporate structure, information needed to determine whether the licensee is a disqualified person, and information relevant to the calculation of fees. The award of a licence also obliges the holder to report any changes to the nature, characteristics or control of the licensee body as well as agreements providing for the provision of its service via a radio multiplex.
	Paragraph 67-69 Television Licensable Content Services. Guidance Notes	TV	Transferor must inform OFCOM of completed licence transfers.
	Paragraph 79 Television Licensable Content Services. Guidance Notes	TV	Upon request, the licensee shall supply details of its compliance procedures to Ofcom.
	Section 351(1) Communications Act	TV	Body corporates who are holders of Channel 3 licences must give OFCOM <ul style="list-style-type: none"> - advance notification of any proposals known to them that may give rise to a relevant change of control. - Information necessary to exercise their supervisory functions.
	Section 353(1) Communications Act	TV	Body corporates who are holders of Channel 3 licences must give OFCOM <ul style="list-style-type: none"> - advance notification of any proposals known to them that may give rise to a relevant change of control. - Information necessary to exercise their supervisory functions.
	Broadcasting Act 1990; Broadcasting Act 1996; Communications Act		Information obligations arise at several points in the course of service provision: in connection with a licence application, in relation to the facilitation of compliance monitoring with the licence conditions laid down and in relation to licence transfers or other events affecting effective control of the licence.

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of programme strands for commercial / community / public service media			
7.1bis. Special framework for community media (<i>medias associatives</i>): Is there a special legal framework granting protection to community media (including rules determining the criteria - e.g. being independent of political parties, non-profit, respecting the law, etc. - in order to qualify as community media; granting certain privileges to that type of media, like guaranteed access to spectrum or networks, etc	Art. 3 i.c.w. Paragraph 5(4) and (5), 6 Schedule Community Radio Order 2004	R	Community radio services are local services serving one or several communities, do not operate according to a profit-maximization rationale and reinvest any profit into the future improvement or maintenance of the service itself. They facilitate community participation and provide mechanisms to ensure accountability towards the communities concerned. Depending on the size of the transmission area concerned, OFCOM shall, in the case of overlaps with another licence, (i) not grant any licence, unless the overlap is with another community radio; (ii) prohibit the service from carrying any remunerated advertisement and sponsored programmes, (iii) determine threshold values for the maximum amount of remunerated advertisement and sponsored programmes as shares of aggregate annual income. Furthermore, it is for OFCOM to define conditions as it deems appropriate to prevent the holder of a community radio licence from entering into agreements that would grant another holder of a broadcasting licence, the BBC or the Welsh Authority an undue influence over the nature and content of the programmes provided (Paragraph 6).
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Sections 299-302 Communications Act; OJ L 295 of 14.11.2007, p. 12	TV	Only sports events.
7.3. Short news reporting			
7.4. Fixed book price			There is no fixed book pricing scheme in operation in the UK.
7.5. Public service media			
7.5.1. Structural rules – ORGANIZATION			
7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Art. 6 BBC Charter; Clause 4 BBC Broadcasting Agreement		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs, subject to any other provisions included in the Charter, in any Framework Agreement or laid down by law.

<p>7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)</p>	<p>Section 183A (5) Broadcasting Act 1990; Paragraph 5 Schedule 19 Broadcasting Act 1990</p>	<p>TV</p>	<p>The Gaelic Media Service shall consist of no more than 12 members, which are to be appointed by OFCOM, subject to approval by the Secretary of State. Members must include (a) a member nominated by the BBC; (b) a member nominated by Highlands and Islands Enterprise; and (c) a member nominated by the Gaelic Development Agency. Members who have a direct or indirect interest in any matter that is brought up for consideration by the Service shall disclose the nature of their interest and abstain from participation in any deliberation or decision of the Service, or of any of their committees, with respect to that matter, unless all other members resolve that their interest is to be disregarded (Para. 5).</p>
	<p>Paragraphs 2, 5 Schedule 3 Broadcasting Act 1990</p>		<p>No governor or employee of the BBC or member or employee of OFCOM may be a member of the Channel 4 corporation. Before appointing a person to be a member of the Corporation, OFCOM shall satisfy themselves that that person will have no such financial or other interest as is likely to prejudice the discharge by him of his functions as a member of the Corporation; and OFCOM shall also satisfy themselves from time to time with respect to every member of the Corporation that he has no such interest (Para. 2(1)+(2)). Members of the Corporation are disqualified from the House of Commons and the Northern Ireland Assembly (Para. 5).</p>
	<p>Paragraphs 2, 5 Schedule 3 Broadcasting Act 1990</p>		<p>The members of the Authority shall not at any time include more than one person who is either a governor or an employee of the BBC; or more than one person who is either a member or an employee of OFCOM. Before appointing a person to be a member of the Authority, the Secretary of State shall satisfy themselves that that person will have no such financial or other interest as is likely to prejudice the discharge by him of his functions as a member of the Corporation; and the Secretary of State shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest (Para. 2(2)+(3)). Members of the Authority are disqualified from the House of Commons (Para. 5).</p>

	Art. 13, 14, 16, 20 BBC Charter		The Trust shall consist of a Chairman, a Vice-Chairman, and ten ordinary members, unless a different number is fixed by Order in Council. One ordinary member shall be appointed for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). Trust Committees shall be comprised solely of members of the Trust (Art. 20). The criteria for the termination of Trust membership (Art. 16) do not explicitly comprise any conflict of interest resulting from a political appointment. Neither are there specific appointment criteria to be fulfilled other than the general independence criterion of Art. 6.
	Art. 28-31 BBC Charter; BBC Protocol A1		The Executive Board of the BBC consists of executive and non-executive members (28). Its Chairman is appointed by the Trust, either in an executive or a non-executive capacity (29). Executive members and non-executive of the Executive Board are appointed by the Executive Board following proposal by a nomination committee (30, 31); non-executive members must also be approved by the Trust (31).
7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i>	Section 183A (7) Broadcasting Act 1990	TV	OFCOM must secure, so far as practicable, that the membership of the Gaelic Media Service adequately represents: (a) the holders of licences to provide regional Channel 3 services in Scotland; (b) the holders of licences to provide regional Channel 3 services in respect of which determinations under section 184(4)(b) are for the time being in force; (c) the independent television and radio production industries in Scotland; (d) other persons and bodies concerned with the promotion and use of the Gaelic language, including those concerned with education in Gaelic and in Gaelic culture.
	Art. 14 BBC Charter		Among the ordinary members of the BBC Trust, there shall be one member for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). These members shall be qualified their knowledge of the culture, characteristics and affairs of the people in the nation for which they are designated, and their close touch with opinion in that nation
7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i>	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		There shall be an Audience Council for each of the British nations (England, Northern Ireland, Scotland, Wales) whose task is to bring the diverse perspectives of licence fee payers to bear on the work of the trust.

7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i>	Section 27 Communications Act		It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting equality of opportunity in relation to (a) employment by those providing television and radio services; and (b) the training and retraining of persons for such employment.
7.5.2. Structural rules – FUNDING			
7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i>	Section 207 Communications Act		Provides for the finances of the Welsh Authority.
	Section 365 (2) Communications Act; Clause 75 BBC Broadcasting Agreement		TV licence fees shall be paid to the BBC and are recoverable by them accordingly.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
7.5.3. DEFINITION OF PUBLIC SERVICE REMIT			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>			
	Section 264 (4) Communications Act	TV	The purposes of public service television broadcasting in the United Kingdom are (a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing; (b) the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable; (c) the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and (d) the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to— (i) the contents of the programmes; (ii) the quality of the programme making; and (iii) the professional skill and editorial integrity applied in the making of the programmes.
	Section 265(2) Communications Act	TV	The public service remit for every Channel 3 service and for Channel 5 is the provision of a range of high quality and diverse programming.

	Section 265(3) Communications Act	TV	The public service remit for Channel 4 is the provision of a broad range of high quality and diverse programming which, in particular, (a) is innovative in the form and content of programmes; (b) appeals to the tastes and interests of a culturally diverse society; (c) makes a significant contribution to the need for educational programmes and other programmes of educative value; and (d) exhibits a distinctive character.
	Section 265(4) Communications Act	Teletext	The public service remit for the public teletext service is the provision of a range of high quality and diverse text material. If applicable; this extends both to the analogue and the digital version of the service.
	Section 204+205 Communications Act	TV	S4C and S4C Digital shall each represent a public service for the dissemination of information, education and entertainment. Any additional services offered by the Welsh Authority must conform to this objective (205(3)) and add to the existing range of programming available to the Welsh public (205(4)).
	Section 208 (3) Communications Act; Section 183 (3b) Broadcasting Act 1990		The functions of the Gaelic Media Service shall be to secure that a wide and diverse range of high quality programmes in Gaelic are broadcast or otherwise transmitted so as to be available to persons in Scotland.
	Art. 4 BBC Charter; Clauses 5-10 BBC Broadcasting Agreement		The BBC’s purposes are to: sustain citizenship and civil society; promote education and learning; stimulate creativity and cultural excellence; represent the UK, its nations, regions and communities; bring the UK to the world and the world to the UK; help to deliver to the public the benefit of emerging communications technologies and services, and to take a leading role in the switchover to digital television.
7.5.3.2. <i>Obligation to engage in new media activities</i>			
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Section 278 Communications Act	TV	Licensing conditions for each public service channel shall secure (a) that the time allocated, in each year, to the broadcasting of original productions included in that channel is no less than a proportion deemed to be appropriate by OFCOM; and (b) that the time allocated to the broadcasting of original productions is split in an appropriate manner between peak viewing times and other times (Subsection 1). The notion of original programmes is to be defined by the Secretary of State, or, by derogation, by OFCOM (Subsections 6 and 7).

	Section 279 Communications Act	TV	For every licensed public service channel, OFCOM shall determine conditions appropriate for securing (a) that the programmes included in the channel include news programmes and current affairs programmes; (b) that the latter are of high quality and deal with both national and international matters; and (c) that they are broadcast for viewing at intervals throughout the period for which the channel is provided (Subsection 1). OFCOM is to lay down proportions for each of these programme types as they see fit (Subsection 2) as well as a split between peak viewing times and other times (Subsection 3). The aggregate proportion may be achieved on different minimum proportions for peak viewing times and other times (Subsection 4).
	Section 296 Communications Act	TV	The regulatory regime for Channel 4 includes the conditions that OFCOM consider appropriate for securing that what appears to them to be a suitable proportion of the programmes which are included in Channel 4 are schools programmes.
	Section 319 Communications Act	R, TV	OFCOM shall define standards for radio and television programmes as it considers appropriate to attain the objectives of the OFCOM standards code.
7.5.5. Universal coverage obligations	Section 98(1) Broadcasting Act 1990	R	When announcing the availability of a national sound broadcasting licence, OFCOM shall specify the minimum area of the UK to be covered by the service.
	Clause 35 BBC Broadcasting Agreement	TV	Obligation incumbent on the BBC to provide its principal television services in digital format no later than the Digital Switchover Date so that these can be received by a proportion corresponding to that receiving them in analogue format at the date of the agreement.

TABLE 8. Distribution (networks/network facilities/print distribution)

Measure	Source	Scope of application	Key features
8.1. Guarantees for 'public contents' to be distributed (must carry or other)	Section 64 Communications Act	TV	OFCOM is entitled to lay down conditions to ensure that particular services are broadcast or otherwise transmitted by means of the electronic communications networks (Subsection 1). These services are defined by a list, ² which is to be periodically reviewed by the Secretary of State (Subsection 7). The must carry obligation extends only to such public electronic communications networks that are used by a significant number of citizens to receive television programmes (Section 64 (2)).
	Section 15 OFCOM Code on EPGs		EPG providers must ensure that free-to-air channels are available at least as pay-TV services and that reception does not require additional equipment or commercial agreements over and above those required for the acquisition of the receiving equipment.
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)	Section 242 (1f) Communications Act; Section 12 (1h) (4A) Broadcasting Act 1996	TV	Licence conditions for the holders of television multiplex licences may require the allocation of a minimum percentage of capacity to the broadcasting of particular services (following Subsection 4A, 90 percent or more, at OFCOM's discretion), i.e. (a) qualifying services; (b) digital programme services licensed under this Part or provided by the BBC; (c) digital sound programme services provided by the BBC; (d) programme-related services; and (e) relevant technical services.
	Section 259 (2) Communications Act; Section 54 (1h), (2A) Broadcasting Act 1996; Art. 2 Radio Multiplex Services (Required Percentage of Digital Capacity) Order 2006	R	Licence conditions for the holders of radio multiplex licences may require the allocation of a minimum percentage (following Subsection 2A, 70 percent or more, at OFCOM's discretion) of capacity to the broadcasting of particular services, i.e. (a) digital sound programme services; (b) simulcast radio services; (c) programme-related services; and (d) relevant technical services.

² The list itself is contained in Subsection 3 and comprises digital versions of BBC and ITV services, as well as the digital services of Channels 3, 4 and 5, SC4C Digital and public teletext services.

	Section 272, 273 Communications Act	TV	<p>Licensed public service channels, the public teletext service and every channel added to the list of must-carry services shall</p> <p>(i) as far as they are provided digitally, be available for distribution over every appropriate network (Section 272 (2)) or every satellite television service (Section 273 (2)),</p> <p>(ii) by virtue of contractual agreements entered into by their providers, be available to the greatest possible share of the intended audience (Section 272 (3), 273 (3)),</p> <p>(iii) remain accessible free-of-charge, even when taking into account the necessity of contractual agreements as described under (ii) (Section 272 (4), 273 (4)), as and when they are included in the list of must carry services under Section 64 (Section 272 (5)), or of must-provide services under Section 275 (Section 273 (5)).</p> <p>Must provide services are: (a) digital TV programmes by the BBC in relation to which OFCOM have functions; (b) digital Channel 3 services; (c) Channel 4 so far as provided in digital form; (d) Channel 5 so far as provided in digital form; (e) S4C Digital; (f) the digital public teletext service (Section 275 (1)).</p>
<i>Implementation problem: No commencement have as yet been appointed for the sections in question.</i>			
8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18			
8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'			
8.4.1. Conditional access			
8.4.2. EPG (or other search tools)	Section 310 (2) Communications Act 2003; OFCOM Code on EPGs		<p>OFCOM shall oblige EPG providers to give appropriate prominence to the listing and promotion of public service channels.³ The Secretary of State may add to, or subtract from, the list of relevant public service broadcasting (PSBs) channels.⁴</p>

³ EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach.

⁴ This list currently comprises digital versions of BBC and ITV services, as well as the digital services of Channels 3, 4 and 5, SC4C Digital and public teletext services.

	Section 15 EPG Code		EPG providers must refrain from imposing any condition in an agreement for EPG services with a channel provider specifying exclusivity to one EPG for any service or feature, including the ability to brand services and access to interactivity.
8.4.3. API			
8.4.4. Other	Section 7 Wireless Telegraphy Act 2006		OFCOM must ensure that out of the spectrum reserved for television operations, sufficient capacity is made available for ensuring, in the case of every licensed television multiplex service, that the qualifying services are broadcast by means of that multiplex service.
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media			
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...)			
8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria: - Regional - Linguistic/minority - National)			

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			OFCOM (http://www.ofcom.org.uk)
	Part 1 Communications Act		Defines the functions of OFCOM under the Act.
9.1.1. Structure/ organisation	Section 1 Office of Communications Act 2002		OFCOM's membership shall be between three and six members, to be appointed by the Secretary of State.
9.1.1.1. <i>Guarantees for independence</i>	Section 1 (9) Office of Communications Act 2002; Paragraphs 17 and 21 Schedule to the Office of Communications Act 2002		OFCOM shall not be treated for any purposes as a body exercising functions on behalf of the Crown (Section 1 (9)). Members of OFCOM are not allowed to participate in discussions of and decisions on matters in which they themselves have an interest, unless the other members of OFCOM or of the committee responsible have unanimously decided to disregard that interest (Para. 17(3)). Members of OFCOM are barred from assuming political office as an MP (Para. 21).
9.1.1.2. <i>Representation requirements</i>	None		
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	Paragraphs 8 and 9 Schedule to the Office of Communications Act 2002		OFCOM shall seek to become self-sufficient, i.e. to finance its operations out of the revenues it generates, at the earliest possible date (Para. 8(1)). The Secretary of State may make grants to OFCOM with the consent of the Treasury (Para. 9(1)).
9.1.2.2. <i>Tasks and duties</i>	Part 1 Section 1+2 i.c.w. Schedule 1 Communications Act; Section 1 Wireless Telegraphy Act 2006		The functional areas covered by OFCOM's activities comprise (i) wireless telegraphy functions; (ii) functions in relation to the licensing etc. of television and radio services, and the enforcement of licences provisions; (iii) the proscription of foreign satellite services; (iv) functions in relation to the national television archive; (v) digital broadcasting policy and review thereof; (vi) the upholding of public interest standards in broadcasting, including fairness and privacy.
9.1.2.3. <i>Effective sanctioning powers</i>	Broadcasting Act 1990; Broadcasting Act 1996; Section 344-346 Communications Act	R, TV	For public service licensees, licensing conditions are generally intended to provide a source of comprehensive information on operators' activities, including a self-reporting obligation on compliance with licence conditions that has to take account of OFCOM's own reporting. Public service channels have to furnish statements of programme policy outlining how they will fulfil their obligations (Section 266), and significant changes to these policies can be enacted only upon informing and taking into account OFCOM's opinion, which may include a revision of the proposed policy (Section 267). Similar rules apply to the public teletext provider (Section 268+269). Where OFCOM is satisfied that public service providers have failed to make their contribution to the objectives of public service broadcasting, the regulator may give directions to the broadcaster as to how to remedy this shortcoming (Section 270 (4)). If the shortcoming persists, the regulator may vary the licence conditions to ensure attainment of the pertinent goals (Section 270 (6)). OFCOM may also recommend to the Secretary of State to revise the remit of public service broadcasters as a consequence of the reports on the fulfilment of the public service remit under Section 264, which the regulator has to draw up at least once every five years (Section 264 (2)). [...]

			<p>[...] The contravention of a licence condition or direction issued by OFCOM is punishable, depending on the service in question, either by a financial fee, by an alteration of the licence conditions or by a revocation of the licence, where the licensee has failed to abide by previous directions issued to him.</p>
9.1.3. Cooperation with other regulators	Sections 317 (2), (6), 369-371 Communications Act; Section 106B Enterprise Act	TV	<p>Prior to enforcing licence conditions, OFCOM shall consider whether enforcement of competition law provisions would be more appropriate. People affected by the exercise of OFCOM's Broadcasting Act powers for competition purposes may appeal to the Competition Appeal Tribunal (Section 317). The Secretary of State may vary OFCOM's competition functions under the Competition Act and the Enterprise Act (Section 369), which require a coordination of activities with those of the Office of Fair Trading. Under Part 4 of the Enterprise Act on market investigations, OFCOM concurrently carries out the functions ascribed to the OFT in relation to communications markets (bare two exceptions, cf. Section 370 (2)). Before either authority first exercises one or several concurrent functions, it shall consult the other, once a function has been exercised by either authority, it shall not be exercised by the other (Section 370 (5), (6)). OFCOM shall assist the Competition Commission as necessary where it conducts an investigation on a reference by OFCOM (Section 370 (7)). Under Part 1 of the Competition Act, OFCOM shall be entitled to concurrently perform the same functions as the OFT with respect to agreements affecting competition and abuses of dominant positions in as far as these relate to communications matters Section 371 (1), (2)), except for the determination of guidance on penalty levels and the making of enforcement rules. Section 106B of the Enterprise Act affords OFCOM a general advisory function in relation to media mergers.</p>
	Section 377 Communications Act; Section 44a Enterprise Act		<p>OFCOM shall where an intervention notice under the Enterprise Act mentions a media public interest consideration, furnish a report on those considerations to the Secretary of State that will allow him to decide whether or not to refer the case to the Competition Commission.</p>
9.2. Press Council	Section 5, 6, 10 Memorandum of association of the Press Complaints Commission		<p>The Press Complaints Commission consists of 9 to 17 public and editorial representatives, the former of which shall be in the majority (Section 5). Anybody can apply to become a lay member of the Commission. The application is subject to confirmation by the Appointments Commission, which brings together the Chairman of the PCC, the Chairman of the Press Standards Board of Finance and three independent, public nominees (Section 10).</p>
9.2.1. Broad representation of sector	Section 6 Memorandum of association of the Press Complaints Commission		<p>Editorial representatives on the Commission, on of which must represent a Scottish newspaper, are proposed by the various publishing bodies, and have to be approved by the Appointments Commission. The Commission Chairman is appointed by the Press Standards Board of Finance.</p>
9.2.2. Sufficient resources	Section 5, 10 Memorandum of association of the Press Complaints Commission		<p>Newspapers and magazines pay an annual levy to the Press Standards Board of Finance, which dispenses funding to the Commission.</p>
9.2.3. Credibility			<p>The Commission reports that the effectiveness of its rules is evidenced by the fact that adherence to its code now is a common contractual clause for editorial staff and that the practice of defending editorial decisions in terms of the code demonstrate the importance that failure to comply therewith may have for the employment of editorial staff.</p>
9.3. Competition Authority			

<p>9.3.1. Structure/ organization: Does the NCA face any functional limitations that might negatively affect media pluralism?</p>			
<p>9.3.2. Cooperation with other regulators</p>			<p>See comments above on the involvement of OFCOM in competition proceedings.</p>

Short summary of major implementation problems

The Communications Act equips OFCOM to enforce the public service remit of the four public service operators (Channel 3/ITV, Channel 4, the Gaelic Media Service and the Welsh Authority) and their associated services. Limited supervisory powers exist also in relation to the BBC. In the course of the second public service review, it has become clear that the enforcement powers granted, despite the detailed regulatory framework in which they have been embedded, does not afford OFCOM decisive opportunities to influence broadcasters' operations. In particular ITV, who has strong programming obligations towards local and regional constituents, is seen as living up to its remit only in a rather selective manner, without the regulator being able to effectively overrule management decisions. In fact, ITV has succeeded in being granted the right of reorganizing its operations at the regional level into nine service areas, where the existing system features eighteen. With this expansion of the transmission areas to be served, there is a high risk that local diversity will be lost with this reorganization. The current economic downturn and its impact on advertising financed public service media provides further incentives to downscale involvement in the financially demanding production of local content, which is only marginally interesting as an advertising environment for companies targeting service areas in their entirety. It is thus to be expected that the share of local advertising may continue to fall to the point of dropping out of the television advertising mix entirely, with larger companies buying up advertising space and being able to leverage their presence in the larger national and UK advertising markets to achieve volume rebates. This development, combined with the declining value of advertising minutage in general (which is likely to be reinforced further by stations' attempts to address declining revenues by offering the largest possible amount of premium advertising opportunities), is likely to have effects on future programming strategies as well, depending on how effects of financial market turbulence are going to further affect the behaviour of advertisers. At this point, ITV is negotiating with OFCOM, in addition to the repartitioning of regional service areas, over an increase in the amount of allowable advertising minutes televised during peak viewing time; other operators may follow, if exceptions are granted. The failure of Channel 4's venture into digital broadcasting to rival the BBC makes such developments somewhat likely.

ITV's considerations to hand back Channel 3 licences altogether and continue operations at commercial risk instead points to a wider issue for media pluralism in the UK, which will have to be addressed in coming years, which is the value of public service licences in general post the digital switchover. Therefore, ongoing discussions consider the option of reorganizing PSB delivery before current licences expire in 2014, and notably the issue of spectrum grants in exchange for provision of public service content. However, the current system's stability may be aided by the fact that digital market development is somewhat impeded by the ongoing crisis and the lack of viable digital competitors to the BBC and comparatively low penetration rates in e.g. Wales, although both of these are likely to be overcome before the end of the current licence period. In sum, major implementation issues concern the enforceability of licence conditions and the value of licences themselves. In the newspaper market, dwindling advertising revenues are expected to lead to further consolidation with up to six national level outlets expected to cease operations with the next two years. Outside the sector-specific regulatory framework, journalists' working conditions are seen to be negatively impacted by legislative initiatives spurred by the governments' efforts to curb potential terrorist activities



Independent Study on
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