Department for Culture, Media and Sport 31.1 5/3/1/5

[redacted]

To	Secretary of State	cc	Sue Street Andrew Ramsay Diana Kahn [redacted]	Bill Bush Ruth MacKenzie [redacted]
From	[redacted]			
File Ref				
Date	25 January 2002			

CROSS-MEDIA OWNERSHIP

1. The consultation on media ownership rules ends today. We will now look at the responses we have received receive on cross-media ownership, and will put up a summary, with some recommendations for decisions, at the end of next week. We are arranging a long meeting on 5 February to decide what direction to take. A full timetable for the decision-making process is at Annex A.

2. In the meantime, you asked us to do some further work. I attach:

Annex B	A summary of the current rules
Annex C	Some illustrations of the existing pattern of media ownership
Annex D	How national ownership patterns might change if particular rule changes were made.
Annex E	The effects of changes in local newspaper/radio cross-ownership rules in 3 different areas.
Annex F	The effect of the existing prohibitions on foreign ownership.
Annex G	How the licensing system protects diversity and plurality

3. It is important to remember, when looking at this work, that rules could be made more flexible through the use of plurality tests - Annex H provides a note on the effects of such a system.

[redacted]
Media Ownership Officer

ANNEX A

TIMETABLE FOR DECISIONS

Now	Consultation period ends. This note submits additional scoping work.
30 Jan	Officials, special advisers and No 10 meet to discuss options.
1 Feb	Officials submit recommendations, attached to a quick, digestible summary of what the major players have said in their responses on cross-media ownership (since we only have a week to compile this it will not be exhaustive). Submission to be copied to Patricia Hewitt for comment.
5 Feb	Meeting to discuss the submission: Ministers, officials, special advisers and No 10.
8 Feb	Letter to PM, copied to colleagues (for collective agreement) with firm proposals.
15 Feb	PM's agreement.

Why do we need agreement by this date?

Cabinet Office want all matters of media ownership policy to be settled, and draft instructions to be ready, by the time LP committee first considers the Bill in mid-February. In the above timetable, we wouldn't have draft instructions ready in time for LP committee but we would have decided on a direction. No 10 suggest they will be able to convince Cabinet Office that everything is OK.

Why do we still need to set aside so much time for drafting?

We do not have dedicated Parliamentary Counsel, and this means at any point we could be abandoned to our own devices in favour of the Police Reform Bill.

Our own lawyers cannot devote all their time to media ownership except in the window 25 Jan - 8 Feb (which they will use to work on all instructions except those for cross-media ownership) since they are dealing with the rest of the Bill, where there have already been added complications.

We do not know how complex drafting will need to be until we have something to work with. However, Schedule 2 of the Broadcasting Act, that which stipulates rules on media ownership, is itself very long and complicated and reform could require considerable thought. We need to take the time to make sure the Bill clauses have the desired practical effect, whatever the policy.

ANNEX B

Summary of existing cross-media ownership rules

TV/radio cross-ownership

1. No one can hold the GMTV licence or the C5 licence and a national radio licence.

2. No one can hold a local radio licence (analogue or digital) and the regional Ch 3 licence in the same area.

20% rules on newspaper owners

3. No one controlling more than 20% of the national newspaper market can hold any licence for Ch 3, C5, or any radio service.

4. (a) No one controlling more than 20% of the national newspaper market can hold more than a 20% stake in any Ch 3, C5 or radio service.
(b) A company may not own more than a 20% share such a service if more than 20% of its stock is in turn owned by a national newspaper proprietor with more than 20% of the market. *[This is the so-called 20:20 rule]*

5. No one controlling more than 20% of the local newspaper market in any Ch 3 region may hold the licence for that Ch 3 service.

6. No one controlling more than 20% of the local newspaper market in the area of a digital programme service may hold the licence to provide that digital service.

Limits on local newspaper companies owning local radio stations

7. Anyone controlling more than 50% of the local newspaper market in the coverage area of a local radio station own that station only if: there is another station under different ownership in the same area; the acquisition passes a public interest test. They may own no more than one station in any area.

8. Local newspapers owners controlling more than 20% of the market may own up to two licences for overlapping local radio services if: one is FM and the other is AM; the acquisition passes a public interest test.

9. Local newspapers owners controlling less than 20% of the market can own up to three licences for overlapping local radio services, as long as they pass a public interest test.

Rules that merely stipulate a public interest test

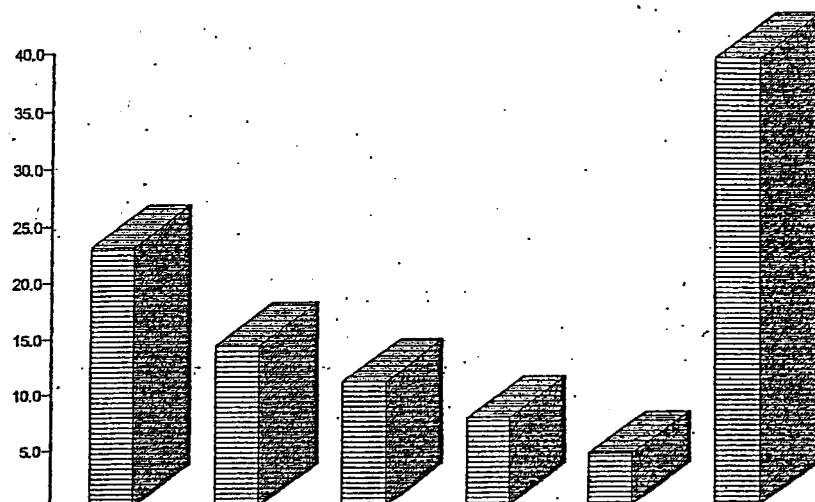
10. Any application by any newspaper owner to hold a licence for GMTV, C5, or any national radio service will be subject to a public interest test.

11. Any application to hold a regional Ch 3 licence or a local radio licence by any national or relevant local newspaper owner will be subject to a public interest test.

12. Digital programme services may not be provided for three months after the award of the licence to a national or relevant local newspaper owner unless a plurality test is met.

NEWSPAPERS

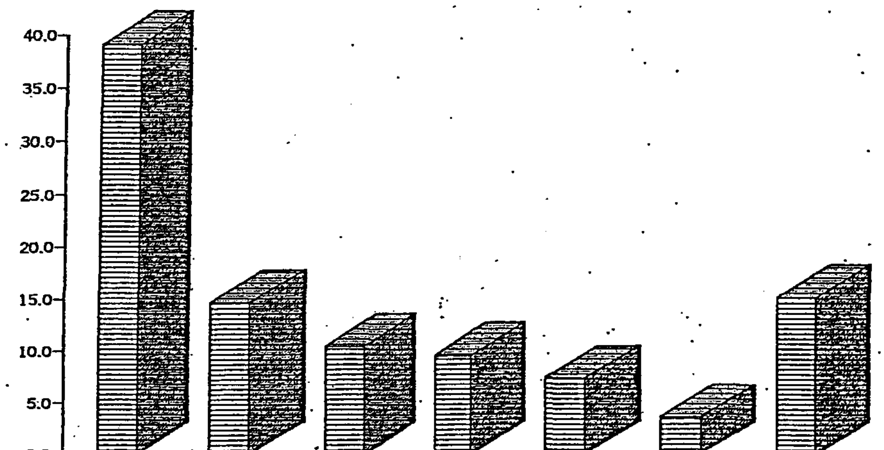
National, regional, local



	TRINITY MIRROR	NEWS INTERNATIONAL	NEWSQUEST	ASSOCIATED NEWSPAPERS	JOHNSON PRESS	OTHERS
Circulation Share UK All Papers	23.1	14.3	11.1	7.7	4.5	39.3

TELEVISION

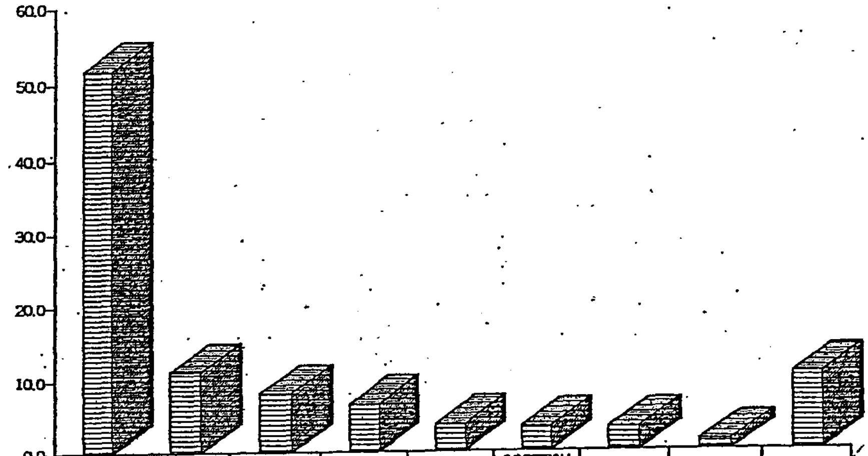
(all UK)



	BBC	GRANADA	CARLTON	CHANNEL 4	BSKYB	RTL	OTHERS
TV Viewing Share UK (%)	39.0	14.7	10.5	9.6	7.4	3.6	15.2

RADIO

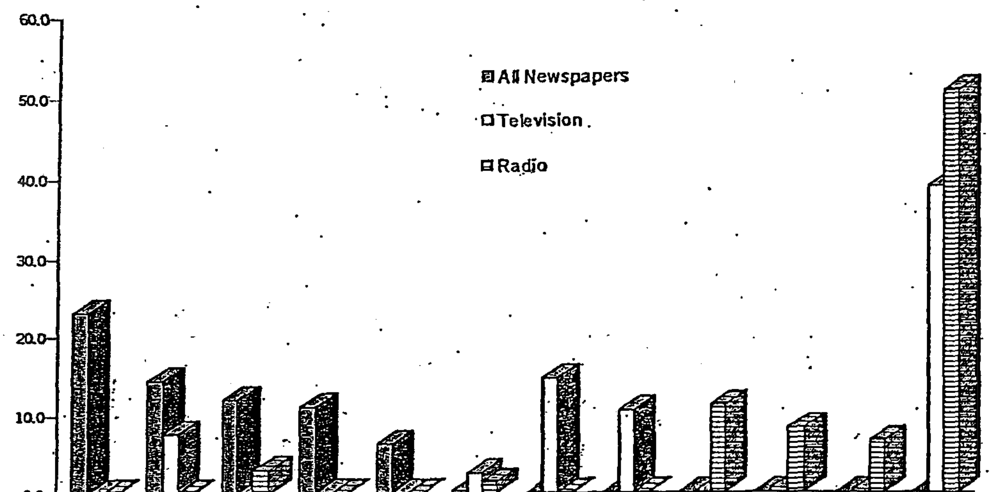
(all UK)



	BBC	GWR	CAPITAL RADIO PLC	EMAP	CHRYSALIS	SCOTTISH RADIO HOLDINGS	WIRELESS GROUP	SMG	OTHERS
Listening Share UK Radio (%)	51.7	11.2	8.2	6.6	3.7	3.3	3.2	1.4	10.6

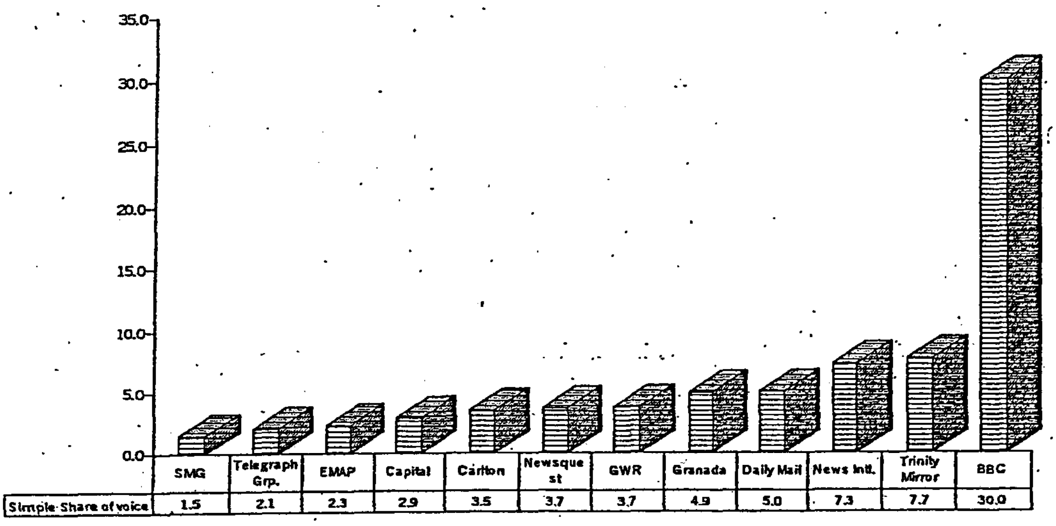
CROSS MEDIA

Counting <u>all</u> ~~national~~ newspapers approximate percentage shares - Q1 2001



	Trinity Mirror	News Intl.	Daily Mail	Newsquest	Telegraph Grp.	SMG	Granada	Carlton	GWR	Capital	EMAP	BBC
All Newspapers	23.1	14.3	12.0	11.1	6.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0
Television	0.0	7.6	0.0	0	0.0	2.6	14.7	10.5	0.0	0.4	0.3	39.0
Radio	0.0	0.0	3.0	0	0.0	1.4	0.0	0.0	11.2	8.2	6.6	51.0

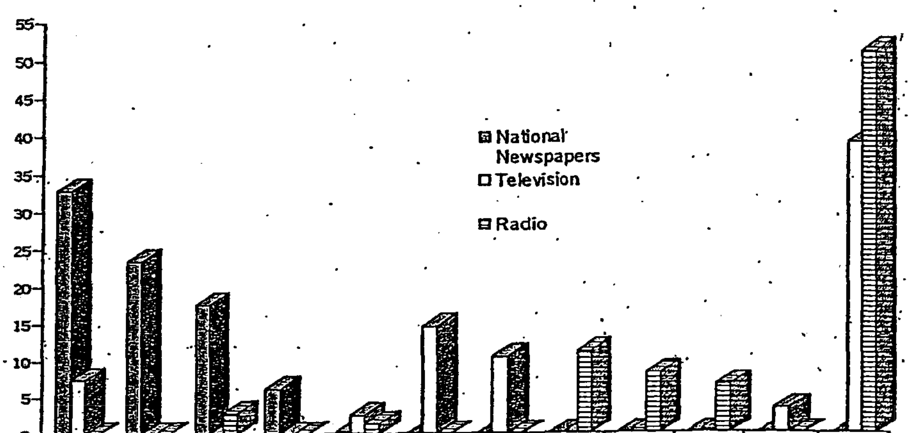
SHARE OF VOICE



Calculation – no explicit exchange rate between media, simple summation of percentage shares in national radio, TV, newspaper markets expressed as percentage of theoretical maximum

XMO SHARES

(National papers only, excluding regional/local)



	News Intl.	Trinity Mirror	Daily Mail	Telegraph Grp.	SMG	Granada	Carlton	GWR	Capital	EMAP	SRH	BBC
National Newspapers	32.8	23.5	17.6	6.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Television	7.6	0.0	0.0	0.0	2.6	14.7	10.5	0.0	0.4	0.3	3.3	39.0
Radio	0.0	0.0	3.0	0.0	1.4	0.0	0.0	11.2	8.2	6.6	0.0	51.0

ANNEX D

Options for Deregulation: Possible Effects on National Patterns of Ownership

This note lists all the existing cross-media ownership rules except the rules on local newspaper/local radio ownership (which are examined in Annex E). It suggests what changes might be made to each rule, what the possible effects are, and, where possible, what shares of the national audience a company might gain as a result. Where figures are suggested for total Share of Voice they are a simple average of total TV audience share, total radio audience share and national newspaper circulation share.

We have referred to existing companies where possible.

It is important to remember why we cannot be more definite in our predictions:

- We can only predict what certain companies would be able to own and what might happen to audience shares were we to change certain rules. We don't know which companies, domestic or European, will decide to bid for what;
- Competition law may prevent some mergers, for example those that seem to give one company too dominant a position in a local or national advertising market (Carlton/Granada for instance).

TV/radio cross-ownership

1. No one can hold the GMTV licence or the C5 licence and a national radio licence.

Possible changes:

Removal

Effect - Any TV company (Bertelsmann/RTL for instance, or Granada) could own as many of the 3 national radio stations (Classic FM, Virgin, Talksport) as they wanted.

IF a single ITV bought all 3 national radio stations, they would control 25% of the TV market, 8% of the radio market and 11% of total Share of Voice.

Replace with a rule that prevents ownership of a national TV licence and more than one national radio licence.

Effect - If a TV company bought Classic FM, they would hold 4.4% of the total radio market. If they bought talkSPORT their share would be 1.7% and for Virgin the gain would be 1.5%.

2. No one can hold a local radio licence (analogue or digital) and the regional Ch 3 licence in the same area.

Possible change:

Removal

Effect - ITV companies (Carlton, Granada, SMG or a merged/foreign-bought entity) would be able to own as many local radio licences as any of the big radio companies (Capital, GWR etc).

There would still be rules ensuring the existence of at least 3 different local radio owners in every area where 3 or more stations existed.

If a single ITV company were to buy as many local licences as they possibly could, they might control 25% of the TV market, 17% of the radio market and 13% of total Share of Voice. If rule 1 was also removed and the same company bought all 3 national licences, they could control 25% of the TV market, 25% of the radio market and nearly 17% of total Share of Voice.

<u>20% rules on newspaper owners</u>

3: No one controlling more than 20% of the <u>national</u> newspaper market can <u>hold any licence</u> for Ch 3, C5, or any radio service.

Possible changes:

<u>Raise the limit to 30%</u>
<u>Removal</u>

Effect - Essentially the same. Only 2 companies are affected by this rule at present. If the limit were raised to 30%, the only change would be to allow to allow Trinity Mirror to hold broadcasting licences. Subject to public interest tests (see rules 10-12 below) they might for instance be able to own 1/3 of the nation's local radio services and all of Channel 5.

A limit of 30% would exclude only News International, who would also be excluded by the ban on foreign ownership of analogue terrestrial broadcasters. To have a rule that affects only one existing company might be to risk hybridising the Bill (a hybrid Bill is one that has a clear intent towards one particular party, and would therefore fail).

4 The so-called 20:20 rule:

(a) No one controlling more than 20% of the <u>national</u> newspaper market can <u>hold more than a 20% stake in any Ch 3, C5 or radio service</u>.
(b) A company may not own more than a 20% share such a service if more than 20% of its stock is in turn owned by a national newspaper proprietor with more than 20% of the market.

Possible changes:

<u>Remove (a) and (b)</u>

At present, if (a) and (b) were removed there would still be a requirement for all national newspapers to satisfy a public interest test before acquiring a radio station, a Channel 3 licence or the Channel 5 licence.

Trinity Mirror would be allowed a stake of any size, subject to a public interest test. Sky would also be allowed any stake, if OFCOM did not consider them to be controlled by News International, a foreign company (this is the current ITC position).

A company might own 25% of the TV market in the form of a merged ITV as well as, say, a 35% share of the national newspaper market. IF the TV/radio cross-ownership rules were also removed, that single company could potentially own 35% of national newspapers, 25% of TV *and 25% of radio, giving it a 28% share of total Share of Voice. This might rise if further consolidation in newspaper and TV markets was allowed by the competition authorities.*

Raise all the limits to 30%

Effect - Subject to public interest tests, Trinity Mirror would be allowed to hold 30% stakes in any radio or television service. News International would still be excluded both because they are a foreign company and because they own more than 30% of the national newspaper market. Sky would be excluded since News International own 36% of their stock and control 33% of the national newspaper market.

This would not have a noticeable effect on audience shares unless Trinity Mirror were deemed to control a broadcaster with a stake of less than 30% (unlikely).

Remove (b) only

Trinity Mirror would still be restricted, but Sky would be allowed to invest as long as they weren't considered to be controlled by News International (as a foreign company and a newspaper company with more than 20% of the market).

IF OFCOM concluded that Sky were not controlled by News International, they might be able to buy ITV and gain a 33% share of the TV market.

5. No one controlling more than 20% of the local newspaper market in any Ch 3 region may hold the licence for that Ch 3 service.

6. No one controlling more than 20% of the local newspaper market in the area of a digital programme service may hold the licence to provide that digital service.

Possible changes:

Remove both these rules

Effect - Any TV company would be free to buy up as many local newspapers as they wanted (subject to the operation of the reformed newspaper merger regime). Regional newspaper groups would be able to run DTT channels.

IF a single ITV merged with the largest existing regional newspaper group (Newsquest) this would give them 11% of the market for all newspapers in addition to 25% of the TV market. If the rules on national press ownership were also removed, such a company could instead merge with Trinity Mirror and control 23% of the market for all papers.

Raise the limit to 50% in both cases

Effect - Since regional newspaper companies often own nearly 100% of the local market, a 50% limit would prevent them providing DTT channels or Channel 3 licences in the same area. Such a limit would also prevent any TV company (eg Carlton or Granada, who own Ch 3 licences, or Sky, who have digital programme service licences) becoming a completely dominant voice in any market, by making sure they had at least one major competitor in the local press.

So a single ITV would be allowed to buy only limited newspaper interests - papers that were not dominant in their local market. A regional newspaper group like Trinity Mirror could expand to own particular ITV licences, in areas where they were not the dominant press owner, and so could not own a single ITV.

Limits on local newspaper companies owning local radio stations

Rules 7-9: The possible local effects of changes to these rules are considered separately in Annex E.

Rules that merely stipulate a public interest test

10. Any application by any newspaper owner to hold a licence for GMTV, C5, or any national radio service will be subject to a public interest test.

11. Any application to hold a regional Ch 3 licence or a local radio licence by any national or relevant local newspaper owner will be subject to a public interest test.

12. Digital programme services may not be provided for three months after the award of the licence to a national or relevant local newspaper owner unless a plurality test is met.

Possible change:

Remove all these rules

Effect - None, in practice, except to simplify and deregulate, since no acquisition has ever been prevented by a public interest test. These are back-stop measures that try to make it more difficult for any newspaper, no matter how small to acquire any cross-holdings in any market.

Empower OFCOM to apply a plurality test to all these mergers

Effect is unpredictable, but plurality tests could be used to apply to all rules - see the separate note at Annex H.

ANNEX E

Options for Deregulation at local level: possible effects and case studies

Again, please note:

- We can only predict what certain companies would be able to own and what might happen to audience shares were we to change certain rules. We don't know which companies, domestic or European, will decide to bid for what;
- Competition law may prevent some mergers, for example those that seem to give one company too dominant a position in a local advertising market.

The relevant rules are:

7. Anyone controlling more than 50% of the local newspaper market in the coverage area of a local radio station may own that station only if: there is another station under different ownership in the same area; the acquisition passes a public interest test. They may own no more than one station in any area.

8. Local newspapers owners controlling more than 20% of the market may own up to two licences for overlapping local radio services if: one is FM and the other is AM; the acquisition passes a public interest test.

9. Local newspapers owners controlling less than 20% of the market can own up to three licences for overlapping local radio services, as long as they pass a public interest test.

Possible changes:

Remove all these rules and rely on the proposed radio ownership rules (ensuring 3 separate owners in every area with 3 or more radio stations)

General Effect - Regional newspaper owners (larger groups such as Trinity Mirror, Johnson Press or Newsquest and regionally influential groups like RIM) would be subject to the same ownership limits as any radio group (ie the rules ensuring at least 3 different owners in areas with at least 3 different services). In urban areas this could mean two companies controlling the newspaper market and sharing the local radio market with one other owner. In rural areas it might allow one company to own the only local radio service and all the local papers.

At national level, IF Trinity Mirror, with 23% of the market for all newspapers (national, regional and local) bought as many radio stations as possible, it could control 45% of the local radio market, equating to 17% of the total radio audience.

Remove rules 8 and 9, but keep rule 7, without the public interest test

General Effect - no company could own all of the local press and the local radio stations in any area. Only a company with less than 50% of the local newspaper market could also own the only local radio station in the area. No company with more than 50% of the newspaper market would be able to own more than one radio station in an area, even if there were 6 or 7 in total.

A company could potentially have the same share of the total audience for both newspapers and radio as they could under the first option, but only if they held their press and radio interests in separate areas. If they held interests in the same localities, they would be restricted to a marginally smaller total audience unless they bought only those radio stations with the biggest audiences.

(It would alternatively be possible to impose a new rule that prevented any newspaper from owning any radio station in an area where there were less than 3 licences. This would not be deregulatory in those areas, although it would in areas with 3 or more stations, where ownership would simply be governed by the radio ownership rules)

Case Studies

1. The following pages map out the possible impact of reform on three different local markets in the North of England, ranging from Leeds to Dronfield, a small town in the Peak District. The figures are not precise, but should be viewed as an outline picture, based on what we have been able to find at short notice:

- The information on newspapers is what the DTI have readily available, dating back to the Competition Commission report on Regional Independent Media and Gannett/Johnston/Guardian Media case (November 2000). Some of the figures (and perhaps some of the owners) will have altered since.

- The radio data represents estimates of local audience shares based on Rajar data from 2001. The Rajar survey provides figures only for the share of listening that a station gets in it's own coverage area. The audience share estimates below will therefore include some listeners outside the local area in question, and may total slightly more than 100% for this reason.

2. We have suggested what opportunities might exist for the existing operators in each market, but of course there will also be opportunities for new entrants, domestic and European to buy similarly significant shares.

Scotland

3. You asked for some information on Scotland. We do not have this to hand. However, Scotland is in most respects similar to any other area of the UK with respect to the effects of media ownership rules:

- One company (of any European nationality) will be able to own all the Scottish ITV licences under our proposals.
- In individual local areas, plurality will be protected to a greater extent than at present by the proposed radio ownership rules, ensuring at least 3 different owners in every area with 3 or more stations.

4. A major difference is that Scotland-wide papers are considered to be UK national papers, and will be considered as such under the special regime for newspaper mergers. However they are not large enough in circulation terms for any Scotland-only newspaper group to be affected by the cross-media ownership rules on national newspaper owners.

5. From a Scotland-wide plurality perspective, the key cross-media ownership rule is therefore that preventing joint ownership of Channel 3 licences and radio licences in the same area (rule 2 in Annex B). If this rule is removed, one company could own all Scottish ITV licences and up to 45% of the local commercial radio audience (or 17% of the total radio audience).

6. The rules that act at local level affect Scottish communities in exactly the same way as English ones, except that in the North of Scotland there may be more communities with fewer media services in total. The relevant rules are:

- rules 5 and 6 preventing joint ownership of more than 20% of local papers and Channel 3/digital programme service licences;
- rules 7, 8 and 9 preventing imposing limits on the joint ownership of local newspapers and local radio stations.

LEEDS

Radio Station	Owner	Estimated % share of local commercial radio audience
Aire FM	EMAP	33.5
Magic 828	EMAP	20.5
The Pulse	Wireless Group	35.8
Galaxy 105	Chrysalis	16.5

Newspaper	Owner	% share of local/regional press circulation
Dewsbury Reporter	Regional Independent Media (RIM)	0.2
Harrogate Advertiser	RIM	0.2
Yorkshire Evening Post	RIM	22.1
Yorkshire Post	RIM	2.1
Leeds Express	Johnston Press	16.4
Leeds Weekly News	RIM	50.6
Pudsey Times	RIM	5.0
Wharfe Valley Times	RIM	3.3

At present: Johnson Press could own up to 3 stations. RIM could own only one. Wireless Group or Chrysalis would be able to buy as many papers as they liked. EMAP would only be able to buy 50%. All acquisitions would have to pass a public interest test.

If all the rules are removed, and we rely on the proposed radio ownership rules - Johnson and RIM could both buy only one radio station (since the radio ownership rules would effectively prevent anyone owning more than 45% of the range of stations where they all cover more than 75% of the area - this equates to a limit of 1 station out of 4). All the radio groups would be free to buy as many papers as they wanted.

If we keep rule 7 - RIM will still be restricted to one station, where Johnson could buy up to two. EMAP would still be restricted to less than 50% of the newspaper market.

DONCASTER

Radio Station	Owner	Estimated % share of local commercial radio audience
Hallam FM	EMAP	42.2
Magic AM	EMAP	9.0
Trax FM	Lincs FM	44.5
Galaxy 105	Chrysalis	16.5

Newspaper	Owner	% share of local/regional press circulation
Deame Valley Weekender	Newsquest	7.8
Doncaster Advertiser	Johnston	36.9
Doncaster Courier	Johnston	34.4
Doncaster Free Press	Johnston	13.5
Yorkshire Post	RIM	1.2
Retford + Gainsborough Trader	Johnston	1.1
Sheffield Star	RIM	5.0
South Yorkshire Times	Johnston	0.1

Rule 7

At present: RIM could own up to 3 stations. Johnson could only own one. Newsquest, as part of the American company Gannett, could not own any due to foreign ownership rules. Chrysalis or Lincs FM could buy as many local papers as they wanted, where EMAP could only buy up to 50%. All acquisitions would have to pass a public interest test.

If all the rules are removed and we rely on radio ownership rules: Any of the newspaper groups, except Newsquest (unless foreign ownership rules change) could buy one of the radio stations. All the radio groups would be free to buy as many papers as they wanted.

If we keep rule 7: Johnston would still be restricted to owning one station only, and EMAP would still be able to own only 50% of the newspaper market.

~~As too~~

As at present.

DRONFIELD

Radio Station	Owner	Estimated % share of local commercial radio audience
Hallam FM	EMAP	42.2
Magic AM	EMAP	9.0
Peak 107 FM	Peak 107	42.0
Galaxy 105	Chrysalis	16.5

Newspaper	Owner	% share of local/regional press circulation
Derbyshire Times	Johnston	6.2
Dronfield Advertiser	Johnston	42.7
Sheffield Star	RIM	9.8
Sheffield Telegraph	RIM	3.7
Sheffield Weekly Gazette	RIM	37.6

At present: Johnston could own two stations, as long as one was FM and the other AM. RIM could only own one. Chrysalis or even Peak 107 could buy as many local papers as they wanted, whereas EMAP could only own up to 50%. All acquisitions would have to pass a public interest test.

If all the rules are removed: Any of the newspaper groups could buy one of the radio stations. All the radio groups would be free to buy as many papers as they wanted.

If we keep rule 7: RIM would be restricted to owning one station only, and EMAP would still be able to own only 50% of the newspaper market.

ANNEX F

The Effect of Foreign Ownership Rules

1. Scope

The foreign ownership ban is a ban on non-EEA (effectively American or Australian) ownership of analogue terrestrial broadcasters - ITV, C5, Classic FM, Virgin Radio, talksport and all local analogue radio stations.

2. Arguments for removing the prohibitions

- British companies are denied valuable sources of investment.
- Whatever the nationality of the owner, a British service will always have to produce definitively 'British' content in order to attract an audience (for similar reasons, we don't mind national radio/newspaper groups owning a range of different local media).
- We already allow any European company to buy into our broadcasting markets - there is arguably little difference between Bertelsmann and Viacom, say.
- Some other European States have already removed all foreign ownership rules - Germany, Spain, the Netherlands - seemingly without disastrous effect.

3. Arguments for keeping them

- Key foreign countries, such as the US and Australia, still impose restrictions on British ownership of their media. We don't therefore feel we can consider lifting our ban without reciprocal arrangements.
- We want to ensure European consumers continue to receive high quality European content (the argument in the White Paper).

4. Possible effects of removal

- Competition law, and whatever media ownership rules we end up with, will be the only means of preventing a giant American company from dominating our market.
- Non-European companies (eg AOL Time Warner, Disney, Viacom, News Corporation) could buy ITV, Channel 5, and up to 25% of the UK radio market. The American radio company, Clear Channel, may be interested in buying a significant number of radio stations. A single ITV, with 25% of the TV audience, might be more appealing to foreign investors than Carlton and Granada have been to giant European companies.
- Sky would no longer have to worry about being classed as 'non-European' due to their involvement with News Corp. However they would still be restricted by whatever cross-media rules we put on companies part-owned by newspaper groups.

ANNEX G

The effectiveness of the licensing system in protecting plurality and diversity

The licensing system is designed to protect diversity to some extent. It does not directly address issues of plurality because each licence application is considered on its merits, without reference to the other media interests held by the applicant. This is a separate question addressed by ownership rules.

1. Radio

Licences include a prescription for the format of the station. For example: percentage of speech or news content, type of music played at different times of day. However, licensees are allowed to adapt local formats to respond to audience expectations.

If the regulator judges that the station is not sticking to this format, they can take action. They can issue warnings and fines, and eventually they may remove the licence.

We are suggesting two important changes in the Bill:

- that OFCOM should be able, when a licence changes hands, to vary the licence to protect the local nature of the service;
- that the fines available to OFCOM should be increased from £50,000 to £250,000.

These measures should be sufficient to protect diversity and localness of content, whilst the ownership rules for local radio should ensure a plurality of ownership and hence of editorial styles and opinions.

2. TV

ITV licences are regional licences which include requirements for regional content. Targets for regional production and programming will be included in tier 2 in the new regulatory structure, which deals with quantifiable and measurable public service requirements.

This is the extent of 'local' television at present, and does not relate to ownership rules, except that again the regulator can vary the licence on change of ownership to protect its regional character.

ANNEX I

A Note on Plurality Tests

If we set ownership limits as thresholds that can be exceeded, as long as they pass a plurality test, there will be a further degree of uncertainty over the resultant shape of the media market.

Were plurality tests to be adopted, the key effect will be to make the system less rigid and predictable, and more refined to individual circumstances and markets. For example:

- At present there is an absolute ban on someone who controls more than 20% of the national newspaper market buying a local radio licence. If the ban could be ignored in circumstances where an acquisition passed a plurality test, OFCOM might allow this in an area like London, where there was a sufficient number of stations to prevent any significant reduction in the number of voices.

- At present there is also a rule preventing someone with 50% of the local newspaper market owning more than one local radio station. If the local radio market had 5 stations, a plurality test might allow such a local newspaper proprietor to own two of them. In an area with only four stations, such an acquisition may not be allowed.

The eventual shape of the media market would therefore depend to a significant degree on the judgement of OFCOM, and cannot be modelled with any certainty.