



Media plurality:

Evidence submitted to the House of Commons Select
Committee on Culture, Media and Sport

Response from the ESRC Centre for Competition Policy

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The response to each question in this consultation response has been drafted by a named academic member of the Centre, who retains responsibility for that section.

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1. This is a joint submission by two research centres at the University of East Anglia: the *ESRC Centre for Competition Policy (CCP)*, and *media@uea*. The views expressed herein are those of the contributing authors alone.
2. Our principal points are as follows:
 - a. Media plurality is a combination of pluralism of operators (external pluralism) and pluralism of viewpoints (internal pluralism) and should be treated as such.
 - b. Both internal and external pluralism can be measured, but work needs to be done on how to improve these measures, how to combine them, and how to define satisfactory levels of overall pluralism.
 - c. Requirements for accuracy and impartiality placed on public service broadcasters bolster protect internal pluralism
 - d. In virtue of its contribution to internal pluralism, the BBC need not be taken into account when assessing external pluralism
 - e. Assessment of pluralism can be carried out by extending existing arrangements and applying general provisions of competition law to the market
3. Our response follows the order of questions laid out by the committee in its original call for evidence.

What degree of plurality is desirable for UK media?

4. **The desirable degree of pluralism depends on three factors:** the reasons we have for valuing pluralism; the trade-offs between pluralism and other factors; and the ways in which two distinct aspects of pluralism, namely internal pluralism and external pluralism, can be combined.
5. We suggest that we value pluralism because it gives recognition to different identities and visions of the good life, and because exposure to a variety of points of view leads groups to make better collective decisions. Where pluralism is lacking, the richness of life in society is potentially impoverished, and there is a greater risk of 'groupthink'.
6. Pluralism is one of a number of values, and may conflict with these other values. In this submission, we suggest that regulation and public provision of broadcasting services play strong roles in securing pluralism. These might be seen as infringements of personal liberty or market efficiency. If this were the case, these values would have to be weighed against one another.
7. The desirable degree of pluralism also depends on how we combine *internal* and *external* pluralism. Both aspects are important, and neither can be reduced to the other.
8. **External pluralism** is a property of a media market or segments thereof. External pluralism exists in a market where a number of distinct operators exist and compete in the market, and where no single operator or combination of operators has a disproportionate 'share' of the market. Conversely, external pluralism is lacking where the effective number of market operators is very small. Disagreements about external pluralism may concern the definition of the market, the distinctness of operators, the way in which operators' 'shares' of the market are to be understood, and the threshold at which a share of the market becomes disproportionate.
9. **Internal pluralism** is a property of media output. Internal pluralism exists for a given outlet where that outlet broadcasts or otherwise conveys a wide range of diverse viewpoints on important political and social controversies of the day. Conversely, internal pluralism is lacking where the output of a given outlet is dominated by a single viewpoint or a combination of similar viewpoints. Because it is difficult to gauge the diversity of viewpoints, disagreements about internal pluralism are much less tractable than disagreements about external pluralism.
10. **This distinction is implicitly recognized in media practice.** In the UK, broadcasting outlets have to satisfy more or less stringent public broadcasting requirements that contribute to internal pluralism, whereas newsprint and internet operators do not, and as a result are usually judged by their contribution to external pluralism.

11. **The desirable degree of pluralism for the UK media can therefore be defined as the** the greatest appropriately weighted combination of internal and external pluralism achievable without unjustifiably infringing other important values in the light of our beliefs about why pluralism is valuable.

How should media plurality ... be defined, measured and monitored, and by whom?

12. Following our previous answer, media plurality should be defined as an appropriately weighted combination of internal and external pluralism. This requires us to measure internal and external pluralism, and suggest ways in which the two can be combined.
13. **Concerning the measurement of external pluralism**, we note that there are a number of different measures capable of summarizing the degree of concentration present in a market based on the shares of all operators in the market. These include the Herfindahl-Hirschman index, Shannon's H , or other entropy-based measures. We believe that, to a large extent the choice of appropriate measure is an empirical question.
14. We note, however, the following points. First, if external pluralism is a property which spans multiple media, then the metric used for shares should be applicable to multiple media, including subscription-based services and advertising funded services. Share of references, citations as 'main source of news', and minutes used are all applicable to multiple media. Second, if external pluralism has value as a safeguard against the abuse of monopolies or oligopolies, then whatever index of concentration should be calculated across ownership groups rather than specific outlets. In the case of partial ownership, we believe that the choice of the factor by which ownership shares are weighted is an empirical question.
15. **Measuring internal pluralism is more difficult.** In principle, internal pluralism can be extended beyond news and current affairs to entertainment and factual programming. In practice, most measurements have concentrated on a very 'political' internal pluralism.
16. One approach to measuring internal pluralism measures the screen time given over to defined political and social groupings. This is the approach taken by the French *Conseil Supérieur de l'Audiovisuel* and the Italian *Agenzia per le Garanti nelle comunicazioni*. We recommend against this approach. Such an approach requires a well-defined list of political actors which will either (1) concentrate on party political figures, and thus, by excluding certain campaign organisations or non-partisan political figures, give a misleading measure of internal pluralism, or (2) include a broad range of political figures considered broadly, therefore risking absurdity. (The French regulator has been criticised for including Johnny Hallyday as a political figure whose appearances must be included in measures of imbalance between pro-government and pro-opposition figures). More generally, these measures damage the practice of journalism and create powerful incentives for political parties to challenge broadcasters every time their proportion of screen time drops below a certain amount (Hanretty, 2011).
17. A second approach to measuring internal pluralism relies on public opinion. Audience opinions are already collected by Ofcom in its annual reports on public service broadcasting. One question already asked by Ofcom taps the issue of internal pluralism: poll respondents were asked to what extent they agreed with the statement
"programmes [on this channel] offer a range of opinions on subjects and issues"
18. The latest figures show that 66% of BBC1 viewers agreed with this statement, compared to 67% of BBC2 viewers; 51% of ITV viewers; 58% of Channel 4 viewers; and 33% of Channel 5 viewers.
19. We **recommend that Ofcom continue to ask about audience perceptions of internal pluralism**, considered in this way, and also ask about channels not bound by public service obligations, such as satellite broadcasters. We believe that this information is

useful for policy-makers. However, we are reluctant to suggest that these tracker surveys play too great a role in public policy. Whilst it is clearly useful to know what a representative sample of the public believes about internal pluralism, there is no guarantee that representative samples will reward innovation in presenting a range of views, or be aware of the possible range of views expressed in channels with which they are not familiar.

20. We therefore recommend further research into ways of complementing quantitative measures of internal pluralism based on public opinion with qualitative analyses of public opinion. One way of achieving this would be for whichever body is tasked with measuring pluralism to convene deliberative focus groups (sometimes called citizen juries).
21. Concerning the monitoring of media plurality, and responsibility for such monitoring we recommend that **Ofcom should have responsibility for monitoring media plurality.**

... whether and how the impact of the BBC should be taken into account when assessing media plurality

22. In our answer to the previous question, we argued that there were two aspects to media pluralism, and that it was possible, though difficult, to quantify internal pluralism. We also suggested that broadcast operators, and public service broadcasters in particular, were subject to certain restrictions designed to promote internal pluralism.
23. If our argument is correct, then the BBC need not be taken into account in Ofcom's measurement of external pluralism. To the extent that the BBC offers internal pluralism, which in part a substitute for and in part a complement to external pluralism, its considerable presence in the media market does not directly damage pluralism, considered overall.
24. The corollary of this argument is this: were the BBC to be judged to be failing to offer internal pluralism, then the BBC's presence in the media market would become a serious cause for concern. However, we suggest that this is not currently the case, and that BBC Trust ought to ensure that this does not happen in the future.
25. The BBC's presence in the media market might indirectly damage pluralism, to the extent that it crowds out private investment. However, the extent to which the BBC's presence crowds out private investment is already assessed, for new operations, by the BBC Trust's Public Value Test.

... whether current regulations adequately reflect the cross-media landscape including online platforms

26. Current regulations may cover the cross-media landscape if the qualifications made in paragraph **Error! Reference source not found.** are taken into account. That is, media-independent measures of market share should be used, and shares should be calculated across ownership groups, rather than specific (print/broadcast/online) outlets.

... what could trigger a review of media plurality, and who should conduct that

27. In its report on the acquisition of BSkyB, Ofcom alluded to the decoupling of the media plurality rules from the merger regime. There is no reason why media plurality could not be incorporated into the existing market investigation regime, given that the Competition Commission (and presumably its successor) has the role of assessing media plurality in the media merger context.

28. The issue of how a plurality inquiry could be triggered is more problematic. We note, however, that Ofcom has the responsibility to conduct periodic reviews of various aspects of the media industry (e.g. PSB provision). A similar duty could be imposed for media plurality, with the power to make a reference to the CC (or its successor) if there is a serious reduction in media plurality, for whatever reason. One such trigger could be a reduction in the efficacy of PSB regulation for impartiality and accuracy. Others might be the exit of a major outlet, or the emerging dominance of one firm in a particular market segment or across segments.
29. The operation of a media plurality test in a merger context – where the focus is on a change in media plurality – would be quite different here. There would be the need to devise some benchmark to measure whether there exists a sufficient media plurality, a more complex and value laden question. Our recommendations in answer to previous questions would become all the more important.

... what impact current media ownership rules have had on local and regional media organisations

30. The question of plurality at the regional and local level can be an important consideration. For example, where devolved legislative and executive bodies exist, the question of ensuring plurality in news provision may be different to that at a UK-wide level, as not all providers within a given nation would report on these institutions. This could mean that an undifferentiated analysis would show a range of providers, even though there may be a problem with plurality on nation-specific matters.
31. Furthermore, given the degree to which there are parallels between particular communities and news sources (take for example the religious affiliation of newspaper readers in Northern Ireland, or the growth in the number of television licensable content services licensed by Ofcom which are directed at a particular social, religious or ethnic group), it is not just a question of overall plurality but also a need to guard against allowing one voice to be dominant within a community. Some of the data necessary for this type of analysis should already be available but steps may need to be taken (whether through licensing or monitoring) to improve it.

... whether there are sufficient safeguards to the editorial independence of news and current affairs coverage

32. Limited safeguards arise from the governance and ownership structures of publicly-owned media or media operated by trusts. In the print press, safeguards of editorial independence – typically independence from proprietorial interests – have generally not been of extremely limited value.

... the extent to which requirements for accuracy and impartiality in broadcast news serves to protect or inhibit plurality

33. Requirements for accuracy and impartiality serve to protect internal pluralism. This is evident from a number of academic studies comparing public service broadcasters (which typically face obligations of accuracy and due impartiality) to commercial broadcasters.
34. In a forthcoming report for the British Academy Policy Unit, one of us has presented information expert ratings on the *accuracy* and *pluralism* of media outlets across 28 European countries (Hanretty, 2012). Experts were asked to score, on a scale of zero to ten, how much they agreed with two statements concerning the top media outlets in their country: first, “to what extent does media outlet [X] in [COUNTRY] provide accurate information on facts backed by credible sources and expertise?”, and second, “to what extent does media outlet [X] in [COUNTRY] present well the arguments of all

sides in political debates?” Public broadcasters, including those bound by requirements of accuracy and impartiality, were judged significantly more accurate and better at presenting the arguments of all sides in political debates. To the extent that public broadcasters are typically bound by such requirements, and to the extent that the scored statement taps similar properties to internal pluralism, the figure suggests that requirements for accuracy and impartiality protect internal pluralism rather than inhibiting it.

35. Other research based on public opinion surveys confirms this impression. One recent study by Goldman and Mutz (2011) assessed the degree to which poll respondents in several countries perceive media outlets as offering views and opinions different from their own, which Goldman and Mutz refer to as cross-cutting exposure, and which we would refer to as internal pluralism. These figures were then averaged out over all television outlets (respectively, print outlets) in a country. Considering ‘cross-cutting exposure’ in television, Britain is a world leader. That is, television in the UK, bound by requirements of accuracy and impartiality, is better than the broadcast media in the USA (which face no such requirement) at offering internal pluralism. Considering ‘cross-cutting exposure’ in print, Britain is a laggard. In this respect, our newspapers are only better than Greek newspapers. The contrast with the American press, which faces no statutory requirements of accuracy and impartiality but which does have a stronger orientation towards fact-checking, is marked.

... which principal factors are driving market dominance and the concentration of ownership in print, broadcast and online media

36. One important factor in driving market dominance and concentration of ownership is the growth of premium content (i.e. live top flight sporting events, first-run Hollywood movies etc) and associated subscription services. This factor may be tackled using competition law.
37. Over the past decade, there have been several legal cases involving premium content. Contracts between broadcasters and rights holders tend to be exclusive supply agreements, covering all potential platforms for long periods of time. Several interventions by the European Commission have sought to shorten the length of these contracts, disaggregate platforms and, in the FAPL joint selling case, require that the rights are not sold exclusively to one broadcaster. All of these cases have sought to minimise the foreclosure of the downstream pay-TV market to competition from existing rivals and potential new entrants. The intervention by Ofcom in the pay-TV market was similarly motivated.
38. These interventions seek to ensure that there is a choice of platforms downstream, and thus contribute to external pluralism. Where competition in the pay-TV market is strong, all firms have an incentive to maximise their wholesale revenues by selling their premium content to one another. It is only where, as in the case of BSkyB, a platform has a dominant position that it will forego wholesale revenues in order to ensure that its subscriber base is not cannibalised and its position to outbid its rivals in the upstream markets for content rights is not undermined. Without intervention, pay-TV markets may not attract new entry because, without premium content, new entrants will not be in a position to attract sufficient subscribers. Not only will this result in higher prices, it will also reduce the choice of providers and, in turn, media plurality.
39. A second important factor in driving market dominance is a more general point about the costs of production of premium content. There is a link, found across all genres, between higher budgets and better quality programming, on one hand, and better quality programming and higher audience shares on the other hand. This means that the media as a whole is subject to a pronounced “Matthew effect”: “to all those who have, more will be given... from those who have nothing, even what they have will be taken away”.

40. A final factor which is important in driving market dominance concerns uncertainty over the true quality of entertainment programmes. Each broadcaster takes a risk when it produces a programme. The programme may be of exceptionally high quality, or it may be of rather poor quality. Larger broadcasters may be able to combine risk, thus offering a range of programmes of varying quality. Smaller broadcasters may be less able to combine risk, or not able to combine risk at all. They may therefore make quite considerable losses if a small number of commissioned or self-produced programmes turn out to be of low quality. Those with deep pockets are able to stay in the game.
41. These are some of the principal factors driving market dominance and concentration in broadcast media. The factors driving concentration in online media are less well understood, but here too we see a powerful Matthew effect, in that popular sites – most obviously social networking sites, but also news and entertainment sites – acquire more readers in virtue of their size, and frequent linking to these sites (Hargreaves-Heap and Boardman, 1999).

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