

Office of Fair Trading: Review of the local and regional media merger regime

Response by the Campaign for Press and Broadcasting Freedom (CPBF)

The CPBF was established in 1979 and since then we have taken an active interest in developments in the local and regional press. As an organisation concerned with diversity and pluralism within the media, we have regularly highlighted and analysed in our publications the changing patterns of media ownership within local and regional media, and their impact on the range and quality of journalism.

However, in terms of rigorous academic analysis and serious coverage in the business media, the local and regional press has received far less attention than broadcast media, national newspapers and new media. The CPBF therefore welcomes the opportunity to contribute to the Local Media Review and to what we hope will be a wide-ranging debate on policy options for this important media sector.

We want to make a couple of general points about the context of the Review. In *Digital Britain: The Interim Report*, published in January 2009, there is the observation: 'Local media groups are seeking to make the transition to digital business models but argue the need to consolidate in order to have the scale and sustainability to do so. They argue too that the media merger regime does not take account of the potential for competition across boundaries between newspapers and other media'. (p47) In January the Local Media Alliance (LMA), which comprises the UK's seven top regional newspapers groups controlling 72% of the UK market, banded together to negotiate with the government. At a meeting with Lord Carter, the communications minister, on 2 February the LMA argued that financial circumstances affecting the industry required the relaxation of merger restrictions.

The LMA chairman, Roger Parry, insists it is not a lobbying organisation. **However, the CPBF believes that to focus, as the LMA does, on the argument that consolidation is the solution to current problems, is to avoid critical analysis of other factors which have contributed to the current situation. We really do agree with the comment in *Digital Britain* that 'Such arguments need to be tested against current evidence' (p 47).**

Our second point is to do with the focus of the OFT review which has to approach this inquiry within an analytic framework of competition law. This inevitably means that other crucial dimensions to the policy debate will not be reflected in the report.

However, the principle of deciding media ownership on non-competitive factors is well established. Andy Burnham, the Culture Secretary, pointed to these in a Parliamentary debate on 2 March when he said, 'The time has come for Parliament to take a greater interest in the health of journalism at

local level, and in particular in how it might relate to skills and to the health of democracy. These are big issues and we need to come up with new models for sustaining local news in the future.'

Last year the House of Lords Select Committee on Communications conducted an extensive review of media ownership. Its report, *The Ownership of the News*, came to a firm conclusion: 'We do not accept that the increase of news sources invalidates the special treatment of the media through ownership regulation ... Regulation to ensure a plurality of media ownership is still relevant and necessary'. The CPBF raises these points here because, whilst the OFT remit is narrow, the overall review involves BERR, DCMS and Ofcom which need to take a broader view and we think these issues are crucial.

In the UK the National Union of Journalist (NUJ) produced an excellent leaflet '**Who will ask the questions when we're gone?**' which pointed out 'Cuts in jobs and in editorial mean less quality news. Cuts mean fewer journalists to hold MPs and those running our local councils, hospitals, schools and community to account. That in turn damages our democracy and the quality of national debate on the important issues that affect us all in our daily lives'.

The future of the local and regional press is also not just a UK issue. In the USA there is an intense debate raging and the link between the watch-dog role of well-resourced newspapers and the integrity of government has been powerfully made. (1)

Below are the CPBF responses to the specific sections of the OFT Discussion Paper.

Section 2 Summary of the Media Merger Regime

The idea that narrow ownership of the local and regional press is a threat to pluralism is not new. The Royal Commission on the Press in its 1962 report concluded that control of the press was a matter of public concern and that the increasing concentration of newspaper ownership in a few hands could stifle the expression of opinion and argument and distort the presentation of news. As a result the 1965 Monopolies and Mergers Act came into force, to be replaced by the 1973 Fair Trading Act, and subsequent to the 2002 Enterprise Act and the 2003 Communications Act the Department of Trade and Industry published its *Enterprise Act: Public Interest Intervention in Media Mergers* (2004).

But if the policy intention was to protect diversity and plurality in the local press, it has been a spectacular failure. Major changes in the ownership of the UK local and regional press began in the 1990s, and consolidation and concentration of local and regional newspapers within geographical clusters have continued apace. Of the twenty Competition Commission (CC) reports published between 1990 and 2002 only four were adverse. One of these, involving a transfer of titles from Trinity Mirror to Johnston Press in the Peterborough and Northampton areas, recommended it was blocked. (2) The

report registered its concern about 'cluster publishing' and the 'implications of local concentration if consolidation in the ownership of regional and local papers were to continue'. The report suggested that the OFT 'should give early attention to whether an industry-wide inquiry into these issues should be initiated' (pp 37-38). Such an inquiry did not take place.

The Newspaper Society also sees regional press concentration as a positive development: 'Consolidation has left the industry in the hands of regional press "specialists" who have reinvested heavily in their core newspaper businesses'. (3) Large media groups also support such a strategy, as Johnston Press pointed out in its 2004 Annual Report and Accounts:

We believe it will be possible for us to participate in the anticipated further consolidation of the local publishing industry. Economists and competition experts are increasingly recognising that, in terms of advertising revenues, newspapers compete with a variety of media and that, as far as plurality of editorial voice is concerned, that can be achieved just as well, indeed, sometimes far better, under a small number of owners than it can under diverse, fragmented and under-resourced ownership conditions. (4)

The CPBF believes that this strategy needs to be criticised, because the focus on acquisitions, and delivering annual profits far in excess of other businesses was at the price of neglecting the journalistic core of the business. The result has been declining circulation which has exacerbated the current crisis facing the industry due to the fall in advertising and the rise of the internet.

Section 3 Competitive Assessment Issues

• Is there any reason why the failing firm criteria described above are not appropriate for local and regional media markets?

There are examples in previous CC and OFT reports where regional newspaper groups have argued that a local title or group of titles are losing money and under threat of closure. This has been used as a justification for selling it to another group with overlapping titles in the area, or as a 'swap' with a title or series elsewhere.

The CPBF thinks the OFT should only in extreme circumstances, and after careful examination, consider applications for mutual takeovers that attempt to use the failing firm criteria.

• Is there any evidence that more concentrated local newspaper markets, or larger scale regional operations, lead to: (i) better quality printed or digital news content; (ii) a better advertising proposition (for example, bundles of differentiated products); or (iii) any other improvements which might be considered relevant customer benefits?

There is a great deal of evidence that concentrated local newspaper markets have had negative impacts in all three areas identified. One could also add a fourth: the impact on journalists working on local and regional newspapers.

- Company reports give us part of the story of the impact of larger scale media operations. At the end of 2004 Newsquest had 17 such clusters; Johnston Press printed the vast majority of its titles at 13 regional centres; Trinity Mirror, 12. As Johnson Press pointed out in 2005, 'the operation of a relatively small number of larger scale printing centres provides the basis for tight cost control and excellent operational efficiency' (5). But the consequence for newspaper deadlines is that evening newspapers like the *Yorkshire Evening Post* are prepared for publication the day before with only a few last-minute insertions early on the day of publication. The operating profit margin in 2004 was an incredible 34%. In 2007, the latest available figure, it was 29.3%. One City commentator pointed out, 'By concentrating on a limited number of regions, but with a near monopoly sway in many of them, Johnston can offer advertisers the chance to hit a fragmented audience with one shot, and charge higher rates for the privilege.' (6) Centralising production in regional hubs also leads to the closure of local offices and removes journalists from their communities, further undermining what should be the unique selling point of a local paper – genuine local news.

- CC and OFT reports identify a recurrent fear of advertisers that regional monopolies which eliminate competition lead to higher prices in an advertising media which is not substitutable.

- Relevant 'customer' benefits, we assume, include the quality of the product available to readers. One local newspaper journalist in West Yorkshire points to 'the systematic gutting of newsrooms and an increasing use of journalists as copywriters. The lack of staff to go out and find stories leads to newsrooms where no-one ever leaves the office. To fill a paper there is an over-reliance on press releases (predominantly from the local council, which often go in to the paper completely unchallenged), on contributed copy and on "safe" community stories'. (7) Tim Burrowes, editor of *Media Week*, penned a critical editorial after the publication of the Audit Bureau of Circulation (ABC) figures for July-December 2004 were published, revealing an overall sharp decline in regional newspaper circulation. He listed targets for cost cutting, such as journalists: 'They were wasting a lot of time meeting contacts, visiting police stations, covering council meetings, attending courts, that sort of thing. Yet if they did everything on the phone – perhaps followed up a few more press releases and pursued a few less off-diary pieces, everything could be done with fewer staff... The results were fantastic for the publishers – more profitable titles. But over time, circulation seemed to slip. The public didn't seem to feel there was as much useful local information as before and they turned away.' (8)

- We have pointed out that regional newspaper groups expanded rapidly from the 1990s onwards, often amassing huge debts to fund acquisitions on the back of high profit levels which in turn boosted share prices. That has now changed. As the economic downturn has hit the advertising revenue of newspaper groups they have stripped assets and cut back drastically on journalists' jobs (at least 1,000 in the last nine months) to maintain profits and dividends and to meet their debts.

- The LMA has argued that further consolidation is necessary to develop its digital online presence. The experience to date suggests a different story and the CPBF, which has received the response of National Union of Journalists to the OFT review covering these points (pp 4-5), strongly supports the points made in this section of the NUJ evidence.

• Is there any evidence of merger-related cost reductions, or other efficiencies, being passed on to customers in the form of lower (advertising or cover) prices or higher quality products?

The investment in new print facilities, including colour printing, has often improved the actual layout and overall design of local and regional newspapers. However apart from this we can see no evidence of any other benefits to consumers and readers.

Section 4 Guidance Issues

• What factors are relevant to entry conditions in local and regional print media, and how often does entry occur in practice (please provide any relevant evidence)? Does the current economic climate render new entry less likely?

• Has the withdrawal of local and/or regional titles already resulted in significantly increased newspaper concentration at a local and/or regional level? What impact has this had on advertising rates (please provide any relevant evidence)?

Regional monopolies create often insurmountable barriers to new entrants and indeed put resources into undermining the economic viability of potential competitors through the launch of, often free, newspapers to disadvantage new competitive publications. Entry into the local newspaper market can also be made difficult through existing publishers discounting advertising or discouraging advertisers from using new publications on pain of losing favourable discounted arrangements.

The model which the big regional newspaper groups have pursued is to create local and regional monopolies for their titles and, as stated earlier, the various CC and OFT reports published since 1990 have allowed this to be realised across large swathes of the UK.

Whilst the current economic climate makes it difficult for new entrants to enter the market the CPBF believes that competition would be enhanced through support for new entrants. This could be in a variety of ways. If groups close down titles they should relinquish ownership of the title and the opportunity be given to new consortia to revive the title.

The CPBF has had a long-standing policy that a Media Enterprise Board could operate at national, regional and local level to intervene to support the launch of newspapers, magazines or online media projects designed to fill gaps in the market and to promote diversity. Polly Toynbee suggests the idea

of small, locally run independent trusts. (9) All of these proposals should be part of an open debate suggested by Andy Burnham's remark that we need 'new models to sustain local news in the future'. At the heart of this should be the focus on sustaining high-quality journalism, something which seems to be rather lower down in the priorities of regional newspapers owners. At a recent meeting between management and journalists at Yorkshire Post Newspapers, prior to a strike over threatened redundancies, their role was described as a 'back office function' which suggests a fundamental misunderstanding about the role and value of journalists and journalism.

Section 5 Media Public Interest Considerations

- ***Are the newspaper public interest considerations still appropriate for local and regional newspaper mergers in their current form?***
- ***Should the newspaper public interest considerations be used for positive intervention, and if so in what circumstances?***

The CPBF agrees with the recommendation in the House of Lords Select Committee Report, *The Ownership of News*, that, 'The public interest considerations for newspaper mergers and broadcasting and cross-media mergers should be amended to refer specifically to a need to establish whether a merger will impact negatively on newsgathering.' We think this needs to be added to the public interest tests because it is precisely when newspapers cut costs in a recession they start sacking journalists without any real regard to the impact on the quality of news provision.

The CPBF also believes there is scope for positive intervention, as stated above, that where the big regional newspaper groups close titles and leave markets for others to meet the regulator should intervene to require them to sell the titles to appropriate new publishers.

Section 6 Public Sector Competition

The CPBF agrees with the points made in the NUJ submission (pp11-12)

Notes

(1) Paul Starr, 'Goodbye to the Age of Newspapers (Hello to a New Era of Corruption)', *The New Republic*, March 4, 2009. Available at: http://www.tnr.com/story_print.html?id=a4e2aafc-cc92-4e79-90d1-db3946a6d119

(2) Competition Commission (2002) *Johnston Press plc and Trinity Mirror plc: A report on the proposed merger*. Available at: http://www.competition-commission.org.uk/rep_pub/reports/2002/463johnston.htm#full

(3) Newspaper Society (2005) 'Ownership Changes, Mergers and Acquisitions'. Available at: <http://www.newspapersoc.org.uk/default.asp?cid=351>

(4) Johnston Press (2005) *Annual Report and Accounts, 2004* Edinburgh: Johnston Press plc

(5) *ibid.*

- (6) Simon Wachman, Throg Street 'Johnston is a great read', *The Observer* June 12 2005, p8
- (7) Granville Williams, 'Profits Before Product? Ownership and Economics of the Local Press', in Bob Franklin (ed) *Local Journalism and Local Media* (2006)
- (8) Tim Burrowes, 'Never mind the quality, just feel the profit margin', *Media Week*, March 8 2005, p5
- (9) Polly Toynbee, 'This is an emergency. Act now, or local news will die', *The Guardian*, March 24 2009, p33.
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