Title: **The Media Ownership (Radio and Cross-media) Order 2011**	Impact Assessment (IA)
Lead department or agency: Department for Culture, Media and Sport	**IA No:** DCMS 010
	Date: 9/2/11
	Stage: Final
Other departments or agencies:	**Source of intervention:** Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Peter Bakewell 020 7211 6154

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The media ownership rules are intended to strike a balance between ensuring a degree of plurality on the one hand and providing freedom to companies to expand, innovate and invest on the other. We have always recognised that these rules operate in a quickly changing media landscape where market and consumer habits are constantly changing. For this reason Ofcom, the media regulator, monitor the operation of the ownership rules, the extent to which they remain appropriate and make recommendations to change. Ofcom's review of the ownership rules in 2009 made recommendations for relaxation of the local cross media, radio and national multiplex rules. Government is proposing full deregulation at the local level.

What are the policy objectives and the intended effects?

The principal objective of the proposed order for full deregulation at the local level is "to promote a strong and secure local media industry" as set out in *The Coalition: our programme for government*. We believe that securing the long term economic sustainability of the local media and the provision of high quality commercial news and content is likely to require greater consolidation within local markets which will allow local media companies, radio and newspapers, greater opportunities and flexibility to merge and reduce the high fixed costs, such as premises and staffing, which are characteristic of local media business. We believe such reduction will help to counter-balance the falling income of local advertising, which is increasingly being delivered via the internet.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

(i) Doing nothing would mean the potential benefits of liberalising media ownership rules would not be realised.
(ii) Liberalise most of the rules by removing two of the three local cross-media rules, the local radio rules and the national radio multiplex rule. This option does not include removal of the restriction on ownership of all three types of local media (radio, newspaper, Channel 3 licence).
(iii) Full deregulation by removing all of the local cross-media rules, the local radio rules and the national radio multiplex rule This is the preferred option since it will enable media businesses to develop new business models, provide certainty and the freedom to expand, innovate and invest across the media sectors. It represents removal of unnecessary regulation or burdens on the industry.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed The Government intends to review the policy after 1 year.
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Jeremy Hunt.. Date: 9 February 2011 ....

Summary: Analysis and Evidence

Policy Option 1

Description:

Do Nothing: maintain current regulatory regime

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups'

The regulatory regime would continue in its current form, with no new costs imposed on local media organisations.

Other key non-monetised costs by 'main affected groups'

Retaining current media ownership rules will restrict ownership and consolidation of local radio and national radio multiplexes. This will prevent firms taking advantage of benefits such as shared costs and cross-fertilisation of demand through mergers or cross-media start-ups. Current trends in local media rules preventing consolidation could lead to firms failing when a new ownership regime could have supported them. If this results in local papers failing in an area it could actually lead to less plurality.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised benefits by 'main affected groups'

The regulatory regime would continue in its current form, with current constraints remaining in place, and with no new benefits accruing to local media organisations.

Other key non-monetised benefits by 'main affected groups'

Retaining current media ownership rules protects plurality, preventing a single voice dominating across all media in a particular area. This ensures that citizens have access to a variety of sources of news, information and opinion, and helps to protect democracy.

Key assumptions/sensitivities/risks **Discount rate (%)**

Without any relaxation of existing cross-media ownership rules, opportunities for local media companies to develop new cross-media market opportunities are limited.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB:	AB savings:	Net:	Policy cost savings:	Yes/No

Summary: Analysis and Evidence

Policy Option 2

Description:

Remove two of the three cross-media rules, the local radio ownership rules and the national radio multiplex rules

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups'

Firms wishing to merge due to the relaxation will experience the normal costs that a merger entails (e.g. legal costs, redundancy). However, as this is a deregulatory measure it does not place a requirement on any firm to merge so these costs are not being imposed. As such, these costs are not included here. Ofcom's August 2010 report, 'Local Media – cross media ownership rules' cited evidence from Oliver & Ohlbaum which found that if 'it occurs, cross media consolidation is most likely between press and radio' but that 'in the short term, evidence from discussions with industry stakeholders indicates there is little immediate commercial appetite to consolidate across all three media'.

Other key non-monetised costs by 'main affected groups'

Removing ownership rules increases the risk of reduction of plurality in the media because it allows greater concentration of ownership. However, overarching competition law and retaining the public interest test mean this risk is small. Partial deregulation still prevents some consolidation which could sustain plurality but there are no clear costs on affected groups as a result of partial deregulation.

Removal of these rules could lead to certain additional mergers in respect of which there may be a need to consider intervention on public interest grounds. This may result in an associated administrative burden for the Secretary of State. However, it is difficult to predict the number of additional cases that may arise or whether or not public interest intervention might, in fact, be appropriate in any such merger.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

It is very difficult to quantify the monetised benefits of removal. Ofcom and Government's rationale lies in non-monetised benefits - a barrier to consolidation will be removed enabling the market to diversify its business plans and sustain delivery of local media content.

Other key non-monetised benefits by 'main affected groups'

Partial deregulation of the restrictions on ownership of local media will enable businesses to be sustained and developed, taking advantage of benefits such as shared costs and cross-fertilisation of demand through mergers or cross media start-ups. Deregulation here is creating an opportunity for firms but it is very difficult to quantify such benefits as it is not possible to estimate the extent to which firms will take up this opportunity. However, this partial deregulation will not enable the full potential benefits of consolidation experienced under option 3.

Key assumptions/sensitivities/risks **Discount rate (%)**

This option entails a significant relaxation of restrictions on media ownership, both across local media forms and within radio (local stations and national multiplexes). This will enable firms under financial pressure to consolidate ownership, sharing costs to remain viable businesses.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB:	AB savings:	Net:	Policy cost savings:	Yes/No

Summary: Analysis and Evidence

Policy Option 3

Description:

Remove all three cross-media ownership rules, the local radio ownership rules and the national radio multiplex rules

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups'

Firms wishing to merge due to the relaxation will experience the normal costs that a merger entails (e.g. legal costs, redundancy). However, as this is a deregulatory measure it does not place a requirement on any firm to merge so these costs are not being imposed. As such, these costs are not included here.

Other key non-monetised costs by 'main affected groups'

Deregulation could potentially lead to an increased use of the public interest test with an associated administrative burden for Government. However, it is difficult to quantify the potential number of cases and how many of these would have been referred anyway under the existing national competition regime.

Removal of these rules could lead to certain additional mergers in respect of which there may be a need to consider intervention on public interest grounds. This may result in an associated administrative burden for the Secretary of State. However, it is difficult to predict the number of additional cases that may arise or whether or not public interest intervention might, in fact, be appropriate in any such merger.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

It is very difficult to quantify the monetised benefits of removal. Ofcom and Government's rationale lies in non-monetised benefits - a barrier to consolidation will be removed enabling the market to diversify its business plans and sustain delivery of local media content.

Other key non-monetised benefits by 'main affected groups'

Deregulating all of the restrictions on ownership of local media will enable businesses to be sustained and developed. A stronger local media will have the flexibility to respond to market pressures and local audiences, thereby encouraging civic engagement and local democracy. Deregulation here is creating an opportunity for firms but it is very difficult to quantify such benefits as it is not possible to estimate the extent to which firms will take up this opportunity. The Government's policy focus on local media and local television could have the potential to have a positive impact on plurality and diversity of news and information at the local level.

Key assumptions/sensitivities/risks **Discount rate (%)**

This option entails a more significant relaxation of restrictions on media ownership, both across local media forms and within radio. The benefits outlined for option 2 would be of a greater magnitude, i.e. greater opportunity for firms to merge across media types, supporting a more flexible and dynamic industry but at the same time a greater risk to plurality. Ofcom expressed the opinion that there was currently little appetite for merger across all three media. This may mean the potential additional costs beyond option 2 are unlikely to arise, although it also means the potential benefits may not arise either. Given Option 3 has the potential to bring most benefits; the government considers that there is no case for keeping any of the current restrictions and that full deregulation is preferred.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB:	AB savings:	Net:	Policy cost savings:	Yes/No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom /Isle of Man		
From what date will the policy be implemented?			From commencement		
Which organisation(s) will enforce the policy?			None		
What is the annual change in enforcement cost (£m)?			None		
Does enforcement comply with Hampton principles?			N/A		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:**	**Benefits:**	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	**Micro** None	**< 20** None	**Small** None	**Medium** None	**Large** None
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	Impact	Page ref within IA
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	15
Small firms Small Firms Impact Test guidance	No	15
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	The Coalition: our programme for government "We will enable partnerships between local newspapers, radio and television stations to promote a strong and diverse local media industry." (Page 14) http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf
2	DCMS Structural Reform Plan 15 July 2010: Departmental Priority No 2: Boost the Big Society/Relax rules on local cross-media ownership http://www.culture.gov.uk/publications/7246.aspx
3	Secretary of State Speech 8 June 2010 http://www.culture.gov.uk/news/ministers_speeches/7132.aspx
4	Ofcom: Report to the Secretary of State (Culture, Media and Sport) on the Media Ownership Rules 17 November 2009 http://stakeholders.ofcom.org.uk/binaries/consultations/morr/statement/morrstatement.pdf)
5	Ofcom: Letter of 29 July 2010 to the Secretary of State on cross media ownership rules http://stakeholders.ofcom.org.uk/consultations/morr/response-local-media/
6	Secretary of State's Speech to Royal Television Society 28 September 2010 http://www.culture.gov.uk/news/news_stories/7450.aspx
7	Ofcom: Response to the Secretary of State (Culture, Olympics, Media and Sport): Local Media cross media ownership rules. 9 August 2010 http://stakeholders.ofcom.org.uk/binaries/consultations/morr/response-local-media/Local_Media_Final_Document.pdf

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Problem under consideration

1. Media ownership rules (for television, radio and newspapers) place limitations on the concentration of ownership within commercial media to protect access to a plurality of views and information. Plurality is an essential part of a democratic society and of a healthy media sector. However, securing plurality through controls on ownership inevitably has an impact on the operation of the market. Rules are by their very nature fixed and we have always recognised that they do not easily reflect the changing nature of the media markets or of consumer behaviour. Therefore, it is important to keep these rules under review and, where appropriate, strike the balance between the protection of plurality and securing a healthy and competitive media market.

2. The current media ownership rules were established by the Communications Act 2003 and the subsequent "The Media Ownership (Local Radio and Appointed News Provider) Order 2003". The media ownership rules govern the ownership of television, radio and newspapers. The aim of these rules is to help protect plurality, allowing citizens access to a variety of sources of news, information and opinion.

3. The Communications Act requires Ofcom to review the media rules at least every three years. Ofcom consulted during 2009 (the "Media Ownership Rules Review" was published on 31 July 2009) and reported the results of the consultation and made recommendations to the Secretary of State on 17 November 2009 (Ofcom's report can be accessed at: http://stakeholders.ofcom.org.uk/binaries/consultations/morr/statement/morrstatement.pdf).

4. As well as recommending the removal of the national radio multiplex rule, Ofcom recommended the removal of a number of local media ownership rules:

a. Removing the local radio service ownership rules and the local radio multiplex ownership rules. This will repeal the restrictions on the ownership of local sound broadcast (local analogue radio) licences and the ownership of local digital sound programme (local digital radio) services and local digital multiplexes.

b. Liberalising the local cross media ownership rules by removal of

(i) the rule preventing ownership of a regional Channel 3 licence and one or more local newspapers that have a market share of more than 20% in the coverage area of the Channel 3 licence and

(ii) the rule preventing ownership of a local radio licences(s) with more than 45% of the radio points in the radio coverage area and one or more local newspapers with 50% or more of the local market share in the radio coverage area or the regional Channel 3 licence where at least 50% of the potential audience of the radio licence reside in the Channel 3 coverage area.

5. The Secretary of State has accepted these recommendations.

6. At the same time Ofcom recommended retention of the local cross-media rule which prevents one person from owning a local radio licence and a local newspaper(s) with a market share of more than 50% and the regional Channel 3 licence. The reason Ofcom recommended retention of one of the three rules was that ' combined ownership of the Channel 3 television licence, a local commercial radio station and the main local newspaper(s) may confer too much control over the local news agenda into the hands of one person or company. Limited plurality of news and opinion in a local area could restrict local debate and accountability', Ofcom also said that 'consumers still rely on television, radio and press for local news and the Remaining Rule plays a role in providing some protection for plurality'.

7. While the rationale is logical there is no clear evidence that partial liberalisation of the rules has any clear benefit over full liberalisation. Similarly, Ofcom's August 2010 paper acknowledges that even if the rules were relaxed, there was 'little immediate commercial appetite to consolidate across all three media'.

Therefore, a conclusion may be drawn that these rules are unnecessary and exist as a regulatory barrier that could, in the long term, have a potentially greater harmful impact on plurality by preventing consolidation. Local media businesses that are unable to consolidate may find that they become commercially unsustainable. Removal would allow the market to move swiftly to address failing business models operating in a market that is increasingly converging and reaching audiences through digital opportunities.

8. Ofcom's initial rationale was that partial liberalisation might be safer than full removal of the rules at this time. However, the data available do not necessarily support this as a better option over doing nothing at all or fully deregulating. Therefore, the Secretary of State asked Ofcom to reconsider this recommendation in June 2010. Ofcom responded to the Secretary of State on 29 July 2010 and published their response on 9 August. The response can be accessed at: http://stakeholders.ofcom.org.uk/consultations/morr/response-local-media/

9. Ofcom found that conditions in the market at the local level had deteriorated further and that although the change was not significant enough to change their 2009 recommendation, they would now neither recommend removal nor retention of the rule, instead saying this was a "matter of judgement" for the Secretary of State. Specifically, Ofcom cited:

- "A significant deterioration in the revenues available for local / regional newspapers between 2008 and 2009, accompanied by continued structural pressure on television and radio as the internet increases its share in a total advertising market that has been under pressure from broader economic circumstances. While there are signs of a recovery in the general advertising market this year, as we noted in our original report, these structural challenges are unlikely to ease."
- "That Government policy in relation to local media has changed significantly since we published our original recommendations. The Government has placed emphasis on local media, in particular making proposals for local television, which have the potential to have a positive impact on both the diversity and plurality of news and information at the local level. Although this remains in development, and is therefore speculative at this stage, it is clearly a relevant development"

Accordingly the Secretary of State's judgement is that full deregulation is more in line with the Government's general philosophy of cutting back the role of the state and removing unnecessary regulation.

<u>National rules</u>

10. In its November 2009 report to the Secretary of State, Ofcom did not recommend changes to:

- The national cross media ownership rules which restrict cross ownership of Channel 3 and national newspapers, as they both remain significant sources of news.
- Ownership restrictions which apply to television and radio broadcasting licences to guard against undue influence, as these media can still influence society.
- The appointed news provider rule which helps ensure national and international news on Channel 3 is independent of the BBC and adequately funded, as Channel 3 remains the most watched alternative source of broadcast news after the BBC.
- The media public interest test which continues to provide a backstop for Government to intervene to prevent media mergers on public interest grounds, including for the protection of plurality, as Parliament’s original rationale is unaffected.

11. The Government does not propose to make any changes to these national rules or the public interest test. Ofcom's report concluded that was little current evidence of change since Parliament put in place media ownership rules that affect the operation of these rules. The Government agrees that the existing regulatory protections should remain in place at the national level given the importance of plurality and scope of impact to the public interest as a result of unfettered consolidation.

<u>Rationale for intervention</u>

12. The Government believes that a vibrant cultural, media and sporting sector is crucial to well-being and quality of life, and that there is a need to promote excellence in these fields. Ofcom's review of the cross-media rules suggested that many local media businesses were operating under increasingly difficult market conditions as a result in structural changes in the advertising market.

13. Government plans to roll out ‘Big Society’ localism, moving power from the centre to local areas and boosting communities’ powers of self-determination. To ensure this power is used responsibly requires an equal boost to the ability of local ‘civil society’ to scrutinise local Government and hold it to account.

14. Developing local television and removing restrictions on the ownership of local cross-media are key priorities for the Secretary of State and are included in the DCMS Structural Reform Plan, under Departmental Priority 2: Boosting the Big Society, to “foster the development of a new breed of strong local media groups, by removing local cross-media ownership rules to encourage Local TV"Local media is seen as having capacity to hold local institutions to public account, and build an effective and stable society. This makes Government’s commitment to a thriving local media environment central to civil society and local democracy. Removal of the rules will enable local media to develop business models beyond the boundaries of their traditional sectors. This reflects the changing nature of media in the UK where the provision of content stretches across a number of platforms. The Government believes that one of the barriers preventing commercially sustainable local television to emerge in the UK is the restrictions around media ownership. With the removal of these rules, which are no longer necessary, local media companies will be free to affiliate to develop cost effective local television service models benefiting from syndication of resources, journalists and technical expertise.

15. In their November 2009 report to the Secretary of State, Ofcom noted that, since 2003, there has been a significant growth in digital media, with consumers now accessing news content across a variety of digital platforms. The most significant change is in broadband take-up. Across the UK, take-up has increased from 4% in 2003, when the current rules were enacted, to 68% in early 2009.

16. The internet is a growing source of news and gives its users new ways to access and engage with news content. However, despite the increased choice of platforms and content, consumer behaviours have not changed as quickly as might have been expected. Radio, television and newspapers remain important sources of news for consumers.

17. Television remains by far the most popular medium for UK news, with 74% of people in the UK using it as their main source of UK news. There are indications that television may have become even more important over recent years. Newspapers, radio and the internet are considered to be the main source of UK news by a broadly similar number of consumers (8%, 7% and 6% respectively).

18. In July 2010, Ofcom reported that for local news and information, the main sources remain television (49%), newspapers (22%, down 2% since the first quarter of 2009) and radio (11%, down 1% since 2009). By comparison the internet is used by 5% as a main source of local news (up 1% since 2009).

19. Ofcom also noted that while consumption through traditional platforms remains important, structural changes are underway in the newspaper, television and radio industries. They stem from both emerging changes in consumer behaviour, and the arrival of new competition for audiences and advertising revenue arising from the growth of digital platforms.

20. These changes create opportunities for businesses but they also create challenges. The recession heightens these challenges as the overall amount of money spent on advertising has fallen significantly. Meanwhile, online advertising is taking an increasing share of the remaining revenues. With the exception of the internet, which is increasing its share in the total advertising market, advertising revenues are declining in all media, from £14.8bn in 2003 to a peak of £17.1bn 2007 to £14.5bn in 2009 (source: Advertising Association). Advertising Association forecasts suggest that local press advertising revenues may continue to fall this year and into 2011.

21. National newspaper circulation figures have been slowly declining for a number of years. The current economic environment adds to the pressure on newspaper businesses as it also affects advertising revenues.

22. Commercial radio is also challenged by these trends. The most pessimistic forecasts suggested that commercial radio’s revenues could decline by 20% during 2009. There have also been trends towards consolidation in radio since Ofcom's first review of the media ownership rules in 2006, with Global Radio and Bauer emerging as the largest groups.

23. There is a downward trend in the local media space. Local and regional newspapers advertising revenues fell by 5.4% in the second of quarter of 2010 (year-on-year). Local radio is exposed to

imminent reductions in public sector advertising spend, which accounted for 18.9% of local radio revenue in 2009. Removing regulatory barriers to, and encouraging the development of, new business models (e.g. the syndication of operations and filling the local television void) could help address this downward trend.

24. Some of the most significant pressures are being seen in local media. Local and regional newspapers rely more heavily on advertising, particularly classified advertising, than their national counterparts. 54% of local newspapers revenues come from classified advertising revenues (as opposed to 8.8% in case of national newspapers). Data from the Advertising Association shows a significant deterioration in local and regional newspapers' advertising revenues, which fell by over a third between 2007 and 2009, from £2.75 billion to £1.71 billion. In comparison, the fall of advertising revenue among national newspapers fell by about a fifth over the same period. In addition, Advertising Association forecasts suggest local press advertising revenues may continue to fall in 2010 and 2011. Ofcom's analysis also suggests that commercial radio stations serving smaller areas are particularly vulnerable.

Local Radio Ownership Rules

25. The local radio ownership rules, or 2+1 rules as they are often called, require that in a given market there is provision of at least two radio services with different owners and the BBC. These rules, which were introduced following the Communications Act 2003, have already permitted significant consolidation within the radio industry, most significantly the merger which formed Global Radio. In practice the current rules would not prevent further consolidation in some local markets; however, these are likely not to be substantial.

26. The revenues of the commercial radio sector have fallen considerably in the last decade, from a high of £750 million in 2000 to around than £500 million in 2009. To reflect the financial pressures of the local commercial radio sector the government introduced changes in the localness regime in the Digital Economy Act 2010 to promote greater economies of scale by allowing station owners to reduce their fixed costs. We believe that removing the local radio ownership rules is an extension of the government's policy to promote greater efficiencies which will in the long term deliver a healthy and more sustainable local media market.

27. While removing the ownership is likely to result in a greater concentration of ownership in some markets, the BBC's Nations and regions and community radio services will continue and will ensure a plurality of voice. We also note that Ofcom's research suggested a majority of consumers are not concerned about single ownership within local commercial radio. In their 2009 consultation document, Ofcom set out findings that 67% of adults felt that local cross media ownership of television, newspapers and radio would not matter as long as they retained at least one of the following (a) a choice of national media; and (b) alternative sources from the BBC or (c) local news and information online.

National Radio Multiplex Rules

28. The national radio multiplex rules prohibit any one person from owning more than one national DAB multiplex. (Multiplexing is a process where multiple analogue message signals or digital data streams are combined into one signal over one communication line. The aim is to share an expensive resource. Demultiplexing extracts the original channels on the receiver side.)

29. The government has set out its commitment to securing a digital future for radio, including a possible digital radio switchover in 2015. A key benefit of digital radio is that it provides far greater capacity for commercial national radio services, which in turn provide listeners with greater choice. While there is currently only one national commercial radio multiplex we believe removing these rules will make it more likely that a second could be licensed in the future. We note that any competition issues caused by single ownership of the national digital radio platforms could be addressed through competition law and the existing regulation, which requires fair and effective competition.

Local cross-media rules

30. The cross-media ownership rules currently prohibit the single ownership of multiple local media organisations; TV, newspapers and radio. We believe that allowing greater consolidation across media markets, such as joint ownership of local newspapers and radio stations, will provide a significant

flexibility for local media businesses. Of course we acknowledge the counter-argument that consumer behaviour has not significantly changed and that TV, newspapers and radio remain the most used and trusted sources of news.

31. However, the local media industry is under pressure, as a result of falling revenues (as evidenced in paragraphs 19 to 27 above), and appropriate consolidation could allow for a stronger local media sector in the future. In fact the greatest synergies exist between local press and radio.

32. On balance we believe that a strong local media sector which can invest in new content and in high quality news provision is essential.

Summary of Responses to Ofcom's 2009 Consultation

33. The majority of respondents to the consultation (eight out of 14) supported removal of the cross-media ownership rules, to the extent recommended by Ofcom. Two of the eight respondents advocated complete liberalisation of the local cross media ownership rules. Three respondents argued against liberalisation because of concerns about the implications for local media plurality.

34. The majority of responses that commented on local radio service ownership rules supported removal of the rules arguing that to do so might afford some stations the chance of making costs savings. One response was against, suggesting that removing the rules would mean insufficient guarantees of plurality, and argued that there is no evidence that the rules are challenging the sector's viability or are disproportionate. Other responses agreed that removing the rules might afford some stations the chance of making cost savings.

35. Most of the responses (5 out of 6) on the national radio multiplex rules supported the removal of the prohibition on one than more person owning more than one national DAB multiplex.

36. Since the Secretary of State announced in September 2010 that he is minded to pursue full deregulation, he has not received any objections from interested parties.

Culture, Media and Sport (CMS) Select Committee

37. The CMS Select Committee produced a report "Future for local and regional media" in March 2010. (http://www.publications.parliament.uk/pa/cm200910/cmselect/cmcumeds/43/43i.pdf)

38. The Committee decided to launch an inquiry to examine the local media landscape in the UK since "We were aware of reports from within local media that there were significant challenges being faced by the industry, brought about by structural changes and the impact of a global recession."

39. One of its main findings was that:

> "The evidence we heard from local media groups about the need to modify the merger regime and cross-media ownership rules is persuasive. We welcome the recommendations made by Ofcom .... and urge the Government to implement them. However, we believe more far reaching reform is needed. In order for local newspapers to survive in a changing economic and technological world, they need to be regarded as competitors in a multi-media landscape." (Paragraph 57)

40. In addition, the Committee stated:

> "We note the impact that structural and cyclical factors have had on local newspapers. The economic downturn is beginning to show signs of recovery, but the impact of the growth and popularity of the internet on local newspaper purchasing and advertising revenues does not look set to reverse. We conclude that in order to maintain the independence of local media it is not appropriate for the state to subsidise it. It is therefore vital for local newspaper publishers to innovate to survive, for instance by continuing to develop websites and utilise internet technologies.
>
> We acknowledge the concerns of local newspaper publishers about the current merger regime. Publishers have told us that the current system prevents consolidation, which they argue is

necessary for their survival. We conclude that the current regime does need to be re-examined by the Government." (Summary)

41. In its conclusions and recommendations, the Committee said:

"The situation with regional news on Channel 3 is in danger of reaching a crisis point that could jeopardise the plurality of regional television news. To protect this, a way of ensuring the continuation of a regional news service on Channel 3 needs to be found, offering an additional and alternative service to that provided by the BBC." (Paragraph 15)

"Striking the right level of localness in the local commercial radio sector is the key to its sustainability. In order to survive, commercial radio stations need to profit from their advertising revenue which will be spread too thinly if there are too many stations in an area or region. The local content of commercial radio is one of its most important attributes." (Paragraph 26)

Policy objective

42. The policy objective is to remove the local radio service ownership rules and the local and national radio multiplex ownership rules; liberalise the local cross media and ownership rules including the ability for one person to own all three of a regional Channel 3 licence, a local newspaper(s) and a local radio licence(s).

43. Removal of the cross media ownership rules will encourage local television and other media services to emerge from existing local media and will contribute towards fostering the development of a new breed of strong local media groups. Liberalisation of the rules will mean that television, newspapers and radio owners will be able to start to re-think business models across platforms rather than in their own linear markets and will contribute towards increasing the likelihood that these business sectors will continue to be viable.

44. The Secretary of State has decided to proceed with full deregulation by removing the final cross media rule (that prevents cross-media ownership by one person owning a local radio licence and a local newspaper, with a market share of 50%, and the regional Channel 3 licence) since local media continues to face significant pressure

45. Local media businesses are operating in increasingly difficult market conditions: it does not help plurality if local media businesses are forced to close. There are also other protections which exist to protect plurality beyond the cross-media ownership rules, i.e. the general competition rules and the public interest test applying to media mergers which protects against undue market dominance and secures plurality. While these additional rules exist to prevent anti-competitive behaviour, by virtue of the nature of those rules, anti competitive behaviour can impact on plurality and the public interest. A cornerstone of plurality is the combination of the BBC and the commercial sector. The BBC will continue to offer an alternative source of news: with a BBC service (television at the regional level, radio and web based services more locally) there is a guarantee of a minimum of at least two providers of local news.

46. The Government's policy focus on local media and local television could have the potential to have a positive impact on plurality and diversity of news and information at the local level. Combined with the removal of the remaining rule on ownership of all three types of media, this could help sustain plurality.

Description of options considered (including do nothing)

47. Option 1: Doing nothing would mean that the potential benefits of liberalising media ownership rules would not be realised. Without secondary legislation it will not be possible to remove cross-media ownnership rules.

48. Option 2: Accepting Ofcom's two main recommendations of (i) removing restrictions on ownership of local radio licences and (ii) removing the rule preventing ownership of a regional Channel 3 licence and local newspaper(s) or a local radio licence and a local newspaper/or a Channel 3 licence. This option does not include removal on the restriction of all three types of media.

49. Option 3: The preferred option is to accept Ofcom recommendations and, in addition, proceed with

full deregulation by removing restrictions on ownership by one person of a local radio licence(s), local newspaper(s) and a regional Channel 3 licence. This is the preferred option since it will enable media businesses to develop new business models and provide the freedom to expand, innovate and invest across the media sectors.

Costs and benefits of each option

Option 1: Do nothing

50. Retaining the current media ownership rules will continue to restrict cross-media ownership and consolidation of local radio and national radio multiplexes. This will prevent firms taking advantage of potential benefits such as shared costs and cross-fertilisation of demand through mergers or cross-media start-ups. Structural changes to the advertising market (as outlined in the "Rationale for intervention" section above and evidenced in paragraphs 19 to 27) mean that local media, in particular local newspapers, are likely to continue to come under pressure, needing to cut costs and stimulate demand. The inability to merge with other firms and share costs removes one possible way of relieving this pressure.

51. The advantage of retaining the current media ownership rules is that it protects plurality, preventing a single voice dominating across all media in a particular area. This ensures that citizens have access to a variety of sources of news, information and opinion, and helps to protect democracy. However, given current trends in local media it may be that rules preventing consolidation could lead to firms failing when a new ownership regime could have supported them. If this results in, for example, all local papers in an area failing it could actually lead to less plurality.

Option 2: Remove two of the three cross-media rules, the local radio ownership rules and the national radio multiplex rules

52. This option entails a significant relaxation of restrictions on media ownership, both across local media forms and within radio (local stations and national multiplexes). This will enable firms under financial pressure to consolidate ownership, sharing costs to remain viable businesses. This in intended to create a stronger local media which will have the flexibility to respond to market pressures and local audiences, thereby encouraging civic engagement and local democracy. However, it will not go as far as option 3 as it will still include a restriction on owning all three types of media in a local area. Those firms wishing to merge due to the relaxation will experience the normal costs that a merger entails such as legal costs, redundancy for obsolete employees, etc. However, as this is a deregulatory measure it does not place a requirement on any firm to merge so these costs are not being imposed, and it is very difficult to estimate how many firms might engage in such a merger. As such, these costs are not estimated here.

53. Removing ownership rules as set out above could put plurality at risk by concentrating ownership of local media outlets and organisations. This could lead to limitation of the diversity of editorial content, news and views being put forward by local media. However, removal of these rules does not necessarily lead to a loss of plurality. Preventing consolidation could lead to existing local media businesses failing when a new ownership regime could have supported them. This will potentially be even more the case as technology - the internet in particular - develops. It will be far better to have some local media than none at all. Ofcom's original recommendation in November 2009 suggested that relaxing two out of three cross ownership rules would not lead to a substantial loss of plurality but that relaxing all three could confer too much control over the local news agenda into the hands of one person or company. When the issue was revisited in August 2010 Ofcom concluded that this risk still existed but that the deterioration in revenues for local newspapers, added Government emphasis on local media, and existence of separate protections such as competition law and the public interest test meant that the issue was now a judgement call for the Secretary of State and did not offer a recommendation either way.

54. The Secretary of State's judgement is that partial liberalisation creates market uncertainty and removing unnecessary regularity barriers has greater benefits in terms of sustaining local media than only partial liberalisation or doing nothing at all.

Option 3: Remove all three cross-media rules, the local radio ownership rules and the national radio multiplex rules

55. This option entails a more significant relaxation of restrictions on media ownership, both across local media forms and within radio (local stations and national multiplexes). The benefits and costs outlined above for option 2 would be mainly the same but of a greater magnitude, i.e. greater opportunity for firms to merge across media types, supporting a more flexible and dynamic industry but at the same time a greater risk to plurality. However, it should be noted that the existence of separate protections such as existing competition law and the public interest test will still be in place to protect plurality, and although in theory the risk of loss of plurality may be higher than in option 2 the effectiveness of these protections is not diminished at all. It should also be noted that in Ofcom's recommendation they expressed the opinion that there was currently little appetite for this type of merger across all three media. This may mean the potential additional costs beyond option 2 are unlikely to arise, although it also means the potential benefits may not arise either.

<u>Risks and assumptions</u>

56. While removal of all the cross-media ownership rules will help in enabling consolidation at the local level to respond to pressures in the market and remove a layer of regulation, there is a risk this may confer too much control into the hands of one person with a resultant impact on local debate and accountability. However, Ofcom advise that there is currently very limited interest in this type of consolidation. In their July 2010 report to the Secretary of State (paragraph 2.22) they say that "...in the short term, evidence from discussions with industry stakeholders indicates that there is little immediate commercial appetite to consolidate across all three media". This may mean the potential additional costs beyond option 2 are unlikely to arise, although it also means the potential benefits may not arise either.

57. Moreover, the local media ownership rules have always been in addition to general competition rules, which are intended to promote effective and fair competition. Even with the removal of the local media ownership rules any mergers would be subject to normal competition considerations and the public interest test. The media public interest considerations include the need to ensure the accurate presentation of news, free expression of opinion and plurality.

58. Some have argued that concentration of ownership risks the provision of journalism. The Media Trust say that the top 20 regional press publishers account for 87% of all regional and local newspaper titles in the UK with the vast majority of those owned by the five largest newspaper groups. The Media Trust argues that this concentration that has happened over the last decade subdues competition.

59. However, it is fair to say that such consolidation has not actually been prevented by the existence of the local cross-media ownership rules. This consolidation has occurred through market forces and to respond to the changing economic climate and structural change occurring in the media marketplace. There has not been any obvious damage to plurality through these changes in ownership.

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<u>Size and Nature of the Sector</u>

61. The UK's local and regional media sector includes approximately 1300 regional and local newspaper titles (read by 40 million adults each week), 350 BBC, commercial local and regional radio services, regional television news bulletins delivered by both publicly-funded and commercial providers, an embryonic local television sector and a range of local commercial, public and community-based media. There are also at an estimated 1200 websites, estimated to reach at least 20 million adults. While online readership of local newspaper websites is rising, physical circulation is experiencing a year

on year decline in the region of 5.2 per cent. Some local newspapers are closing with many more forced to make job cuts.

62. A key feature of local media is its diversity, with many organisations operating in the sector. There are 87 regional and local newspaper publishers listed by the Newspaper Society as at January 2009 (excluding non-members and publishers which only produce daily free newspapers) and 76 commercial local radio operators, operating 304 services, in addition to the 135 community radio providers broadcasting. However, few providers operate across platforms, with most concentrating on a single medium.

63. Radio operators fall into three broad categories: publicly-funded radio, commercial radio and the community and voluntary radio sector - from well-established student and hospital radio to the most recently licensed community radio stations. The industry has been growing steadily in recent years and now employs over 22,000 people (more than terrestrial TV) in a wide range of occupations. Employers range in size from the BBC and larger commercial radio groups to not-for-profit community radio stations run mainly by volunteers. (Source: Skillset)

64. The UK television industry is dominated by the major broadcasters, plus a much larger number of less well-known broadcasters and production companies. There are nine terrestrial broadcasters, whose output is broadcast through land-based transmitters, e.g. BBC, ITV, Channel 4, Five, S4C, SMG and UTV. There are also around 300 cable and satellite broadcasters. This sub-sector is dominated by major international players, including BSkyB, Virgin Media, Discovery, Disney and Viacom, but there are also a large number of niche broadcasters catering for a wide variety of audiences and interests. Catering to local interests is a growing number of community TV companies

Competition Impact

65. The proposed de-regulation does not have an impact on the competitive nature of the market(s) since it does not advantage or disadvantage any one individual or organisation over the other. Since the de-regulation is open to all existing and possible new entrants there is no obvious impact, negative or positive, on the competitive nature of the markets. While it is true in some instances the removal of the rules might create merger situations, which in themselves might trigger a competition assessment, this is how the market should operate and the rules in themselves do not prohibit such an assessment.

Small Firms Impact

66. The types of organisation delivering local media are varied and widespread, ranging from public limited companies, private companies, media trusts, local government and the BBC to a range of community groups and individuals. In many cases local media organisations, specifically radio and newspapers, are small sized companies employing less than 50 people. However, this is not so in the case of regional TV licences which are held by ITV.

67. Costs will not fall disproportionately on small firms since this is a deregulatory measure.

Administrative burden and policy savings calculations

68. This is a deregulatory measure which will reduce administrative burdens on both the regulator, Ofcom, and those businesses that are currently subject to the regulations. It is anticipated that there will be minimal administrative burden implications. The proposal to liberalise cross-media ownership rules has been well trailed, for example, Ofcom's consultation and report in 2009; the Secretary of State 's first major speech to the media on 8 June 2010 at the Hospital Club, London and his speech to the Royal Television Society at the Barbican 28 September 2010. This will provide the affected sectors sufficient time to prepare for, and mitigate any issues or risks.

69. Full removal of the local cross media ownership rules may result in mergers taking place in which the Secretary of State may be called upon to intervene on public interest grounds. Considering the case for making such interventions may have certain resource implications for Government and associated burdens on merging parties may arise if such interventions are made. However, it is likely that any mergers occurring in major conurbations would always have fallen within the remit of the existing national competition regime regardless of the removal of these rules. A certain degree of divestment

could have allowed businesses wishing to merge, to do so, in accordance with the local cross media ownership rules. The actual resource burdens involved would depend on the number of cross media mergers that take place additionally and on whether or not the Secretary of State actually intervened. Government takes the view that the benefits of removing these rules are greater than the risks associated with the potential need to consider and possibly intervene in any such additional mergers that might arise.

Wider impacts

70. The national cross media ownership rules are not being removed since these restrict cross ownership of a Channel 3 licence and one or more national newspapers. Parliament put these rules in place to prevent individuals from securing too great a share of the national media voice. The Secretary of State has accepted Ofcom's recommendation that there has been insufficient change in national media to mean current ownership rules are no longer appropriate.

Channel Islands and the Isle of Man

71. Various parts of the UK's broadcasting legislation have been extended to the Channel Islands and the Isle of Man. The Islands have adopted Schedule 14 ("Media Ownership Rules") of the Communications Act 2003, which is the legislation under which the cross-media ownership Order is being made, and which our Order is amending (as well as the 2003 Order which was also made under that Schedule).

72. However, in order that the legislation best meets each Island's particular circumstances, each has adopted Schedule 14 with some modifications: this means the legislation is slightly different in each Island from that in the UK.

- Channel Islands

73. The modifications with which the Channel Islands adopted the Schedule are such that the UK is precluded from amending, repealing or preparing legislation under the Schedule as it applies to the Channel Islands. The power to amend, repeal or legislate under the Schedule has been given to the Channel Islands authorities. It is for the Channel Islands to modify or repeal Schedule 14 and to prepare secondary legislation under that Schedule. For this reason, the Order will not apply to the Channel Islands.

- Isle of Man

74. Although with regard to the Isle of Man there are some modifications to Schedule 14 for the purposes of its application there, these do not preclude the UK from amending or repealing the legislation there. The power to amend or repeal Schedule 14 as it applies in the Isle of Man remains with the UK. The Isle of Man has therefore asked us to ensure that the changes we are making to Schedule 14 also affect Schedule 14 as it applies to the Isle of Man.

75. Specifically, the Order will effect the following changes to the Isle of Man's media ownership framework:

- Removal of the prohibition on a person holding a licence to provide a Channel 3 service where that person owns a local newspaper/local newspapers with a local market share of 20% or more in the coverage area of the Channel 3 service;

- Removal of the prohibition on holding more than one national radio multiplex licence at the same time;

- Removal of the rules about connected persons in relation to licences to provide radio multiplex services;

- Removal of paragraph 10 of the Schedule, which contains the power for the Secretary of State to repeal or otherwise modify any of the restrictions contained in Part 2 of the Schedule;

- The consequential amendments, with the exception of the amendments to paragraph 13(4) of Schedule 14 and to the 2003 Order (because neither paragraph 13(4) of Schedule 14 nor the 2003 Order are in force in the Isle of Man and so it is not necessary to extend any changes to them there).

Summary and preferred option with description of implementation plan

76. The order will remove the local cross-media ownership rules to allow greater consolidation of local media companies and to promote more sustainable business models through potentially greater economies of scale. Proceeding with full deregulation by removing the rules will mean local television, newspaper and radio owners will be able to start to re-think business models across platforms rather than in their own linear markets.

77. Once the existing cross-media ownership rules have been removed media organisations will be free to behave naturally in response to market conditions and in accordance with their own commercial decisions. The review to be conducted one year after the cross-media ownership rules have been removed will assess the impact the de-regulation has had on plurality and on the local media market.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; The Government is comitted to reviewing the position a year after the cross-media ownership rules have been liberalised.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To assess the impact of the de-regulation of cross media ownership rules on the local media industry.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The review will be carried out a year after the cross-media owner rules have been removed and will use existing data sources e.g. Ofcom's annual communications report.
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The current structure and position of the local crosss-media sector (as discussed in the evidence base of this impact assessment).
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] The effect that the de-regulation has had on plurality (the extent of diversity of voice and opinion being offered by local media) and on the market (e.g. new investments, consolidation) and the impact of removing burdens from the industry.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] Ofcom produces a range of annual market and consumer reports. The Communications Market report is Ofcom's annual statistical survey of developments in the communications sector. There are also quarterly updates setting out the latest public facts and figures. The latest report "The Communications Market 2010" can be accessed at: http://stakeholders.ofcom.org.uk/market-data-research/tv-research/dtv/
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] N/A

Add annexes here.