

Jurisdictional Review of plurality policies, guidelines, practices and rules.

Prepared on behalf of the Broadcasting Authority of Ireland (BAI)

Deirdre Kevin, Commsol Ltd

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Executive Summary

The aim of this report is to support the current research activities being carried out by the Broadcasting Authority of Ireland in order to inform its media plurality policy. The report is intended to provide the BAI with a jurisdictional review to examine *inter alia* plurality policies, guidelines, practices and/or rules in other EU countries implemented to support and/or ensure plurality and diversity in the media sector, and research and case studies carried out by EU and other regulatory institutions and agencies with a particular focus on key developments, critical issues and emerging trends in this policy area.

From the outset, it should be noted that regulatory authorities in most countries do not present an overview or documentation that comprehensively outlines their policy with regard to media pluralism/plurality/diversity. The issue of media plurality touches on a wide range of legislative acts, regulatory approaches and policy issues. These include media ownership rules and regulations, the process of licensing of broadcasters, the approach to media mergers within the competition regime, and a range of funding activities. Hence, each of these policy areas must be examined in order to complete the full picture of policies, guidelines and practices that contribute to the promotion of media pluralism.

In the course of the review of a range of European research, reports, recommendations and resolutions, several additional policy tools have been brought to the fore and recommended as being vital in the protection and promotion of pluralism. These include the transparency of media ownership, promotion of media literacy, supporting the development of journalism, ensuring the distribution and findability of public interest content, and encouraging and conducting research into consumer behaviour with regard to media content. Several of these represent long-standing recommendations from European institutions, while others represent more recent responses to the major economic and technological changes in the media market which threaten to impact upon media plurality.

Despite the increase in diversity of news sources, there are several areas of concern that have consistently been raised regarding potential threats to plurality of the media in the online environment, including:

- the ways in which people are sourcing news and the impact of news filters, intermediaries and algorithms which can lead to polarisation and to a limitation of exposure to a diversity of viewpoints;
- linked to this is the concern regarding issues of fake news and disinformation;
- the threats to the financial ecosystem of news production due to the loss of income from news payment and from advertising.

[The major trends in European audiovisual and news markets](#)

Current debates regarding media pluralism are responding to the major changes that have occurred in the media markets in recent years – technological, economic and consumer transformations. The report first provides an overview of market developments on the basis of research into media use and consumption, in particular with regard to news and information. This provides a basis for reviewing the debates on issues of concern regarding news, news sources, trust in news, new players in the provision and distribution of news, and the viability of the news markets.

Chapter one outlines the trends in the access to, and use of, news sources indicating the growing importance of access to news online. Much of this online world is not regulated, particularly with regard to the fundamental ethics and standards of journalism. The traditional media who are signatories of codes of ethics presumably bring journalistic standards to their work on the online

world. Media markets are no longer “national” in that significant new players in the news market are global companies. In addition, the delivery of news is now carried out by a range of powerful global companies – search engines, social media and aggregators – such as Facebook and Google, who are outside the national realm of regulation.

Studies on sources of news indicate that the traditional media system still has a significant role to play in the provision of entertainment, information and education with regard to the public. Regarding public perceptions of media diversity and the extent of trust in news sources shows that radio continues to be the most trusted medium in most countries, followed mainly by television and the press. In general, social media is least trusted as a source of news but this varies from country to country.¹

The main providers of news have followed their customers online. As the Reuters News study illustrates either the online sites of news brands or the distribution of news via intermediaries (social media and search engines) is fast becoming the prime means of accessing news, for most age groups but most particularly for young people. Younger groups are much more likely to use social media and digital media as their main source of news, while older groups use traditional media (TV, radio, and print). A third of 18–24s (33%) now say social media are their main source of news – which is more than online news sites (31%) and more than TV news and printed newspapers put together (29%). In terms of gateways to news more than half (54%) of the people surveyed in all countries choose an access that used algorithms to select stories, with 44% choosing an access that implied that editors selected stories.²

The traditional means of measuring market shares of companies does not function in the online world. These issues have also been raised regarding the impact of new players – particularly video-on-demand - on the production of cultural content (films, drama and TV series). The issue of transparency is relevant with regard to the financial and operating data of broadcasters, Pay TV and the new players in the on-demand and online world.

The dynamics of media markets have undergone profound changes. The most significant aspect of this is the growing use of media online. This has had a major impact on the advertising markets in Europe which normally provide a considerable amount of the funding required for the production of content – of programming and also of news. The growing dominance of major technology companies in the online advertising market presents a major concern for the economics of national media sectors, and hence a threat to pluralism – both in terms of cultural diversity and as regards diversity of news sources and opinions. European trends show a rapid increase of the shares of Facebook and Google of the online advertising revenues over the last five years, with most national data estimating this to currently be at least a 50% share (see chapter 1).

The potential impact of these developments on smaller markets is even more worrying, as they often already operate in an environment where they are dominated by foreign companies, and where advertising and other revenues such as Pay TV are being earned by companies who do not necessarily contribute to the plurality of content or news plurality in the country.

Several recent national reports have stressed the urgency of the current threats to their national markets and to media pluralism. The threats to the economic environment for journalism and production of news are described as “urgent” in a recent Norwegian report. A Danish report on the market states that “Danish culture and media policy has never been more challenged than now.” It is worth noting that these concerns are from two of the countries where the public have very high levels

¹ Reuters Institute (2017): [Digital News Report 2017](#).

² Ibid

of trust in the media, where there are high audience shares for public service media, and where people are more likely to pay for online news (see chapter six for more detail).

Consumption, funding and viability of news, access to a diversity of opinions, and the trust in and reliability of information have become central issues in current debates regarding media pluralism. The role of significant new players and types of platforms in the delivery of media content, and specifically news and information, is central to many debates emerging on this issue, which are addressed in this report.

[International policy context](#)

Media pluralism has been the focus of several recent policy documents from the European Union and the Council of Europe (chapter two). They have reiterated the vital importance of media pluralism to a well-functioning democracy. In this context reference is frequently made to the necessary regulatory framework in the areas of media concentration rules, in the adaptation of competition law measures, in ensuring the place of public service media in the new media environment and its role in integrating society, and ensuring PSB is independent and securely financed. The significance of both public service and local media and their respective roles in promoting pluralism and diversity of content remains central to all policy guidelines.

The European Union has also launched several initiatives in this area including the Media Pluralism Monitor designed for member states to assess risks to pluralism. The international focus on issues of media pluralism also reflects the debates and concerns regarding the viability of news markets, access to a diversity of opinions, and the trust in and reliability of information. With regard to the latter, both the Council of Europe and the European Commission have commissioned major reports on the issues of “fake news” or “disinformation” and issued a range of recommendations which will be outlined in the report. They also take on board the concerns regarding the role of significant new players and types of platforms in the delivery of media content.

The most recent recommendation from the Council of Europe on media pluralism provides a range of recommendations which are outlined in the study and focus on five key areas: creating a favourable environment for freedom of expression and media freedom; promoting media pluralism and diversity of media content; regulating of media ownership, control and concentration; ensuring the transparency of media ownership, organisation and financing; and promoting media literacy as a tool to help orientate people in the new digital news environment.

[Overview of media policies in a range of jurisdictions](#)

The concept of media pluralism in the policies of many jurisdictions is chiefly focused on issues of external pluralism (of ownership, of supply of media outlets) and the subsequent impact on political pluralism (plurality of information sources, of views and opinions). This is the case in Austria, France, Germany and the United Kingdom. Cultural pluralism is specifically referenced in working definitions in Ireland and the Netherlands alongside diversity of news and information sources (see chapter four). It should be noted that in all of the countries, the public service remits cover more broadly political and cultural pluralism in relation to programming obligations and remits. Additionally, there are other areas of policy which contribute to cultural pluralism such as programming obligations for commercial media, production quotas and production funding.

Media concentration rules, with specific thresholds regarding market shares – providing a measure of dominance, and thresholds regarding share-holdings in companies – providing a measure of influence, continue to form an important element in plurality policies. This is particularly the case in

Austria, France and Germany. Such limitations do not exist in the Danish regulatory regimes, while ownership rules have over the years been “relaxed” in the Netherlands, Ireland and the United Kingdom. The UK retains a cross media ownership rule, while the Dutch system no longer has any rules on market concentration. In Ireland, there are also no longer any concentration limits, although the recent changes in competition law have introduced a measurement of influence with regard to share-holding in media companies (see chapter five).

Given the continued relevance of traditional media, these systems are still vital for the protection and promotion of pluralism, and continue to be the core elements of media policy recommendations at the international and European level. Several regulators have also confirmed the need to retain these systems (in the UK and in Germany). At the same time, there are many examples of relaxation of media ownership rules – in particular in relation to cross media ownership at the local level, justified by the creation of synergies and economies of scale to ensure survival. However, the viability of local media seems to again be under threat in many countries.

In practice, one of the main roles of regulators in ensuring market plurality is via the licensing systems. These can contribute to transparency via the application process, can promote diversity of content in the framework of licensing specifications, and can exert some control over concentration by limiting the number of licences held by media operators.

Despite several recommendations regarding the need for approaching media mergers with a specific set of tools to examine the impact on pluralism, there are still very few countries where this is done: Austria, France, Germany, Ireland and the United Kingdom. Further tools at the disposal of the regulatory agencies in order to support and/or ensure plurality and diversity in the media sector include those required to remedy situations of concentration, dominance of power in the market etc. Depending on the legislation and the role of the regulator, these may include powers to request the divesting of shares, obligations regarding regional windows, stronger programming obligations etc.

Transparency of media markets remains a key element of international guidelines alongside the development of frameworks for measuring plurality. These include the “diagnostic” approach of the European Media Pluralism Monitor (mentioned above). Several of the frameworks developed at the national level, specifically in the UK and Germany are outlined in the report. These have been developed as methodologies to assess the levels of media pluralism with a focus on pluralism of news markets.

There are numerous examples of public funding to promote pluralism of content, to support certain types of media such as the press and local or community media, and to support the development of journalism in the countries reviewed – particularly in Austria, Denmark and the Netherlands. In addition, market research and in particular research on media use, has become a very important part of policy development in many countries. It has added to the transparency of markets and helped to shape frameworks for the assessment of media pluralism (see chapter five).

Other policies which complement the main tools in ensuring plurality of the media have been identified. Many of these ancillary policies are also coming to the fore in current debates about overall media pluralism issues. They may address policy goals such as the distribution and findability of media content that serves a public interest (must-carry rules, EPG guidelines etc., the regulation of distribution platforms). Other policies of interest (developed for different public interest goals) include the promotion of media education and media literacy.

[Summary of the debates and key issues with regard to pluralism](#)

This report makes extensive reference to the recent policy debates and concerns that have emerged in reports, academic literature and international guidelines (chapter six). While some commentators argue that there may be a need to completely review the approach to protecting pluralism, there are many indications that there is a need to retain the current approaches for the time being, in particular as there is nothing concrete to replace them.

There is a significant focus on funding and support of media as important tools that are emerging from the discussions and from the reviews of the various jurisdictions. Many states already have these in place, and examples have been provided in the report. In the context of current debates regarding the role of major technology companies in the market, their share of the audiovisual revenue pie, and the question of taxation, there have been suggestions that these companies should pay for the news that they distribute on their networks.

An important approach may be the development of dialogue with the industry as suggested by Foster (2012), and also recommended by the Council of Europe. This suggests the need to develop dialogue with social media, media actors, civil society, academia and other relevant stakeholders that seek to improve effective exposure of users to the broadest possible diversity of media content online. In summary, the aim of such a dialogue is to encourage: transparency of the processes of online distribution of media content, including automated processes; assess the impact of such processes on users' effective exposure to a broad diversity of media content; enhance users' effective exposure to the broadest possible diversity of media content; provide clear information to users on how to find, access and derive maximum benefit from the wide range of content that is available; and implement the principle of privacy by design in respect of any automated data processing techniques. Some of these proposals also reflect recent policy proposals in France and Germany.

The focus on transparency of the market, the players, their ownership and potential influence of ownership has long been an important aspect of assessing media pluralism. In addition, transparency of data on market shares of audiences, advertising and revenues, alongside data on consumption of media content are also key to assessment of pluralism. We can now add to this the suggestions outlined above for increased transparency with regard to the new processes that are used in the selection and delivery of content to the user.

Finally, it has been reiterated several times that consumer awareness and understanding of the processes involved in the production and delivery of content, and the ability of people to navigate in the vast new digital world of content – particularly news content – is vital to ensuring the promotion of, and exposure to a diversity of views and opinions.

[The context of the Irish market](#)

In line with other European countries as regards the audiovisual revenues of the media market, the income of those offering pay TV services (including cable, satellite and IPTV packages) continues to grow. Public service revenues are relatively stable although public funding in 2016 was less than in 2011. The sector that shows the fastest growth over the past five years is that of on-demand revenues, although it still represents a very small part of the audiovisual revenue.³

The share of Irish licensed channels on the market has dropped from 58.4% in 2004 to 48.4% in 2016. The main losses have been to the public service broadcaster RTE. The Irish television market is strongly influenced by the presence of UK channels whose audience share is more than 50%. It is also clear that many of these UK channels are part of the Irish television advertising market (see chapter seven). An incentive by the government to examine the impact of this has not yet produced any report that could be found online. TV advertising's share of revenues in Ireland for the moment

³ Data from the Yearbook Online Service of the European Audiovisual Observatory

remains stable however, it is not clear to which extent the TV advertising pie is being “drained” by UK TV broadcasters. Industry players have stressed that the diverting of revenues to channels outside the country is impacting on the finances available for programme production in Ireland. This could have an impact on the diversity of content and the extent to which content reflects Irish culture.

Hence, it is recommended that any market assessments in the context of media mergers, and any frameworks that attempt to measure plurality or examine the market power of players should not exclude taking note of companies established outside of Ireland who are active on, and earning revenues in, the Irish markets.

Data on advertising revenues indicate the massive growth of revenues going to the Internet increasing by more than 330% between 2011 and 2016. These changes over time also show a progressive growth of Internet advertising and a slow decline of TV advertising share. Market experts estimate that online advertising revenues in Ireland are dominated by Google and Facebook with a combined share of between 50 and 58% in 2016. A similar development has been observed in other countries such as the UK and Denmark.

As noted above, small markets are particularly impacted by these major changes in the market. Foreign companies in the form of broadcasters and the major technology companies therefore have an additional (the Google Facebook Internet advertising duopoly) impact on the media economies of small markets. The Danish, the Norwegians and the Canadians have declared the existence of a crisis in relation to their markets and in particular the future of their news markets. Therefore, it is recommended that the viability of the national media market and the viability of the production of news and quality journalism should be central to an Irish media plurality policy.

At the same time, Irish news consumers express a higher than average perception of the diversity and independence of the media sector. Although perceptions of independence are split down the middle, Irish news consumers have relatively high levels of trust in the media. The traditional media brands still play a significant role in the provision of news, including online. British news sources are also an important part of the Irish news market. Irish people are more likely to use public service media as a news source than the average across a range of countries, and slightly less likely to turn to a local or regional paper or to commercial television for news.

As in most countries, young people are much more likely to access news online than older people, while all age groups appear to use social media as either complementary to other news sources (35+) or as the main source of news (ages 18-34). This confirms the fact that the online news markets and the new players in the delivery of news need to somehow be taken into account in the assessment of plurality of the media.

[The BAI plurality policy](#)

The ownership and control policy of the BAI as applied to the licensing system is the main tool for influencing market pluralism (external). It lacks any definition of market power, or measurement of dominance – for example, what an undue number of communications media would represent. However, the BAI claims that all licensing applications are reviewed on a case by case basis. The approach to transparency of ownership in the licensing process is similar to that of the other countries reviewed here. Regarding competition policy, the Government’s Media Merger Guidelines have introduced definitions of “significant interest” in a media undertaking, or measure of influence, which represents a first example of an ownership threshold.

The review of the main elements of the BAI media plurality policy – the media ownership and control policy, the broadcast licensing system, and the role in assessment of media mergers – shows that

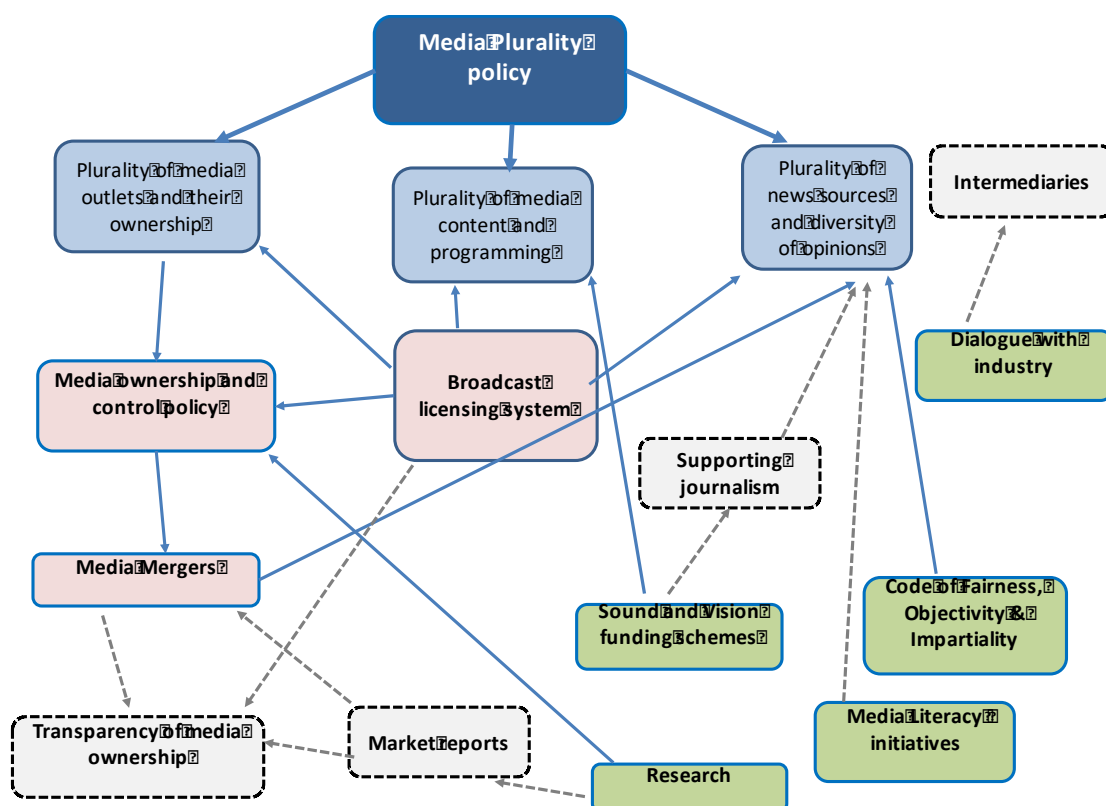
excepting the lack of a definition of a dominant market position, these policies and approaches are in line with those of other European countries, in particular in France, Germany and the United Kingdom.

It should be noted that having reviewed an extensive range of policy documents and debates, that there are additional elements of the BAI work which already do, or could in the future form part of a plurality policy. These include the code of fairness, objectivity and impartiality in news and current affairs, the BAI Media Literacy Policy, the Sound and Vision Funding Scheme, and the general research policies.

There are also several elements present in the policies and practices of other jurisdictions, and also central to policy recommendations and guidelines which do not yet exist in the BAI approach. These could be considered as potential new approaches to promoting media plurality. These include the issue of transparency of media ownership, which can be achieved via the creation of a dedicated database or website and also in the publication of reports. Regular market reports that include economic data and trends and place Ireland in the European context regarding market developments are necessary to support impact analysis and other advisory roles of the BAI.

As noted above, the development of a dialogue with industry may be a crucial element in the future protection of pluralism. Dialogue with industry is already a policy tool of the BAI and perhaps it is possible to facilitate such a dialogue with the significant intermediaries, many of whom are established in Ireland. The final figure overleaf provides a graphic overview of these conclusions.

Potential elements of a BAI plurality policy



This schematic provides a potential BAI media plurality policy. The **blue elements**: the main aims of the policy:

- Plurality of media outlets and their ownership
- Plurality of media content and programming, cultural diversity, support of national culture, Irish language programming and content
- Plurality of news sources and diversity of opinions

The **pink elements**: the policies identified by the BAI as being central to the media plurality policy:

- Media ownership and control policy
- Broadcast licensing system
- Media mergers

The **green elements**: the other existing policies and tools of the BAI which should be included in the overall media plurality policy, particularly in light of the findings of this report:

- Code of fairness, objectivity and impartiality in news and current affairs
- Media Literacy initiatives
- Sound and Vision Funding Scheme
- Research policies
- Dialogue

The **grey elements**: the potential new approaches to promoting media plurality

- Transparency of media ownership – via database or reports
- Regular market reports (including economic data) to support impact analysis
- Funding support for the development of journalism / or local content to ensure viability
- Engaging in dialogue with intermediaries

Introduction and outline of report

The purpose of this report is to support the current research activities being carried out by the Broadcasting Authority of Ireland in order to inform its media plurality policy. The report is intended to provide the BAI with a jurisdictional review to examine inter alia plurality policies, guidelines, practices and/or rules in other EU countries implemented to support and/or ensure plurality and diversity in the media sector, and research and case studies carried out by EU and other regulatory institutions and agencies with a particular focus on key developments, critical issues and emerging trends in this policy area.

Placing the discussion on pluralism in a market context

At the outset, the report places these discussions in a market context (chapter one). This exercise has two aims. In the first place, it allows for an extensive review of the multiple studies which attempt to understand the digital media ecosystem, in particular in relation to the range of sources of news and information and their use by the public, and also the extent to which media outlets and news sources are trusted.

Secondly, as the economics of the media industry (the viability of the sector) is fundamental to ensuring pluralism, this chapter also provides some top line data on media markets in Europe, and in the main EU jurisdictions reviewed in this report. Hence, the chapter looks at both survey data, and a range of industry data.

All of these market aspects (consumption, funding and viability) have become central issues in current debates regarding media pluralism. The role of significant new players and types of platforms in the delivery of media content, and specifically news and information, is central to many debates emerging on this issue. This discussions and proposals for regulatory approaches are dealt with in chapter seven.

European and global policy context

The second chapter of the study provides a brief overview of the European and global policy context – indicating current obligations of EU member States, of Council of Europe Members, and of signatories to the European Convention on Human Rights, the United Nations Declaration on Human Rights and the International Conventions on Political and Civil Rights, and other relevant resolutions, recommendations etc. of these bodies. Recent activities, debates, initiatives and studies will be referred to here. However, studies, activities and guidelines will be dealt with and referred to more comprehensively in later chapters of the report.

Pillars of pluralism: public service broadcasting and local and community media

A brief overview of European and international policy statements with regard to two fundamental pillars of media pluralism, namely public service media and local and community media is provided in chapter three.

A broad range of rules and tools

The first of two chapters deals directly with the approach to regulating media pluralism focuses on definitions, frameworks and tools for measurement of pluralism (chapter four). It looks at the various definitions of pluralism and the development of frameworks at the European and national levels for measuring media pluralism. The second of these two chapters outlines the rules and policies used to promote and ensure pluralism in a range of European jurisdictions (chapter five). It focuses on the issues of media ownership and control, transparency of ownership, and the licensing process for broadcast media. There are also a wider range of policies that are intended to promote and protect pluralism, which are examined here. These may include the types of funding and support to various media sectors for the production of diverse content, for the distribution of content, or for the training of staff.

Summarising the main debates, policy proposals and new initiatives

Chapter six will provide commentary from recent expert analyses and reports, and summarise the findings from a range of national reports with regard to the threats and opportunities for pluralism. The proposals for a regulatory response to the new media environment will be outlined.

Placing the discussion on pluralism in the context of the Irish market

Chapter seven focuses on the Irish media market and will present an overview of market trends and consumer trends with regard to news with a specific focus on Ireland.

Development of the BAI plurality policy

The final chapter provides comments and suggestions on the development of a BAI plurality policy with reference to the current work of the BAI, and taking into consideration the findings in the chapters outlined above (chapter eight).

Note on methodology

This report was based on desk research of national and international laws, directives, regulations, policies, codes and reports in a range of jurisdictions regarding the promotion of plurality in the audiovisual media. The European countries investigated in-depth were Austria, Denmark France, Germany, the Netherlands and the UK. The research specification requested that three countries were chosen that had particularly diverse markets, but this criterion proved difficult to assess. Instead the selection of countries was made on the following basis:

- Three large EU jurisdictions of France, Germany and the UK;
- Smaller markets such as Austria and Denmark, which for several reasons may have market situations more similar to that of Ireland. For example, more than 50% of the TV audience share in Austria goes to the channels from neighbouring Germany – similar to the Irish market and channels from the UK. In the case of Denmark, the main commercial channels are licensed in the UK and target Denmark and have around 20% audience share.
- Countries where media mergers in competition policy are examined in relation to media pluralism: Austria, Germany and the United Kingdom;
- Countries where (according to recent studies), there is a high level of trust in the national media among members of the public whose opinions have been polled, and also a strong sense that the national media systems are diverse:
 - A recent Eurobarometer study⁴ revealed that a very high level of respondents in the Netherlands (84%) and Denmark (82%) believed that the media provide a diversity of viewpoints and opinions;
 - The majority of respondents agreed their national media provide trustworthy information in Denmark (77%), the Netherlands (73%), Germany (72%), and Austria (72%) (compared with an EU average of 65%);
 - Levels of trust in the reliability of radio was highest in Denmark (91%), the Netherlands (84%), Germany (72%), and Austria (79%) and high levels of trust in the reliability of television were noted in Denmark (89%), the Netherlands (79%), and Austria (77%) (compared to the EU average of 55%)
 - Also, in the Reuters Digital News Report,⁵ levels of trust in the media in the Netherlands, Denmark, Germany and Austria were amongst the highest of the 36-country sample.

Reference is also made to other countries in relation to specific policies or reports (for example Belgium, Canada, Norway) where they were deemed relevant. Resources used included a range of reports, research and policy recommendations at national and European level, and also relevant information from the European Platform of Regulatory Authorities (EPRA) such as background working papers, presentations and news items from EPRA members.

Acknowledgements

The author would like to thank the following people for assistance in accessing information: Marcel Betzel of the Dutch Commissariaat voor de Media (CvdM); Maja Cappello, European Audiovisual Observatory; Johanna Fell of the BLM (Bayern State Media Authority); Gilles Fontaine, European Audiovisual Observatory (permission to use data from the Yearbook Online Service); Jean-François Furnémont, Wagner-Hatfield, Belgium; and Christian Grece, European Audiovisual Observatory.

⁴ European Commission (2016): [Special Eurobarometer 452: Media Pluralism and Democracy](#).

⁵ Reuters Institute (2017): [Digital News Report 2017](#).

Section I: the European and international context

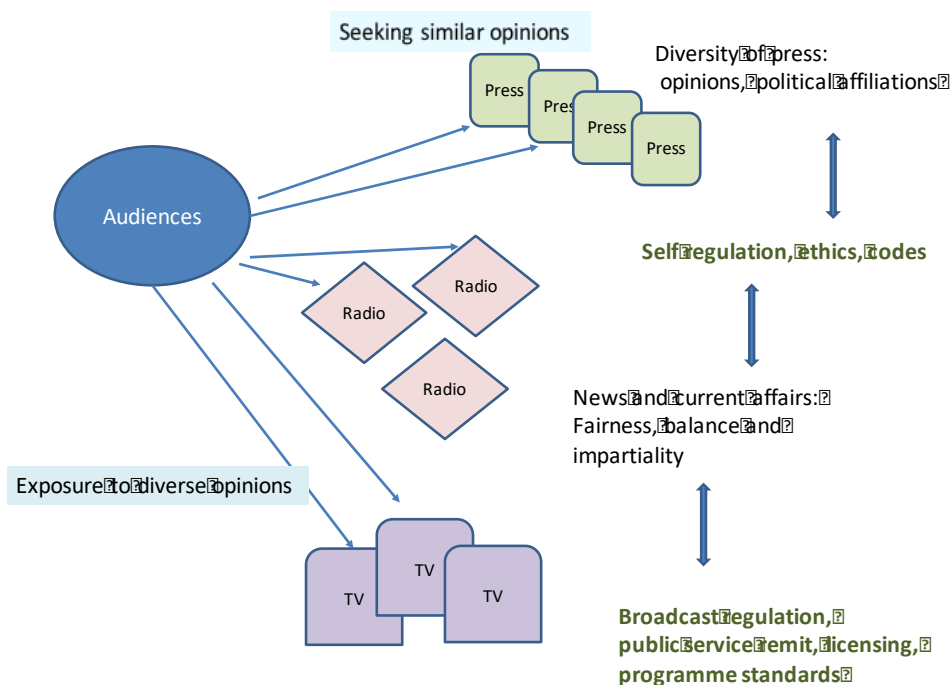
Chapter 1. Placing the pluralism debate in a market context

1.1 Traditional media

It is not so long ago that a discussion on media plurality was focused simply on the printed press, radio and television sectors. In most countries, the printed press tended to present a political or ideological affiliation, and hence people chose media titles largely according to their own ideological placement on the political spectrum. Public service radio and television have always had distinct remits and obligations with regard to presenting a diverse range of programmes, and with regard to ensuring balanced news and opinion, and providing access to the media for a variety of voices and opinions. All broadcast media (including the private sector) fall under licensing regimes which may present obligations with regard to programmes schedules, proportions of news and current affairs, diverse programming, and also local, national and European content. In addition, a range of national and EU legislation is regulated via systems of programme standards applicable to broadcasters.

The above regimes were intended to ensure a diversity of content and a plurality of opinions regarding political and democratic affairs. The news consumer knew where to find analysis and opinions that conformed with his/her world view. In addition, the broadcast media, due to obligations regarding fairness, balance and impartiality, provided a platform for a range of voices to be heard in debates and discussions regarding political issues, and the analysis of events. Fig.1 illustrates how this ecosystem functions, the way in which it is regulated, and also the mix between the availability of news and opinion conforming to own world views and the exposure to alternative voices and opinions.

Fig. 1.1 Position of the audiovisual media audience – traditional media



The above schema also represented a world that was relatively straightforward in terms of monitoring: with regard to identifying the main players in terms of circulation of the press, and audience and listenership share of broadcasting (via established systems of measurement); and with

regard to associating these market powers with individual companies. In addition, the system was mainly “national” in scope and within the boundaries of national regulation and policy. This is no longer the case in the new digital world, as shall be addressed below under section 1.2.

News sources, trust and reliability

The traditional media system still has a significant role to play in the provision of entertainment, information and education of the public. In recent studies, traditional media still represent an important source of information for citizens. According to the Reuters Digital News Report 2017,⁶ in the UK 67% of respondents still claim to use the radio and TV broadcasts of the BBC as a source of news (on a weekly basis). This is the highest reach of any news source in the UK. In addition, the BBC news online has a reach of 47% weekly. (The role of traditional media brands in the online world will be discussed further below). In Ireland, according to the same study, a similar situation exists with regard to the role of public service broadcaster RTE, with the highest weekly reach of 62% as a source of news. Online, it takes second place (behind thejournal.ie) with 31% of respondents citing it as a source of news.

Regarding some of the other countries examined in this study, in France respondents to the Digital News Report survey are much more likely to turn to traditional media –the news channel BFM TV (with 45% reach), the private channel TF1 (42%) and the public channels of France Televisions (37% reach). The same is true of the German public with 57% citing the main PSB national channel (ARD), 46% the second PSB channel (ZDF), and low percentages signalling online new sources.

With regard to levels of trust in the media, several studies attempt to assess this issue. A recent special Eurobarometer study carried out by the European Commission focused on Media Pluralism and Democracy.⁷ Respondents to this survey tend to rate radio as being the most reliable source of news (the EU average being 66%). In several countries, the levels of trust in the reliability of radio was much higher: for example, in Denmark (91%), in the Netherlands (84%), in Germany (72%), in Austria (79%) and in Ireland (77%). The United Kingdom (67%) and France (62%) present slightly lower levels of trust in radio as a source of news.

Second in line to radio as a reliable news source is television (in Denmark, Austria, Ireland and the UK – in all cases followed by newspapers (printed and online)). The press scores higher than television as a reliable news source in the Netherlands, Germany and France (in each case TV scores third place).⁸

All of the above indicate the continued significance of traditional media – both in terms of use, and with regard to perceived reliability of the users. Of course, the research also indicates change as regards the use of media, sources of news and access to news. These issues will be addressed in section 1.2 below.

1.2 The new digital media world

Digitisation, proliferation of TV channels and their distribution

A major and significant impact of the digitisation of media has been the increase in media content available due to the increased capacity of delivery systems, specifically, the development of digital terrestrial television, the digitisation of cable and satellite distribution networks, and the emergence of IPTV (delivery of audiovisual content over the Internet – initially by the telecoms operators delivering Internet access). The range of television channels available to the average household

⁶ Reuters Institute (2017): [Digital News Report 2017](#).

⁷ European Commission (2016): [Special Eurobarometer 452: Media Pluralism and Democracy](#).

⁸ A summary of the results of all these studies can be found in the tables in Annexe 1.

multiplied significantly – including television channels of foreign origin. Recent data from the European Audiovisual Observatory claims that in the majority of EU countries, most households have access to between 300 and 400 TV channels. Outside of the larger countries (UK, DE, IT) the majority of these channels are foreign.⁹

The digitisation of delivery networks has also led to an increase in thematic channels, including news channels. The distribution of certain news channels can be considered as pan-European with CNN, BBC World News, Russia Today, Al Jazeera, Euronews, France 24, Deutsche Welle and Sky News available in every country in Europe.¹⁰

Foreign media is seldom considered as being part of the national news market, or as contributing to pluralism. However, it should be noted that in the Reuters Digital News Report, foreign news sources are frequently mentioned as being key news sources for the respondents. In Austria, these include the German public service broadcasters ARD (a weekly source of 18% of respondents) and the ZDF (a weekly news source of 21% of respondents). In the French community of Belgium, the French commercial channel TF1 (a weekly news source for 35%) and the French public service channels (a weekly news source for 21%) are both significant in the market. In Ireland, the figures relate to BBC News (30% note this as a weekly news source) and Sky News (34% note this as a weekly news source). In the online world BBC News online (16%) and Sky news online (14%) are also significant news sources.¹¹

Of course, this reflects the particular situation of these three markets as being strongly influenced by large neighbouring countries, but it also raises the question as to whether should these channels be considered as contributing to pluralism, in particular with regard to news and information.

New online players in the provision and delivery of news

Significant moments in the history of the Internet include: the launch of the Google search engine (1998) which changed the way that users engaged with the Internet; the launch of Facebook in 2004 as the first major example of a social network; the launch of Youtube.com in 2005, and the launch of Twitter in 2006. The so-called “web 2.0” era merely indicates the development of the Internet as a space where people could create and share their own content: blogs, User generated content (UGC), videos etc. This has been aided by technological developments online and by the increasing access to broadband internet.

These developments have also given rise to the distribution of provisional video content online, via on-demand services, online broadcasters, over-the-top services, and including the distribution of news videos.

In addition, many significant new players have emerged in the field and are becoming increasingly popular (especially among younger people). Launches include: WhatsApp (2009); Instagram (2010); and Snapchat (2011). Recent data from the US shows that younger people are much more likely to use Snapchat than Facebook. *“The research, by New York-based firm eMarketer, said that, in 2018, less than half of Americans aged between 12 and 17 will use Facebook at least once a month. EMarketer said it expects Facebook to lose 2 million users under the age of 25 this year and that Snapchat will pick up 1.9 million users within that age bracket.”*¹²

⁹ European Audiovisual Observatory (2017): [Audiovisual services in Europe - Focus on services targeting other countries](#)

¹⁰ European Audiovisual Observatory (2013): [Television News Channels in Europe](#)

¹¹ Reuters Institute (2017): [Digital News Report 2017](#).

¹² CNBC (Ryan Browne, 12 February, 2018): [Facebook is losing younger users to Snapchat, according to a study](#)

Fig 2. (overleaf) presents a much more complex situation than Fig.1 above. Alongside the traditional media as sources of news, Fig.2 places the audience in the online world, which still contains a significant presence of traditional media. In addition, the Internet adds a range of new potential news sources: social media, digital born news sites (such as Huffington Post, BuzzFeed, etc.), news aggregation sites, user generated content, video sharing sites such as YouTube, news Apps and messaging Apps.

Much of this online world is not regulated, particularly with regard to the fundamental ethics and standards of journalism. The traditional media who are signatories of codes of ethics presumably bring journalistic standards to their work on the online world, but it is not possible to assess the journalistic standards applied by the whole range of new players on the market.¹³ The situation is no longer a “national” one in that significant new players in the news market such as Huffington Post and BuzzFeed are global companies. In addition, the delivery of news (as examined in more detail below) is now carried out by a range of powerful global companies – search engines, social media and aggregators – such as Facebook and Google, who are outside the national realm of regulation.

Finally, the traditional means of measuring market shares of companies does not function in the online world. These issues also concern those addressing the impact of new players on the production of cultural content. The issue of transparency is relevant with regard to the financial and operating data of broadcasters, Pay TV and the new players in the on-demand world.

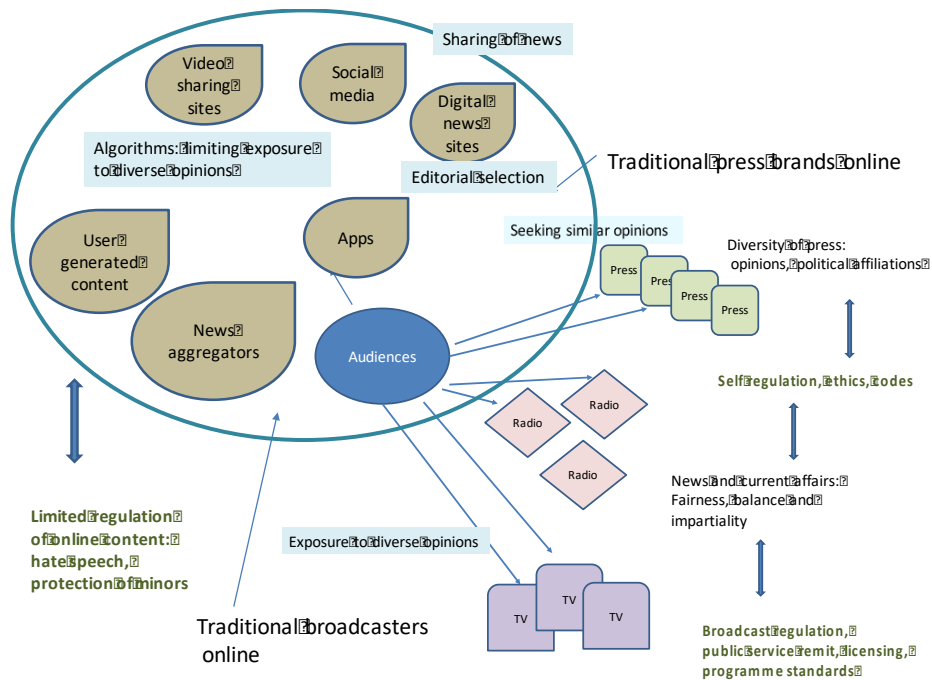
There is practically no access to data on consumption of audiovisual works in the on-demand world, as noted at a recent UNESCO conference: “*access to some data will remain difficult, if not impossible, even if the will to cooperate exists.*”¹⁴ The importance of commercial sources of data (to complement public sources) was highlighted at a recent UNESCO symposium. It was noted that: “...*to better exploit data on cultural content, it seems necessary to explore new approaches by developing partnerships and collaborating with private enterprise.*”¹⁵

Fig. 1.2 Position of the audiovisual media audience – new digital media world

¹³A News Standards and Ethics Guide was identified on the website of BuzzFeed, for example but not on the Huffington Post website. [The BuzzFeed News Standards and Ethics Guide](#)

¹⁴ André Lange, formerly of the European Audiovisual Observatory (cited in UNESCO (2016))

¹⁵ UNESCO (2016): [Proceedings of the international symposium on the measurement of digital cultural products](#)



Commsol 2018

Attempts to fill the gap in the understanding of media use and online audiences have – in the case of news sources – been carried out with the use of surveys (at the national level) and also via global research co-operations such as the work of Reuters.

Enhancing understanding of new forms of access to news

The Reuters Digital News Report 2017 examined the extent to which the Internet is an important source for news. It should be noted that the survey itself is conducted online and hence, as the authors point out: *Because this is an online survey the results will under-represent the consumption habits of people who are not online (typically older, less affluent, and with limited formal education). Where relevant, we have tried to make this clear within the text. The main purpose is to track the activities and changes over time within the digital space – as well as gaining understanding about how offline media and online media are used together.*¹⁶

In the analysis of the role of online media sources, the report considered the important issue of gateways to online content. The breakdown of possibilities includes:

- "direct access" where people go directly to a known news website, or specifically use an App. This approach is significant for media brands. According to the research, people in Scandinavia and the UK are more likely to go directly to a news brand in this way.
- "search and social" where news is sought via search engines or arrives via the sharing of friends over social media. This "side door access" as described in the report also includes the reception of news via email, mobile phone alerts, and on the sites and apps of news aggregators. The researchers note that in Latin America and some central and Eastern European countries (Hungary and Romania), social media is a very significant platform for accessing news.

In the analysis of the role of online media sources, the report considered the important issue of gateways to online content - how people are discovering news, i.e. whether content is selected by an editor, as on a news site (accessed directly, or perhaps via mobile or email notification), or whether

¹⁶ Reuters Institute (2017): [Digital News Report 2017](#).

content is selected by an algorithm (searches, social media and many news aggregators). They conclude that more than half (54%) of the people surveyed in all countries choose an access that used algorithms to select stories, with 44% choosing an access that implied that editors selected stories.¹⁷

There are also several national reports that address many of the same issues. In Germany, the concentration of media ownership is the focus of the KEK (*Kommission zur Ermittlung der Konzentration im Medienbereich* – the Commission for the determination of concentration in the Media). In its annual reports, it also includes in-depth research on media use. Also in Germany, assessments of media diversity are aided by the regular publication of the "*MedienGewichtungsStudie*" (Media weighting study) carried out by TNS Infratest, with the purpose of understanding the importance of various media platforms in the delivery of news and information. In the UK, the Ofcom carries out an annual news consumption study which looks at the use of the main platforms (television, printed press, radio and internet) and also at the use of specific brands for news (a pre-prepared list, and the option for spontaneous answers from the interviewees). These studies are looked at in more detail in chapter 5. For many other countries, where perhaps the resources are not available to commission these surveys, the development of the Reuters Digital News survey has provided a significant contribution to the understanding of news sources.

These studies confirm the continued strength of many traditional media brands in the online world. According to the Reuters study, public service broadcasters are frequently the number one news source offline (in Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Ireland, Italy, the Netherlands, Norway, Sweden, Switzerland, the UK) and number one online (in Austria, Denmark, the UK), or in the top three online (Belgium, Finland, Germany, Ireland, the Netherlands, Sweden and Switzerland).

Not surprisingly, the research also highlighted the differences in behaviour between age groups: *We should also remember that there are significant generational splits in the sources used for news. Across all countries, younger groups are much more likely to use social media and digital media as their main source of news, while older groups cling to the habits they grew up with (TV, radio, and print). A third of 18–24s (33%) now say social media are their main source of news – that's more than online news sites (31%) and more than TV news and printed newspapers put together (29%).*

At the same time, the researchers on the Reuters study stress a range of positive findings in the 2017 report, they claim that: *"echo chambers and filter bubbles are undoubtedly real for some, but we also find that – on average – users of social media, aggregators, and search engines experience more diversity than non-users."*;

In relation to younger people the results revealed that: *in terms of online news subscriptions, we have seen a very substantial 'Trump bump' in the US (from 9 to 16%) along with a tripling of news donations. Most of those new payments have come from the young – a powerful corrective to the idea that young people are not prepared to pay for online media, let alone news.*

1.3 Audiovisual market trends and the impact of new media players

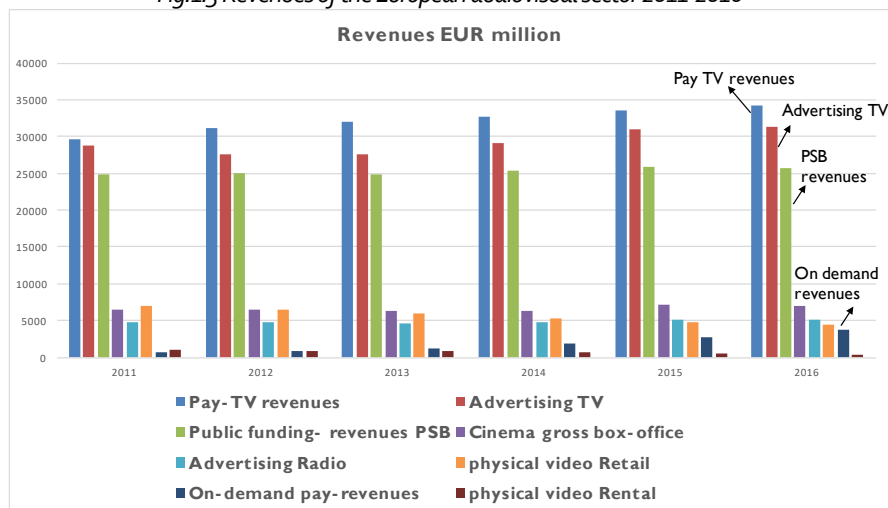
One of the key concerns in media policy debates centres on shifts in revenues that may in the future impact the entire financial ecosystem with major implications for media pluralism – for both informational and cultural content. The following is an overview of recent data on European media markets.

¹⁷ Reuters Institute (2017): [Digital News Report 2017](#).

Audiovisual sector revenues

Despite the incursion of new media players, particularly those that provide on-demand audiovisual services, the bulk of the audiovisual revenue pie remains in the hands of the television industry (as can be seen in Fig.3 below). Public service revenues (at the European aggregated level) have remained stable. It should be noted that very different situations may emerge in specific countries with regard to public service media. The income of those offering pay TV services (including cable, satellite and IPT packages) continues to grow. In addition, television that is funded by advertising (largely the private sector) continues to increase its revenues.

Fig.1.3 Revenues of the European audiovisual sector 2011-2016



Source: Data from the European Audiovisual Observatory Yearbook 2017

However, the main focus here for analysts are the long-term trends. The revenues of on-demand services, while still a very small percentage of the entire market, have the highest growth rates. It is not clear to which extent these services will continue an exponential growth, will replace the more established means of delivery of content such as cable and satellite services, or whether this growth will plateau as they become complementary to other means of viewing audiovisual content.

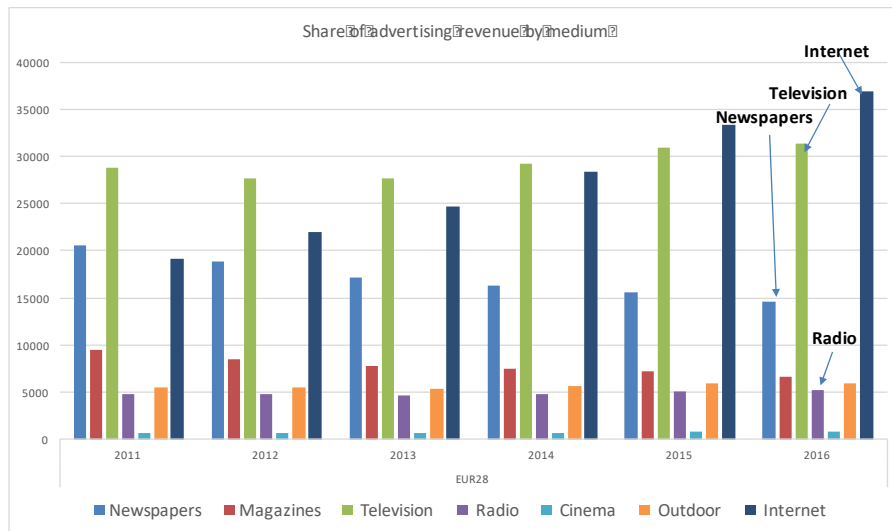
Significant concerns with regard to pluralism and diversity of content relate to the fact that the major players in the on-demand world are non-European. This raises concerns regarding revenues, contribution to the financing of European production, and implications for cultural diversity. On the whole, the market trend that indicates a rapid growth of on-demand media services revenues, coupled with the data from part one of this chapter on the access to news suggest that changing patterns of media consumption are also likely to impact on political diversity and pluralism.

Advertising

Advertising revenues are a key source of financing for the media, aside from public funding and the subscriptions paid to pay-TV operators. Fig.4 (below) presents the global picture of the share of advertising revenues per medium in the EU28, and how this has developed over time from 2011 to 2016.

The tremendous growth of the share of advertising revenues going to the Internet is apparent here. In addition, the data to end of 2016 for Internet. It should, however, be noted that television has not really so far been a victim of this phenomenon.

Fig.1.4 Share of advertising revenues per medium EU28 2011-2016



Source: Data from the European Audiovisual Observatory Yearbook 2017

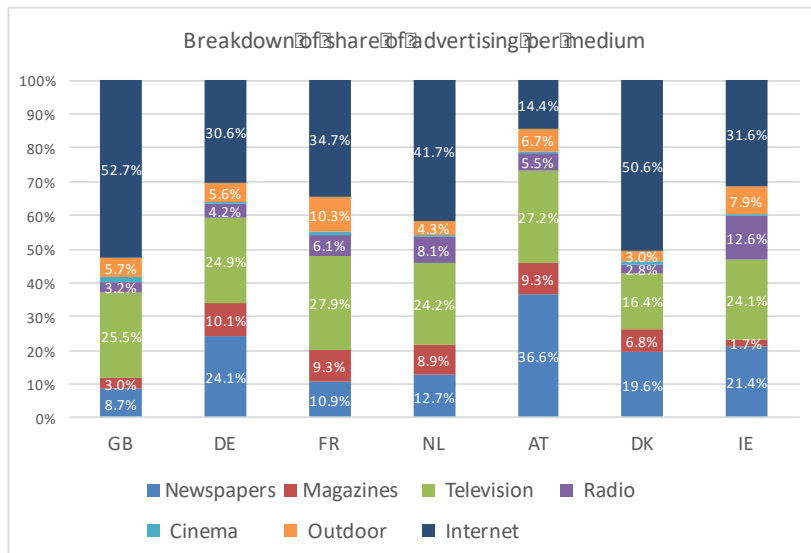
The main losers with regard to shares of advertising revenues have been the printed press and magazines, while broadcasting (radio and TV) have remained stable. It should also be borne in mind with regard to discussions on the movement of the “advertising dollar” (or Euro) to the online world, part of this revenue is going to traditional media (including the online versions of newspapers) in the online world. But this data represents the situation before the generalisation of video advertising and the major push of social networks into video (see next page).

Looking more closely at the seven countries that are reviewed in this report (AT, DE, DK, FR, GB, NL and IE), Fig 1.5 (overleaf) provides an interesting overview on these markets, their make-up, the potential areas of threat to pluralism, and the types of media that may be stronger in certain countries.

For example, the share of advertising revenue which is generated on the Internet is particularly impressive in both the UK and in Denmark (more than 50% of revenues). In all cases (except Denmark), television takes in at least a quarter of all advertising revenue.

The printed press retains a strong position in relation to advertising revenues in several countries: Austria, Germany and Ireland.

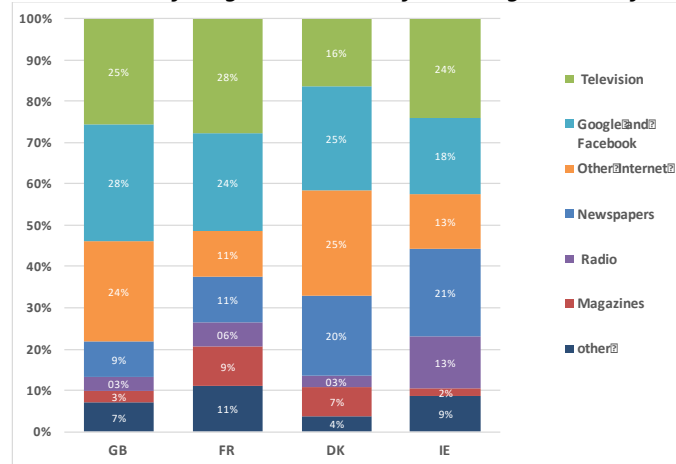
Fig.1.5 Percentage share of advertising revenues per medium 2016 in 7 countries



Source: Data from the European Audiovisual Observatory Yearbook 2017

Recent data for the UK suggests that in 2017 Google and Facebook are expected to account for 54% of all digital ad revenues in the UK, taking home £6.3bn between them.¹⁸ Irish market experts estimate that online advertising revenues in Ireland are dominated by Google and Facebook with a combined share of 58%.¹⁹ Data from recent research in Denmark shows that the proportion of online advertising revenue for Google and Facebook is more than 50%.²⁰ According to the French press, Google and Facebook share 68% of the online advertising market.²¹ On the basis of these figures (and the data above), Fig 1.6 estimates the role of the two big players in national markets (bearing in mind these are estimations and based on different sources).

Fig.1.6 Estimated share of Google and Facebook of advertising revenues in four countries



Source: European Audiovisual Observatory, and other sources (see footnotes)

¹⁸ The Drum: (18.09.2017) [Google and Facebook digital ad dominance grows in latest survey](#).

¹⁹ Irish Independent (04.03.2018): [Time to reassess Ireland's digital advertising market](#)

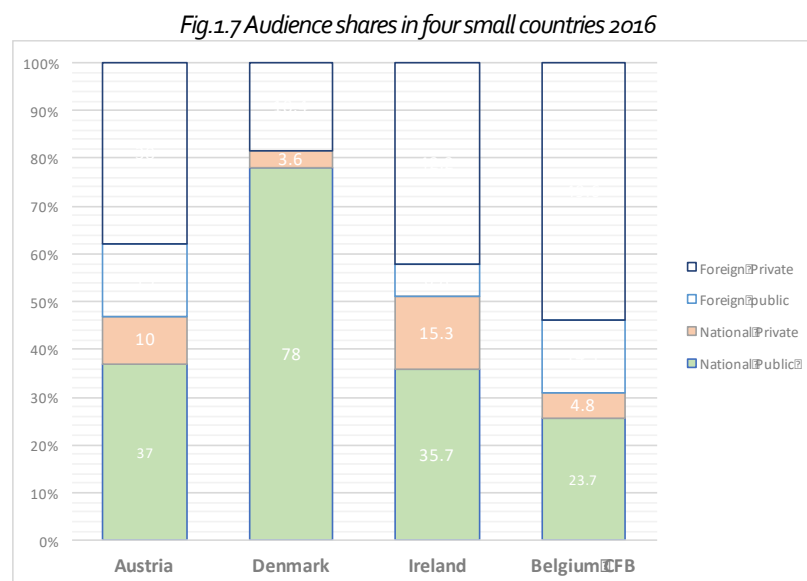
²⁰ Danish Agency for Culture and Palaces (Slots- og Kulturstyrelsen) (2016): [Media Development in Denmark 2016. English summary](#)

²¹ Le Monde (3.07.17) [Publicité : face à Facebook et Google, les éditeurs de presse regroupent leurs forces](#)

A recent study on the Canadian market claimed that Google and Facebook together earn two thirds of the online advertising revenue.²² No precise data was found on Germany but it would appear that the issue of online advertising will be investigated by the Federal Anti-Trust Agency.²³ At the level of the EU, the European Commission is developing plans to oblige large technology companies to pay a 3% tax if they make money from user data or digital advertising in a country, regardless of their country of establishment.²⁴

Specific impact on small countries

Audiences in certain smaller countries are frequently dominated by foreign companies, as the figure below shows. This is particularly the case in Austria, Ireland and the French language media market of Belgium.



Source: European Audiovisual Observatory, and other sources (see footnotes)

Recent research in Denmark shows that 26% of advertising revenue from all media goes to foreign companies. As will be examined in more detail in chapter seven in relation to the Irish market, a range of UK based TV channels form part of the Irish TV advertising sales market. According to media reports: "UK channels drain Irish broadcasters of cash for content".²⁵

A similar situation prevails in Switzerland, where according to a recent study Swiss television broadcasters serve smaller regional markets based on a specific language whilst at the same time competing with financially powerful broadcasters from neighbouring states. Foreign channels operated by big commercial broadcasters regularly record high audience market shares in the country and exploit their strong position by broadcasting advertising blocks directed at the Swiss audience. These advertising blocks also put the Swiss media system under economic pressure.²⁶ Foreign companies therefore have an additional (to the Google Facebook Internet advertising duopoly) impact on the media economies of small markets.

²² Public Policy Forum (2017): [The Shattered Mirror. News, Democracy and Trust in the Digital Age](#)

²³ Spiegel Online (01.02.18): [Bundeskartellamt untersucht Online-Werbemarkt](#). [The German Federal Anti-Trust Agency is examining the online advertising market]

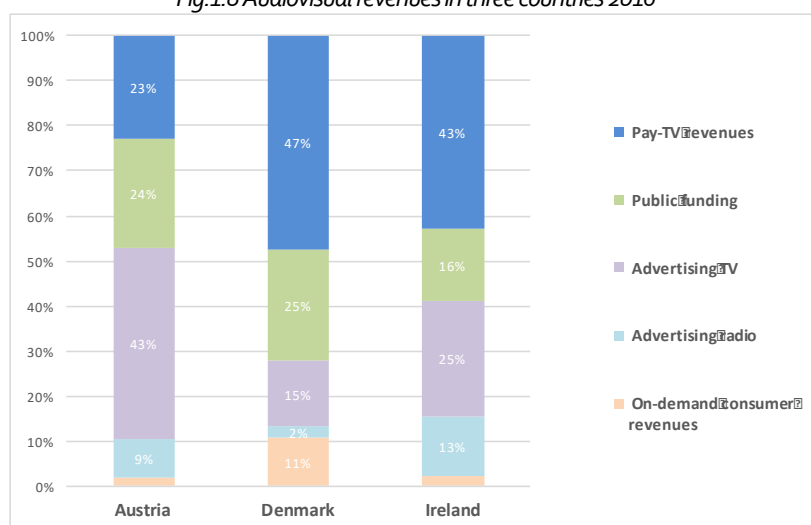
²⁴ The Guardian (21.03.2018): [Facebook, Google and Amazon could pay 'fair' tax under EU plans](#)

²⁵ Irish Times (August 9th 2017, L. Slattery): UK television channels drain Irish broadcasters of cash for content <https://www.irishtimes.com/business/media-and-marketing/uk-television-channels-drain-irish-broadcasters-of-cash-for-content-1.2749293>

²⁶ European Audiovisual Observatory (2016): [Regional and local broadcasting in Europe. IRIS Special](#)

Regarding the overall market, the figure below outlines the revenues of the audiovisual sectors in Austria, Denmark and Ireland broken down by sector. ²⁷

Fig.1.8 Audiovisual revenues in three countries 2016



Source: European Audiovisual Observatory, Yearbook Online Service

The data indicates the particular importance of pay-TV players in the Danish and Irish markets in each case taking between 40 and 50% of entire market revenues. Distribution companies are also becoming important players in the advertising market (particularly cable satellite and IPTV offers). For example, in the UK Sky and Virgin Media have agreed to combine their targeted advertising programmes. Sky AdSmart, for example, is also a data based approach to advertising. Its website states that: *With Sky AdSmart different ads can be shown to different households watching the same programme. This means brands and businesses can now advertise on national channels, but to relevant audiences.*²⁸ The advertising is placed on the Sky (and 21st Century Fox) channels. The agreement between Sky and Virgin will: *give the two companies access to a total of 30 million viewers in the UK and Ireland.*²⁹

The data also indicates a much lower percentage of public funding as part of the overall market financing in Ireland, as compared to Austria and Denmark.

In conclusion, the major economic upheavals in the market and the emerging power of online technology companies in the advertising markets serves to exacerbate what is already a very difficult situation for smaller media markets.

Conclusions

This chapter outlines the developments and trends in the access to, and use of, news sources indicating the growing importance of access to news online. Much of this online world is not

²⁷ Revenue data for Belgium includes both language markets and therefore was not included here.

²⁸ Website of Sky adSmart: <https://www.skyadsmart.co.uk/>

²⁹ Broadband TV News (June 15, 2017): [Sky and Virgin combine targeted advertising](#)

regulated, particularly with regard to the fundamental ethics and standards of journalism. The traditional media who are signatories of codes of ethics presumably bring journalistic standards to their work on the online world, but it is not possible to assess the journalistic standards applied by the whole range of new players on the market.

The situation is no longer a “national” one in that significant new players in the news market global companies. In addition, the delivery of news is now carried out by a range of powerful global companies – search engines, social media and aggregators – such as Facebook and Google, who are outside the national realm of regulation.

Studies on sources of news indicate that the traditional media system still has a significant role to play in the provision of entertainment, information and education of the public.

An overview of research into the public perceptions of media diversity and the extent of trust in news sources shows that radio continues to be the most trusted medium in most countries, followed mainly by television and the press. In general, social media is least trusted as a source of news but this varies from country to country.

The main providers of news have followed their customers online. As the research shows either the online sites of news brands or the distribution of news via intermediaries (social media and search engines) is fast becoming the prime means of accessing news, for most age groups but most particularly for young people. As the Reuters News study illustrates, cross all countries, younger groups are much more likely to use social media and digital media as their main source of news, while older groups use traditional media (TV, radio, and print). A third of 18–24s (33%) now say social media are their main source of news – which is more than online news sites (31%) and more than TV news and printed newspapers put together (29%).

In terms of gateways to news more than half (54%) of the people surveyed in all countries choose an access that used algorithms to select stories, with 44% choosing an access that implied that editors selected stories.³⁰

The traditional means of measuring market shares of companies does not function in the online world. These issues also concern those addressing the impact of new players on the production of cultural content. The issue of transparency is relevant with regard to the financial and operating data of broadcasters, Pay TV and the new players in the on-demand and online world.

The dynamics of media markets have undergone profound changes. The most significant aspect of this is the growing use of media online. As outlined above, this has a major impact on the advertising markets in Europe which normally provide a considerable amount of the funding required for the production of content –of programming and also of news. The growing dominance of major technology companies in the online advertising market presents a major concern for the economics of national media sectors, and hence a threat to pluralism – both in terms of cultural diversity and as regards diversity of news sources and opinions. European trends show a steady increase of the shares of Facebook and Google of the online advertising revenues, with most national data estimating this to be at least a 50% share.

The potential impact of these developments on smaller markets is even more worrying, as they often already operate in an environment where they are dominated by foreign companies, and where advertising and other revenues such as Pay TV are being earned by companies who do not necessarily contribute to the plurality of content or news plurality in the country.

³⁰ Reuters Institute (2017): [Digital News Report 2017](#).

All of these market aspects (consumption, funding and viability of news, and reliability of information) have become central issues in current debates regarding media pluralism. The role of significant new players and types of platforms in the delivery of media content, and specifically news and information, is central to many debates emerging on this issue, which will be outlined in the following chapters.

Chapter 2. European and international obligations and guidelines

This chapter outlines briefly the context of international obligations and guidelines in the area of media pluralism. It also outlines recent activities of, and reports emanating from, international organisations. The studies, activities and guidelines will be dealt with and referred to more comprehensively in later chapters of the report.

2.1 United Nations

The United Nations' Universal Declaration of Human Rights, Article 19 established the right to freedom of opinion and freedom of expression.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.³¹

This was further elaborated, and made binding in the International Convention on Civil and Political Rights, Article 19:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*
 - (b) *For the protection of national security or of public order (ordre public), or of public health or morals.³²*

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) is the body most closely associated with cultural and media diversity issues. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression plays a particular role in the area of media freedom. In the Convention for the Protection and Promotion of the Diversity of Cultural Expressions,³³ the preamble reaffirms that: "*freedom of thought, expression and information, as well as diversity of the media, enable cultural expressions to flourish within societies*"

2.2 The Council of Europe

The Council of Europe has been a significant and long term actor in the promotion of media pluralism and media freedom in Europe. Article 10 of the European Convention on Human Rights ensures the right to freedom of expression:

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a*

³¹ United Nations [Universal Declaration of Human Rights](#)

³² United Nations [International Convention on Civil and Political Rights](#)

³³ United Nations [Convention for the Protection and Promotion of Diversity of Cultural Expression](#)

*democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*³⁴

The importance of the principle of media plurality to the right to freedom of expression has been addressed many times by the European Court of Human Rights:

*"[Imparting] information and ideas of general interest ... cannot be successfully accomplished unless it is grounded in the principle of pluralism."*³⁵

The case law of the European Court of Human Rights in relation to freedom of expression and broadcasting is summarised in factsheet created by the Council of Europe.³⁶ Some of the main issues are addressed below.

Council of Europe (2016): Freedom of Expression and the Broadcasting Media: Thematic Factsheet (Extracts)

Member States must ensure that the public has access through television and radio to impartial and accurate information and to a range of opinion and comment reflecting the diversity of political outlook within the country. It is of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organised, provided that they do not harm democracy itself. The choice of the means to achieve this aim may vary according to local conditions and falls therefore within the State's margin of appreciation.

To ensure true pluralism in the audio-visual sector it is not sufficient to provide for the existence of several channels or the theoretical possibility for potential operators to access the audio-visual market. It is necessary in addition to allow effective access to the market so as to guarantee diversity of overall programme content, reflecting as far as possible the variety of opinions encountered in the society at which the programmes are aimed.

A situation whereby a powerful economic or political group is permitted to obtain a position of dominance over the audio-visual media and thereby exercise pressure on broadcasters and eventually curtail their editorial freedom undermines the fundamental role of freedom of expression in a democratic society.

The Committee of Ministers, and also the Parliamentary Assembly of the Council of Europe have issued many recommendations on the issues of media freedom, pluralism and diversity. More than 10 years ago, the Recommendation CM/Rec (2007)290 on media pluralism and diversity of media content³⁷ focused on four areas: 1) structural pluralism, 2) diversity of content, 3) transparency of ownership, and 4) scientific research.

The recommendation stressed the importance of media concentration rules, of adaption of competition law measures, of ensuring the place of public service media in the new media environment and its role in integrating society, and ensuring PSB is independent and securely financed. Other structural issues that were addressed included encouraging the development of other media such as community, local, minority or social media and issues of access to electronic networks and any other financial and regulatory measures necessary to protect and promote structural pluralism of audiovisual and print media.

³⁴ European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_ENG.pdf

³⁵ *Informationsverein Lentia and Others v. Austria*, 24 November 1993

³⁶ Council of Europe (2016) [Freedom of Expression and the Broadcasting Media: Thematic Factsheet](#)

³⁷ Committee of Ministers of the Council of Europe (2007): [Recommendation CM/Rec\(2007\)290 of the Committee of Ministers to member states on media pluralism and diversity of media content](#)

With regard to measures promoting content diversity, the recommendation focused on: ensuring a "sufficient variety of information, opinions and programmes is disseminated by the media and is available to the public"; encouraging the media to "supply the public with a diversity of media content capable of promoting a critical debate and a wider democratic participation"; promoting the "production and provision of diverse content by media organisations"; ensuring the availability of content via must carry rules; providing support measures for the "creation, production and distribution of audiovisual, written and all types of media contents which make a valuable contribution to media diversity;" supporting "the training of media professionals, including on-going training, and encourage such training to address the role that media professionals can play in favour of diversity".

The central importance of transparency was again reiterated with the recommendation that Member states should ensure that the public have access to a range of information regarding the ownership and control of media outlets. And finally, the recommendation also stated that member states should support scientific research and study in the field of media concentration and pluralism and promote public debate on these matters.

A new Recommendation was adopted by the Committee of Ministers on March 7th 2018.³⁸ This recommendation focuses on the following five areas: 1) A favourable environment for freedom of expression and media freedom; 2) Media pluralism and diversity of media content; 3) Regulation of media ownership, control and concentration; 4) Transparency of media ownership, organisation and financing; and 5) Media literacy/education. The preamble to the recommendation focuses on several areas that have been raised in the previous chapter with regard to the new media environment. For example, paragraph 5 notes the potential for enhancing diversity and debate offered by the online world:

5. In the present multi-media environment, online media and other internet platforms enable access to a growing range of information from diverse sources. This transformation in how media content is made available and used creates new opportunities for more and more people to interact and communicate with each other and to participate in public debate.

Additionally, many of the concerns regarding the potential role of intermediaries, the potential for narrowing of viewpoints and the polarisation of society are addressed in paragraph 6:

6. This technological evolution also raises concerns for media pluralism. While variety in media sources and types can be instrumental in enhancing diversity of media content and exposure to such diversity, it does not of itself guarantee it. Individuals still have to select what media to use and what content to watch, listen to or read among vast quantities of diverse content distributed across various media. This may result in them selecting or being exposed to information confirming their existing views and opinions, which can, in turn, generate fragmentation and result in a polarised society. While limited news resources and self-imposed restrictions on the choice of content are not new phenomena, the media and internet intermediaries may amplify their inherent risks, through their ability to control the flow, availability, findability and accessibility of information and other content online. This is particularly troubling if the individual users are not aware of these processes or do not understand them.

In addition, the recommendation recognises other concerns with regard to the economic impact of powerful news players on the financial stability of news and media outlets and the subsequent impact on professional journalism. It also notes the strength of market players and an increase in consolidation which can lead to an undue influence on opinion, in paragraph 7.

7. As new actors enter the evolving online market, the ensuing competitive pressures and a shift in advertising revenues towards the internet have contributed to an increase in media consolidation and

³⁸ Committee of Ministers of the Council of Europe (2018): [Recommendation CM/Rec\(2018\)1\[1\] of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

convergence. Single or a few media owners or groups acquire positions of considerable power where they can separately or jointly set the agenda of public debate and significantly influence or shape public opinion, reproducing the same content across all platforms on which they are present. Convergence trends also lead to cost-cutting, job losses in journalism and media sectors, and the risk of financial dependencies for journalists and the media. These developments may cause a reduction in diversity of news and content generally and ultimately impoverish public debate.

Also, the preamble brings together two elements that the drafters considered to be “practical instruments of effective pluralism”, particularly from the perspective of the user. These are Transparency of Media Ownership and Media Literacy.

“Transparency and media literacy are therefore indispensable tools for individuals to make informed decisions about which media they use and how they use them, to search for, access and impart information and ideas of all kinds”

Further reference to the proposals will be outlined in later chapters.

2.3 The European Union

With regard to the European Union, it has been the European Parliament that has consistently addressed issues of media pluralism and has long been active in commissioning studies and in developing recommendations and resolutions in the area of media pluralism. The regulation of media systems in relation to pluralism of the media has remained the competence of the member states of the European Union. Only via competition policy has the European Union played any role in the shape of the markets, although very high thresholds of turnover and the presence of a company in several markets are required for an intervention by the DG Competition of the European Commission.

The establishment of the Charter of Fundamental Rights of the European Union of 2000 (which came into full legal effect with the entry into force of the Lisbon Treaty in 2009) brought issues such as freedom of expression, media freedom and pluralism into the sphere of European Union activity, under Article 11.

Freedom of expression and information

- 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*
- 2. The freedom and pluralism of the media shall be respected.³⁹*

The proposed new Audiovisual Media Services Directive addresses the issue of media pluralism in the context of the independence of regulators. This is referred to in the preamble:

“The activities of national regulatory authorities established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition.”

Article 30 directly deals with independence of regulatory authorities.

- 1. Each Member State shall designate one or more independent national regulatory authorities. Member States shall ensure that they are legally distinct and functionally independent of any other public or private body. This shall be without prejudice to the possibility for Member States to set up regulators having oversight over different sectors.*

³⁹ Charter of Fundamental Rights of the European Union (2000/C364/01)

2. "Member States shall ensure that national regulatory authorities exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media pluralism, cultural diversity, consumer protection, internal market and the promotion of fair competition."⁴⁰

2.4 Studies and reports

Media pluralism

Since 2007, the European Commission has been active in several areas with regard to media freedom and pluralism. In 2009 it commissioned the study on the *Independent Study on Indicators for Media Pluralism in the Member States*.⁴¹ The independent study as it is described in the introduction: "was part of the three-step approach on media pluralism in the European Union (EU), announced by Commissioner Viviane Reding and Vice-President Margot Wallström in January 2007 in response to continuing concerns from the European Parliament and non-governmental organisations about media concentration, and its possible effects on pluralism and freedom of expression."⁴²

This study is referred to in more detail in later chapters.

In 2011, the Commission established a High Level Group on Media Freedom and Pluralism in 2011.⁴³ The mandate of the group was to draw up a report for the Commission with recommendations for the respect, protection, support and promotion of pluralism and freedom of the media in Europe. In 2013, the High Level Group on Media Freedom and Pluralism presented its final report, with 30 recommendations. The first of these recommended an area where the EU would have the competence to act in this matter:

*Recommendation 1: The EU should be considered competent to act to protect media freedom and pluralism at State level in order to guarantee the substance of the rights granted by the Treaties to EU citizens, in particular the rights of free movement and to representative democracy. The link between media freedom and pluralism and EU democracy, in particular, justifies a more extensive competence of the EU with respect to these fundamental rights than to others enshrined in the Charter of Fundamental Rights.*⁴⁴

This was based on work carried out by the Centre for Media Pluralism and Media Freedom⁴⁵ and represented a departure from the focus of EU competence being based on the Charter of Fundamental Rights. However, no action has been taken in relation to regulating media pluralism. One outcome of the report was the continued work of the Centre for Media Pluralism and Media Freedom, in particular with regard to the Media Pluralism Monitor. Since 2014, the Centre for Media Pluralism and Media Freedom have been developing a tool for the measurement of risks to media pluralism in the EU member states, on the basis of the 2009 *Independent Study on Indicators for Media Pluralism in the Member States*. The Media Pluralism Monitor is looked at more closely in chapter 4 with regard to media pluralism: definitions, frameworks and measurement. Further

⁴⁰ European Commission (2016): [Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities](#)

⁴¹ K.U. Leuven, ICRI/ Central European University, CMCS/ Jönköping International Business School, MMTC/ Ernst & Young Consultancy Belgium(2009): [Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach](#). Prepared for the European Commission, Directorate-General Information Society and Media.

⁴² Ibid

⁴³ European Commission [High Level Group on Media Freedom and Pluralism](#).

⁴⁴ High Level Group on Media Freedom and Pluralism (2013): [A free and pluralistic media to sustain European democracy](#)

⁴⁵ Centre for Media Pluralism and Media Freedom (2012): *EU competences in respect of Media Pluralism and Media Freedom July 2012*.

recommendations from the High Level Group Report and the subsequent public consultation on the recommendations of the report, will be referred to in the following chapters.

Public opinion on media diversity

Between September and October 2016, the European Commission conducted a special Eurobarometer on Media Pluralism and Democracy,⁴⁶ which was published in November 2016 (in conjunction with the 2016 Annual Colloquium on Fundamental Rights, which focused on media pluralism and democracy).

The study asked questions of the interviewees in relation to their opinions on: whether the media provides a diversity of views and opinions; whether the diversity of views and opinions had decreased, increased or remained the same in comparison to five years ago; the extent to which the media are independent, free from political or commercial influence; and whether the media are reliable, trustworthy. Some key findings with relation to perceptions of media diversity included the following: two thirds of respondents (66%) agree that their national media provide a diversity of views and opinions, and the majority in all but one Member State agree (Greece is the only exception); 44% of EU citizens say the level of diversity of views and opinions in the national media are the same as it was five years ago, 29% think there is more diversity, while 18% say there is less; 38% agree their national media provide information free from political or commercial pressure, while the majority disagree (57%).

Fake news and "information disorder"

Both the Council of Europe and the European Commission have recently published reports on the worrying trend of "information disorder", particularly online. Guidelines and recommendations on this issue emanating from these reports are referred to briefly in later chapters.

⁴⁶ EC (2016): [Special Eurobarometer 452: Media Pluralism and Democracy](#). November 2016. Eurobarometer studies are opinion polls carried out on behalf of the European Commission by external companies (such as TNS).

Chapter 3. Pillars of pluralism: public service media, and local and community media

This chapter provides a brief overview of European and international policy statements with regard to two fundamental pillars of media pluralism: namely public service media and local and community media. The 2018 Recommendation of Committee of Ministers of the Council of Europe on media pluralism and transparency of media ownership in its preamble notes that:

*9. Independent and sustainable public service and not-for-profit community media can serve as a counterbalance to increased media concentration. By virtue of their remit and organisation, public service media are particularly suited to address the informational needs and interests of all sections of society, as is true of community media in respect of their constituent users. It is of utmost importance that the mandates of public service media include the responsibility to reflect political pluralism and foster awareness of diverse opinions, notably by providing different groups in society – including cultural, linguistic, ethnic, religious, sexual or other minorities – with an opportunity to receive and impart information, to express themselves and to exchange ideas.*⁴⁷

The recent Council of Europe report on Information Disorder⁴⁸ also recommends the importance of government support for public media and local media in the battle against disinformation: *Support public service media organisations and local news outlets. The financial strains placed on news organisations in recent years has led to 'news deserts' in certain areas. If we are serious about reducing the impact of information disorder, supporting quality journalism initiatives at the local, regional and national level needs to be a priority.*

3.1 Public service media

The remit of this project is not to outline the range of policies, laws, regulations, charters, agreements etc. that prescribe the role that public service media play in the promotion of media plurality and media diversity. That would constitute an entire separate study. However, it is important to note the significance of the public service media in this area and the ongoing reference to public service media as a core element of media plurality recommendations at the international and European level.

Public service media's core role in promoting pluralism

In the European Commission consultation on media pluralism and democracy carried out in 2016: *"Most respondents saw public service media as vital to media freedom and pluralism, with their role described as providing diverse, factual, and unbiased information and setting standards for high-quality journalism."*⁴⁹

The 2007 Recommendation of the Committee of Ministers of the Council of Europe on media pluralism and diversity of media content stressed the need (among other things) to: *"encourage public service media to play an active role in promoting social cohesion and integrating all communities, social groups and generations, including minority groups, young people, the elderly, underprivileged and disadvantaged social categories, disabled persons, etc.....; invite public service media organisations to envisage the introduction of forms of consultation with the public, which may*

⁴⁷ Council of Europe, Committee of Ministers (2018): [Recommendation CM/Rec\(2018\)1\[1\] of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

⁴⁸ Council of Europe (2017): [Information Disorder: Toward an interdisciplinary framework for research and policy making.](#)

⁴⁹ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. *"Media pluralism and democracy". Public Consultation Summary Report*

include the creation of advisory structures, where appropriate reflecting the public in its diversity, so as to reflect in their programming policy the wishes and requirements of the public..."⁵⁰

The 2018 Recommendation of Committee of Ministers of the Council of Europe on media pluralism and transparency of media ownership also reiterates some of these issues in relation to the institutional arrangement of media pluralism, and recommends that member states: *"should recognise the crucial role of public service media in fostering public debate, political pluralism and awareness of diverse opinions.."*⁵¹

Independence and sufficient funding of public service media

The European Commission consultation on media pluralism and democracy carried out in 2016 revealed that: *"Many respondents highlighted the need for public service media to be accountable, independent from politics and government, and to function based on a clear remit. Adequate funding was seen as essential to ensure quality and independence from political and commercial influence."*⁵²

The 2007 Recommendation of the Committee of Ministers of the Council of Europe on media pluralism and diversity of media content stressed the need (among other things) to: *"guarantee the independence of public service media organisations vital for the safeguard of their editorial independence and for their protection from control by one or more political or social groups...; and ensure appropriate and secure funding of public service media from a variety of sources – which may include licence fees, public funding, commercial revenues and/or individual payment – necessary for the discharge of their democratic, social and cultural functions."*⁵³

The 2018 Recommendation of Committee of Ministers of the Council of Europe on media pluralism and transparency of media ownership also reiterates some of these issues in relation to the institutional arrangement of media pluralism, and recommends that member states should (among other things): *"protect the editorial independence and operational autonomy of public service media by keeping the influence of the State at arm's length...;ensure stable, sustainable, transparent and adequate funding for public service media in order to guarantee their independence from governmental, political and commercial pressures and enable them to provide a broad range of pluralistic information and diverse content."*⁵⁴

3.2 Local and community media

Similarly, this report will not provide a comprehensive overview of the entire range of policies, laws and regulations with regard to local and community media. However, the role played by local and community media in the promotion of media plurality and media diversity, and in particular the role played with regard to cultural diversity continues to be emphasised in policy documents and recommendations.

Local and community media as contributors to pluralism

With regard to local and community media, the **2007 Recommendation of the Committee of Ministers of the Council of Europe on media pluralism and diversity of media content** stressed that (among other things): *Member states should encourage the development of other media capable of making a contribution to pluralism and diversity and providing a space for dialogue. These media could, for example, take the form of community, local, minority or social media. The content of such media can*

⁵⁰ Committee of Ministers of the Council of Europe (2007): [Recommendation CM/Rec\(2007\)2 of the Committee of Ministers to member states on media pluralism and diversity of media content](#)

⁵¹ Council of Europe, Committee of Ministers (2018)

⁵² European Commission (2016)

⁵³ Committee of Ministers of the Council of Europe (2007)

⁵⁴ Council of Europe, Committee of Ministers (2018)

*be created mainly, but not exclusively, by and for certain groups in society, can provide a response to their specific needs or demands, and can serve as a factor of social cohesion and integration. The means of distribution, which may include digital technologies, should be adapted to the habits and needs of the public for whom these media are intended.*⁵⁵

The 2018 Recommendation of Committee of Ministers of the Council of Europe on media pluralism and transparency of media ownership notes that: *Such independent media give a voice to communities and individuals on topics relevant to their needs and interests, and are thus instrumental in creating public exposure for issues that may not be represented in the mainstream media and in facilitating inclusive and participatory processes of dialogue within and across communities and at regional and local levels.*⁵⁶

Sustainability of local and community media

In 2017, the UNESCO launched a Community Media Sustainability Policy Series⁵⁷ that has been created to assist media regulators and government institutions to provide a regulatory environment that recognises the value of community media and supports its long-term sustainability.

The report defines community broadcasters thus: *community broadcasters are generally independent, not-for-profit and governed by the communities they serve. They form an important “third pillar” of a healthy pluralistic media sector, alongside commercial and public broadcasters. Having a clear understanding of what is covered by the term ‘community broadcaster’ is not always obvious, due to the huge variety of ‘on-the-ground’ situations around the world.*

The report recommends (among others): *a formal recognition of community broadcasting in the national legislative framework [which] helps guarantee the right to freedom of expression, ensure diversity and pluralism and promote the overall development of the sector. Beyond simple recognition, better practice is to ensure that community broadcasters benefit from all of the legal rights and privileges that apply to other media outlets; a special licensing systems should be put in place by taking into account the special needs of community broadcasters; policy and regulations should be able to reserve a minimum percentage of the available spectrum for community radios. Community broadcasters should also have the right to distribute their content freely over the Internet; the availability of direct public funding, access to funding from foreign sources, and indirect funding are three key policy questions for community broadcasters; and obtaining commercial sources of revenue, such as advertising and/or sponsorship, and the access to public advertising are important issues at stake.*

The latest Recommendation of Committee of Ministers of the Council of Europe recommends that member states (among others): *should encourage and support the establishment and functioning of community, minority, regional and local media, including by providing financial mechanisms to foster their development.*⁵⁸ Here the recommendation of “providing financial mechanisms to foster development” is additional to previous recommendations.

The 2013 report of the European Commission - High Level Group on Media Freedom and Pluralism recommended that: *there should be a provision of state funding for media which are essential for pluralism (including geographical, linguistic, cultural and political pluralism), but are not commercially viable. The state should intervene whenever there is a market failure leading to the under - provision of pluralism, which may be considered as a key public good. Any public ownership of the media should be*

⁵⁵ Committee of Ministers of the Council of Europe (2007)

⁵⁶ Council of Europe, Committee of Ministers (2018)

⁵⁷ UNESCO (2017): [Community Media Sustainability Policy Series](#)

⁵⁸ Council of Europe, Committee of Ministers (2018)

*subject to strict rules prohibiting governmental interference, guaranteeing internal pluralism and placed under the supervision of an independent body representing all stakeholders.*⁵⁹

⁵⁹ European Commission - High Level Group on Media Freedom and Pluralism (2013): [*A free and pluralistic media to sustain European democracy.*](#)

Section II: Pluralism policies in Austria, Denmark, France, Germany, the Netherlands, and the United Kingdom

Chapter 4. Media pluralism: definitions, frameworks and measurement

4.1 The concept of media pluralism

Pluralism of the media is often considered a two-fold concept, relating to both the diversity of ownership of media outlets (external) and also the diversity of output or content of media outlets (internal). Pluralism can also be considered as relating to two aspects of the media's role in society. According to Doyle (2003):

'Political' pluralism is about the need, in the interests of democracy, for a range of political opinions and viewpoints to be expressed in the media. Democracy would be threatened if any single voice, with the power to propagate a single viewpoint, were to become too dominant.

'Cultural' pluralism is about the need for a variety of cultures, reflecting the diversity within society, to find expression in the media. Cultural diversity and social cohesion may be threatened unless the cultures and values of all groupings within society (for example those sharing a particular language, race, or creed) are reflected in the media.⁶⁰

In the 2009 Independent Study on Indicators for Media Pluralism in the Member States,⁶¹ the research team developed a framework on the basis of five dimensions of media pluralism, named 'risk domains': of which three were 'normative' and two 'operational.' These five dimensions of pluralism are a useful reference for looking at the definitions of pluralism used in various European jurisdictions and they are paraphrased in the table below.

Table 4.1. Five dimensions of media pluralism

Cultural Pluralism	Cultural pluralism in the media refers to the fair and diverse representation of and expression by the various cultural and social groups, including ethnic, linguistic, national and religious minorities, disabled people, women and sexual minorities, in the media.
Political Pluralism	Political pluralism in the media refers to the fair and diverse representation of and expression by various political and ideological groups, including minority viewpoints and interests, in the media.
Geographical /Local Pluralism	Geographical pluralism in the media refers to fair and diverse representation of and expression by local and regional communities and interests in the media. It comprises a plurality of themes and voices being present in the media, socialisation through media access and participation, ... and representation of diverse values, viewpoints and roles, in which local and regional communities can be recognised.
Pluralism of Media Ownership and Control	Pluralism of media ownership and control refers to the existence of media outlets and platforms owned, or controlled, by a plurality of independent and autonomous actors. It encompasses a plurality of actors at the level of media production, of media supply and of media distribution (i.e. variety in media sources, outlets, suppliers and distribution platforms).
Pluralism of Media Types and Genres	Pluralism of media types refers to the co-existence of media with different mandates and sources of financing - commercial media, community or alternative media, and public service media, within and across media sectors, like print, television, radio and internet. Pluralism of media genres refers to diversity in the media in relation to media functions, including providing information, education, and entertainment.

⁶⁰ Doyle, G (2003): Media Ownership: the economics and politics of concentration in the UK and European media. London: Sage.

⁶¹ K.U. Leuven, ICRI/ Central European University, CMCS/ Jönköping International Business School, MMTC/ Ernst & Young Consultancy Belgium (2009): [Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach](#).

National definitions of media pluralism and media diversity

United Kingdom

In the UK, the definition of plurality as used by the Ofcom focuses on diversity of viewpoints and opinions, and also on preventing any one media owner from having too much influence over public opinion:

*(i) ensuring there is a diversity of viewpoints available across and within media enterprises; and
(ii) preventing any one media owner or voice having too much influence over public opinion and the political agenda.*⁶²

The British focus is therefore on political pluralism, and external pluralism that promotes political pluralism.

Germany

In the case of Germany, the law focuses on the "opinion forming weight" (the strength of influence on opinion-formation) of media outlets and owners. The focus, similar to the UK, is on external pluralism and the extent to which that supports political pluralism.

Austria

In Austria, the concept of media diversity is defined in competition law (in § 13 para. 2 KartG) as *"a variety of independent media companies that are not in the sense of § 7 interconnected and it is considered that via their reporting a range of different opinions is guaranteed."*

According to the explanatory notes, this provision is intended to make it clear that "media diversity" does not just mean a variety of titles, but also takes into account whether the media are independent of each other in their reporting. It is expressly required that this is ensured by a corresponding ownership structure.⁶³ This suggests also a focus on external pluralism and the extent to which that supports political pluralism.

France

In France, the main focus of the media regulator, the CSA is political pluralism both during election campaigns and in general. Article 13 of the Act of 30 September 1986⁶⁴ tasks the CSA with ensuring pluralism in broadcasting, in particular in relation to news and current affairs. The CSA outlines the meaning of pluralism:

*the objective of pluralism is to ensure that viewers and listeners, who are among the beneficiaries of freedom of communication, have diversified information, so that they are not deprived of the ability to exercise their freedom of opinion and of choice as voters.*⁶⁵

In relation to France, Kamina (2016) notes that:

Although it has not been defined precisely, plurality appears to cover currents of expression in the political field in a very broad sense. It is not certain, however, that it includes purely 'cultural' plurality and hence a principle of 'cultural plurality'. It will be noted however that Article 3-1 of the Act of 30 September 1986 tasks the CSA with ensuring "the quality and plurality of programmes", which perhaps broadens the significance of the principle in the context of this Act.

⁶² Sourced from Ofcom (2015): [Report to the Secretary of State on the operation of the media ownership rules listed under Section 391 of the Communications Act 2003](#)

⁶³ Information from the website of the [Bundeskartellamt \(Federal Anti-Trust Agency\)](#)

⁶⁴ French media legislation: [Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication \(Loi Léotard\)](#)

⁶⁵ Unofficial translation from [French CSA website section on pluralism](#)

The Netherlands

In the Netherlands, regarding its role in monitoring media concentration in the market, the Dutch regulator the Commissariaat voor de Media (CvdM) refers to the following definitions of pluralism: "Internal pluralism reflects how social and political diversity are reflected in media content."

"External pluralism covers the number of owners, media companies, independent editorial boards, channels, titles or programmes."⁶⁶

Hence the concept of pluralism covers both internal and external pluralism, while the internal aspect refers to both political and cultural diversity. The Dutch regulator focuses mainly on the aspects of external pluralism. In the course of its work it also looks at media use, and intends to develop further its work on news and information (see under 4.2).

Denmark

There is no working definition of pluralism or diversity in the Danish media legislation. However, the public service media have obligations with regard to programming. Public service media should aim at "quality, versatility and diversity in the range of programmes provided."

In addition: "Programming shall ensure that the general public has access to important information on society and debate. Furthermore, particular emphasis shall be placed on Danish language and culture. Programming shall cover all genres in the production of art and culture and provide programmes that reflect the diversity of cultural interests in Danish society."⁶⁷

It should be noted that in all of the countries, the public service remits cover more broadly political and cultural pluralism in relation to programming obligations. In this sense the dimensions of pluralism that relate to cultural pluralism and pluralism of genres are regulated in relation to public service television.

4.2 Frameworks for assessing and measuring media pluralism

The European Media Pluralism Monitor

Since 2014, the Centre for Media Pluralism and Media Freedom have been developing a tool for the measurement of risks to media pluralism in the EU member states, on the basis of the 2009 *Independent Study on Indicators for Media Pluralism in the Member States*.⁶⁸

The independent study on indicators for media pluralism in the member states as it is described in the introduction: "was part of the three-step approach on media pluralism in the European Union (EU), announced by Commissioner Viviane Reding and Vice-President Margot Wallström in January 2007 in response to continuing concerns from the European Parliament and non-governmental organisations about media concentration, and its possible effects on pluralism and freedom of expression."⁶⁹

The resulting Media Pluralism Monitor (MPM) provides the following framework for assessing risks to media pluralism, which are categorised into four areas: basic protection, market plurality, political independence, and social inclusiveness (each with 5 sub categories of indicators).

Table 4.2 Media Pluralism Monitor Framework

Basic protection	Market plurality	Political independence	Social inclusiveness
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⁶⁶Website of the Media Monitor of the Dutch media regulator: <http://www.mediamonitor.nl/>

⁶⁷ Danish [Radio and Television Broadcasting Act](#)

⁶⁸K.U. Leuven, ICRI/ Central European University, CMCS/ Jönköping International Business School, MMTc/ Ernst & Young Consultancy Belgium(2009): [Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach](#).

⁶⁹ Ibid

Protection of freedom of expression	Transparency of media ownership	Political control over media outlets	Access to media for minorities
Protection of right to information	Media ownership concentration (horizontal)	Editorial autonomy	Access to media for local/regional communities and community media
Journalistic profession, standards and protection	Cross-media concentration of ownership and competition enforcement	Media and democratic electoral process	Access to media for people with disabilities
Independence and effectiveness of the media authority	Commercial and owner influence over editorial content	State regulation of resources and support to media sector	Access to media for women
Universal reach of traditional media and access to the Internet	Media viability	Independence of PSM governance and funding	Media literacy

The Media Pluralism Monitor still focuses more on “risks” to pluralism, but essentially the focus is on the study of the environment (in particular institutional and regulatory) that may serve to promote pluralism. In many ways, the monitor is focusing also on broader themes of media freedom. In this sense, the co-operation and involvement of each member state is important with regard to the development of the Media Pluralism Monitor, and the results of the study are interpreted by national experts. It is necessary for these experts to provide some nuance as regards the results. Reference to the recent findings of the MPM are made throughout this report.

The MPM can be considered a “diagnostic” approach to assessing media pluralism based on the assessment of risks.⁷⁰

The national systems outlined below include the British and German systems for assessing plurality of the market. These can be considered actual attempts at assessing political pluralism or plurality of the news media.

In addition, the Dutch Media monitor and the Belgian CSA Media pluralism site are outlined below. While these do not directly assess pluralism of the market, they provide extensive market data and information that can facilitate a deeper examination of the plurality of the markets.

Measurement of media pluralism in the United Kingdom

The broadcast and telecommunications regulator in the United Kingdom – the Ofcom – recently published its framework for measuring media plurality. The first framework was developed in 2012, and this was updated in 2015 following a stakeholder consultation.⁷¹ The scope of the framework includes all forms of media including print, radio, TV and online. The main purpose of this framework is the support of assessments of media mergers and the potential impact on plurality (see also next chapter). The focus of content to be considered in the framework is limited to news and current affairs. As noted above, the definition of plurality as used by the Ofcom is the following: *(i) ensuring there is a diversity of viewpoints available across and within media enterprises; and (ii) preventing any one media owner or voice having too much influence over public opinion and the political agenda.*

In its work, the Ofcom distinguishes between wholesale and resale suppliers of news: for example, the BBC is a wholesale supplier but at a retail level news brands can include various TV, radio and

⁷⁰ as Valke (2014) explained: “The Monitor deliberately offers a diagnostic, not a prescriptive tool on the basis of established risk management strategies.”

⁷¹ Ofcom (2015): [Measurement framework for media plurality. Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#)

online news brands of the BBC. The Ofcom approach to assessing the level of plurality of the media uses three categories of quantitative metrics as well as qualitative contextual factors:

1. Availability: the availability of news sources, the number of news sources available on each platform and across all media;
2. Consumption of these sources / the use of different news sources; and
3. Impact: proxies are used to help assess the impact, or influence, that these sources may have. This is achieved by reference to the perceived impartiality, reliability and trust and the extent to which a news source helps people make up their minds about news.

Fig.4.3 Ofcom matrix for measuring plurality.

Media plurality measurement framework

Category		Metrics	Description	Source	What it indicates
Availability	Availability and consumption metrics to be calculated at retail and wholesale levels to allow analysis of media ownership. Consumption metrics to also be calculated at intermediary level to reflect use of intermediaries	Number of providers	A count of the number of entities providing news sources	Industry data	An indication of the potential for diversity of viewpoints
Consumption		Reach	By platform – TV, Radio, Newspapers, Internet	Industry measurement systems, consumer research	An indication of the variety of viewpoints disseminated
			By provider within platform	Consumer research	As above. Cross media reach establishes the capability for each provider to reach the population regardless of platform
		Share of consumption	By platform – TV, Radio, Newspapers, Internet	Industry measurement systems, consumer research	An indication of the potential concentration in patterns of consumption Note: This would be calculated from time spent for each platform as measured by the industry measurement systems
			By provider within platform	Consumer research	As above
			Cross platform	Consumer research	Note: this can be in the form of the share of reference metric that captures the reach and frequency of consumption
Multi-sourcing		By platform and cross-platform	Consumer research	An indication of the extent to which consumers are sourcing their news from one or a range of sources	
Impact	Personal importance	By platform By provider	Consumer research	Provides one proxy for measuring the potential to influence opinion	
	Perceived impartiality, reliability and trust and the extent to which a news source helps people make up their minds about news	By platform By provider	Consumer research	Provide additional context to the metric of personal importance	
Contextual factors	A range to be considered	A description of the qualitative differences between news sources and organisations	Multiple sources. Examples of relevant factors include, but are not limited to: Internal plurality Internal governance processes Editorial policy Impartiality requirements Market trends and future market developments	Elements relevant to an understanding of plurality that are not able to be quantified by metrics	

Source: Ofcom (2015): Measurement framework for media plurality.

The Ofcom carries out an annual news consumption study to inform this process.⁷² The study looks at the use of the main platforms (television, printed press, radio and internet) and also at the use of specific brands for news (a pre-prepared list, and the option for spontaneous answers from the interviewees).

The study uses the share of references data to understand the importance of each platform. The share of reference metric is calculated by asking people which news sources they use nowadays and

⁷² Ofcom (2017): [News consumption in the UK: 2016](#)

the frequency with which they use them. Each reference is then factored according to frequency of consumption, and summed to create a total number of news references. The share (%) of each source or provider can then be calculated based on this total number. From the last study, it was noted that: *At a platform level, television has a 39% share of reference, followed by the internet (37%), radio (16%) and then newspapers (9%).*

The BBC has the largest share of reference across both wholesale and retail providers (42% for each category). For retail, this is followed by ITV (9%), Sky (6%) and DMGT (4%).

The report also covers the questions on the perceived impartiality, reliability and trust and the extent to which a news source helps people make up their minds about news for a variety of news brands. In addition, there is data available in relation to local news, and to news consumption in the Nations. All of this data is placed in a qualitative, descriptive context. Fig.1 shows the Ofcom matrix for measuring plurality.

The German media diversity monitor

The BLM in Bayern provides an example of a regulator initiative to monitor media plurality with its “*MedienVielfaltsMonitor*” (media diversity monitor).⁷³ While developed by the BLM and originally used there since 2012, the monitor is now (since 2015) used to assess media diversity throughout Germany. Bi-annual reports⁷⁴ are produced regarding the “opinion forming weight” (the strength of influence on opinion-formation) of the media by sector, and by specific brands. This is carried out in a survey commissioned to the TNS – the TNS Infratest – which gathers data on the use of each type of media for information and also on the importance of each type of media for influencing the opinion of users.

The monitor has a 4-step model used to determine the shares of media companies in the “opinion market”.

1. Empirical determination of the opinion-forming weight of the mass media TV, radio, newspapers, magazines and Internet (weighting study: TNS Infratest, see below)
2. Determining the reach of media offers based on the recognized market studies: ma Pressemedien; ma radio; GfK/AGF TV; and Nielsen –Internet
3. determination of the share of media companies in the individual media markets television, radio, newspapers, magazines, internet; cross referencing the reaches and shareholder shares of the providers (using the media database of KEK)
4. Calculation of the shares in the opinion market by adding and weighting the values in the individual media markets

Assessments of media diversity – specifically assessing the opinion-forming weight are aided by the regular publication of the “*MedienGewichtungsStudie*” (Media weighting study) carried out by TNS Infratest,⁷⁵ with the purpose of understanding the importance of various media platforms in the delivery of news and information. The central question of the weighting study is therefore: How relevant are the media genres of television, radio (radio), internet and print for the opinion-forming of the population in Germany?

To determine the relevance of each type of media the following data was used: the daily coverage of each type of media for informational purposes; and the importance of the individual media genres (ranking) for opinion formation. Based on the empirically collected data, an opinion-forming weight was determined for each media genre. The percentage of respondents who used the media type

⁷³ The “[MedienVielfaltsMonitor](#)” (media diversity monitor) on the website of the BLM

⁷⁴ The report from the first half year of 2016 is available here:

https://www.blm.de/files/pdf1/alm_viefaltsmonitor_1-halbjahr-2016-1.pdf

⁷⁵ The “[MedienGewichtungsStudie](#)” (Media weighting study) 2016

https://www.blm.de/files/pdf1/relevanz_der_medien_2016-1.pdf

(yesterday) for information purposes, is added to the percentage of respondents who named the media type as the most important information medium, and the result is divided by two. In the last report, these weights were noted as: Television 35,7%, Internet 22,3%, daily newspapers 20,7% and radio 18,7%.

Hence, the German approach in understanding the opinion-forming power of the media is quite similar to that of the UK. A distinction is the fact that the Ofcom study provides reference data for platforms *and* for specific media brands.

The German Commission for determining media concentration (KEK)

In Germany, the KEK (Kommission zur Ermittlung der Konzentration im Medienbereich – the Commission for the determination of concentration in the Media) has a specific remit to monitor compliance with media ownership laws and to ensure the diversity of opinion in nationwide private television.⁷⁶ The KEK therefore plays a specific role in the monitoring of concentration. KEK provides a database of the national television broadcasters and their shareholders, and produces annual reports on the state of media concentration. In addition, it provides infographics on the major media groups operating in the country, on their shareholders and their subsidiaries.

In co-operation with the State Media Authorities, the KEK publishes, each year a report on media concentration, with detailed overviews of the main players in the markets, their share-holders and their other subsidiary companies. They also include extensive data on media use.

The Dutch MediaMonitor

The Dutch regulator, the Commissariaat voor de Media (CvdM) according to the Media Act 2008: *is charged with investigating developments with regard to concentrations and financial-economic conditions on the national and international media markets and the consequences thereof for the diversity and independence of the information provision.*⁷⁷

The CvdM has developed a website – the MediaMonitor – which provides a range of data, and access to annual reports on media concentration. The data on the website includes: market data on newspaper circulations, TV audience shares and radio audience shares; overviews of the main media groups in the country; media use; specific focused reports on aspects of the market; an overview of the distribution markets and the pay TV packet offers; and other publications. In addition, a “Trends” page provides graphic illustrations of market shares over time. The MediaMonitor (English pages) provide the following definitions of pluralism:

*Internal pluralism reflects how social and political diversity are reflected in media content. That is, the representation of different cultural groups in the media as well as divergent political or ideological opinions and viewpoints. Internal pluralism plays an important role in news and public affairs coverage, and also for public broadcasting and media landscapes dominated by one (monopoly) or two (duopoly) players. Governments can not only stimulate internal pluralism by facilitating public service broadcasting, but also by means of financial support such as grants, press funds, reduced tax rates, etc. External pluralism covers the number of owners, media companies, independent editorial boards, channels, titles or programmes. This type of pluralism is also known as the ‘plurality’ of suppliers. From the perspective of the ‘free marketplace of ideas’, competition between these media content suppliers is considered to be essential in order to ensure a free choice of media content and the availability of a wide variety of opinions and ideas. Policies on media concentration are most concerned with the market power that owners or companies may gain and the subsequent possibility of exerting influence.*⁷⁸

⁷⁶ Homepage of the KEK: <https://www.kek-online.de/>

⁷⁷ Unofficial translation of Dutch Media Act: <http://wetten.overheid.nl/BWBR0025028/2017-02-01>

⁷⁸ Website of the Media Monitor of the Dutch media regulator: <http://www.mediamonitor.nl/>

The focus of the work of the Dutch media monitor has been on issues of external pluralism and media concentration. In this context, they look at issues of editorial independence, and they examine the diversity of offer of television packages. As they have a broader definition of external media pluralism encompassing: *independent editorial boards, channels, titles or programmes*. According to their website since 2002, the Media Authority has reported annually on media concentration and media development in general and independence and pluralism of the news media in particular. The current annual report (2016/2017) focuses on media use but not specifically on news and information. The website also notes that this issue will be back in focus in 2018.

Belgian CSA Pluralism database

A similar approach has been developed by the regulator of the Belgian French speaking community media sector – the Belgian CSA – who also provides a focus on pluralism on its website⁷⁹ on the basis of the Decree on audiovisual Media Services that includes a chapter on Transparency and protection of Pluralism.⁸⁰

The website provides: a database of all the services available (television, radio, on-demand services, print media and other electronic media services; an overview of media groups as well as their structure and shareholding (graphic representation); audience and market shares by sector (television, radio and daily newspapers), such as market shares, the time of use of the media, the turnover of publishing companies and the level of concentration; data on media content, i.e. the general content offer of television and radio services licensed or authorized (the information, cultural and musical offer as well as the proportions devoted to the different categories of programmes: European, Francophone, etc.)

Chapter 5. Media pluralism: laws, regulations and policies

This chapter provides an overview of the laws, regulations and policies in place to protect and promote pluralism in Austria, Denmark, France, Germany and the Netherlands. These laws and regulations include restrictions on ownership, shareholdings and companies, the regime for licensing of services, and regulations on transparency of the market.

Policies include a range of measures for promoting pluralism such as enhancing transparency, market reports, and funding for content or the development of journalism.

5.1 Media ownership and control – ownership rules and thresholds

The majority of European states have media ownership limitations that tend to indicate what would be considered a dominant power in a media market. Ownership limitations may refer to the share limitations of an individual in a company, or of a company with regard to media outlets. Measures of market power or dominance are most frequently assessed in terms of audiences (or readership/circulation) with regard to the press. Laws and regulations may prevent the attainment of such dominance, they may have a system to limit further growth of a company, or there may be remedies to counteract the power of companies.

⁷⁹ The Pluralism database of the Belgian CSA: <http://www.csa.be/pluralisme>

⁸⁰ Décret sur les services de médias audiovisuels (art. 6 et 7). Chapitre IV – [Transparence et sauvegarde du pluralisme](#)

Austria

The Austrian laws on media ownership are complex and focus on reducing the number of services provided by a company in the same area of Austria. They also deal with cross media ownership. The following is an attempt to summarise the rules which are outlined in Section 11 of the Audiovisual Media Services Act⁸¹. The Act limits ownership of digital television licences as long as “*not more than three coverage areas included in the licences overlap*”.

It includes a cross media ownership restriction as the provision of TV channels will be limited if the company has more than 30% reach in the following markets: terrestrial radio. Daily press, weekly press, cable networks. The same restrictions apply to digital television services, with the limiting percentages applying to the proposed coverage area of the service. The law also defines, with regard to shareholders that a dominant influence on a broadcaster can be achieved with a 25% ownership or voting share. The regulatory authority determines reach and levels of coverage of media operators and publishes this data once a year.

France

French media ownership rules are outlined in the Act of 30 September 1986,⁸² the aim of which is to preserve plurality in the audiovisual field. They place thresholds on the shareholding of individuals and companies in broadcasters that have an audience market share of more than 8%: *No one natural person or legal entity acting alone or in concert may hold, either directly or indirectly, more than 49% of the capital or voting rights of a company that holds an authorisation for a national television service broadcast terrestrially which has an average annual audience over an electronic telecommunications network that exceeds 8% of the total audience of television services.* (Article 39)

The law also limits the number of licences to be held by an individual or company: *No one natural person or legal entity holding an authorisation in respect of a national television service broadcast terrestrially with an audience that exceeds this threshold [8%] may hold, either directly or indirectly, more than 33% of the capital or voting rights of a company that holds an authorisation in respect of a service that is not national and which does not consist essentially of relaying a national television service in the French overseas territories.* (Article 40)

The law specifically limits licences for national terrestrial television, with an exception where the services are edited by different companies: *the Article provides that no-one may hold two authorisations each for a national television service broadcast terrestrially. However, a single person may, directly or indirectly, hold up to seven authorisations each for a national television service or programme other than personal mobile television broadcast terrestrially in digital mode if the services or programmes are edited by separate companies.* (Article 41)

Germany

In Germany, the rules controlling ownership of national television services are laid out in the Interstate Broadcasting Treaty: Section III Provisions for Commercial Broadcasting; Subsection 3 Ensuring Plurality of Opinion. The article outlines the threshold of audience shares that implies a dominant position, and also the process for reducing this dominance. In Germany, the law states that a company is in a dominant position – more specifically - has a dominant “opinion-forming power” when it has an audience share of 30%, or where a company also has interests in a media-related business, a dominant power is established with a 25% audience share.

Among other things, a dominant power precludes the issuing of further licences to the company. This dominance will also be taken into account with regard to media mergers.

⁸¹ Austria: [Audiovisuelle Mediendienste-Gesetz \(AMD-G\)](#) (Law on Audiovisual Media Services)

⁸² French media legislation: [Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication \(Loi Létard\)](#)

If a company reaches or passes the threshold due to internal growth (rather than merger or acquisition), a range of measures are proposed by the authorities:

- The company may give up its participating interests in broadcasters attributable to it until the attributable audience share of the undertaking falls below the limit or
- It may (where relevant) limit its market position in media-relevant related markets or give up its participating interests in broadcasters attributable to it until dominant power of opinion no longer prevails, or
- it may, take other measures to ensure plurality of opinion, to be agreed with the KEK.

Cross media ownership rules are more likely to be found at the state level. However, there are examples where these have been removed. For example, in Bavaria the regional restrictions in Bavaria were dropped, allowing cross media ownership between the press and local/regional radio and TV. As elsewhere, the arguments put forward by the press emphasised that with the difficult financial situation of radio and TV, without their increased involvement local radio and TV stations might have to close.

United Kingdom

In the UK, there are what is known as a “set of media ownership rules”:

- The national cross-media ownership rule: which prohibits a newspaper operator with a market share of 20% or more of newspaper circulation from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%.
- The Channel 3 appointed news provider rule: which acts so as to require regional Channel 3 licensees to appoint a single news provider among them. Individuals or organisations disqualified from holding a Channel 3 licence are also disqualified from being the Channel 3 appointed news provider.
- The Media Public Interest Test (which is dealt with below under media mergers)
- The Disqualified Persons Restrictions: (which is dealt with below under licensing) which prevent certain bodies or persons from holding any broadcast licences, others from holding certain kinds of broadcast licences, and still others from holding broadcast licences unless Ofcom has determined that it is appropriate for them to do so.⁸³

According to of the Communications Act 2003 (s.391), Ofcom is required to review these rules at least every three years. The last review was in 2015,⁸⁴ and concluded that despite changes in consumption that the rules still served their purpose and should be retained.⁸⁵

In the 2009 Ofcom review of media ownership rules, they recommended a relaxation of the media ownership rules as they applied to local media, due to the structural challenges it faced, in particular from internet advertising.⁸⁶ In 2011 the Media Ownership (Radio and Cross Media) Order was passed in the United Kingdom, which deregulated the rules on ownership of local newspapers, radio and television licences. The UK government argued that one of the barriers preventing commercially sustainable local television to emerge in the UK is the restrictions around media ownership. The result of the reformed media ownership rules was that local media companies were “free to affiliate to

⁸³ Ofcom 2015: [Report to the Secretary of State on the operation of the media ownership rules listed under Section 391 of the Communications Act 2003](#)

⁸⁴ Ibid

⁸⁵ L. Woods (2016): “Media Concentration in the United Kingdom”. In *Media ownership - Market realities and regulatory responses*. IRIS Special. Publication of the European Audiovisual Observatory

⁸⁶ Ofcom (2015): [Measurement framework for media plurality. Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#)

develop cost effective local television service models benefiting from syndication of resources, journalists and technical expertise.”⁸⁷

Denmark and the Netherlands

The legislative framework in Denmark does not include specific rules to limit the total media assets that may be held by any one person, or company. The registration and licensing procedures for broadcasters do not refer to ownership as a parameter by which to judge whether or not registration will be granted.

In the Netherlands, there are no longer any rules that limit concentration of the media markets. The former Temporary Act Media Concentrations (*Tijdelijke wet media concentraties*), was repealed in 2011. The Act had introduced constraints to horizontal and cross-media ownership in the markets for radio, television and newspapers based on audience shares. The reasoning for relaxation of rules was, according to the Media Pluralism Report (Netherlands, 2015),⁸⁸ that the legislator argued that the law restricted publishers’ survival strategies through mergers and acquisitions (i.e. takeovers as a means to prevent termination of outlets) and publishers’ cross-media development. They also noted the abundance of online news sources. In addition, cross-media ownership restrictions were also removed. The report also notes that the top three firms in the market for newspapers, magazines, radio and television, have a joint operating turnover that equals about 80% of the net advertising revenue in the media market.

5.2 Ownership, control and pluralism in the licensing of audiovisual media services⁸⁹

Limiting concentration of ownership and promoting transparency of ownership

The process of licensing services is one of the most significant ways in which media regulators can play a role in protection of pluralism of ownership of services (external pluralism). It can be used to prevent concentration, and is also a tool in requiring transparency of the ownership of services. As illustrated above, the media ownership rules are already partly reliant on the licensing system for enforcement.

Austria

In Austria, licences are limited according to the strength of a company with regard to services that they already have, and as noted in the previous section are focused on the coverage of services. The transparency of ownership of all AVMS providers is ensured via the obligation to provide the relevant data when applying for a licence or when completing a notification. Section 11 of the Audiovisual Media Services Act limits ownership of digital television licences as long as “*not more than three coverage areas included in the licences overlap*”. It includes a cross media ownership restriction as the provision of TV channels will be limited if the company has more than 30% reach in the following markets: terrestrial radio. Daily press, weekly press, cable networks. The same restrictions apply to digital television services, with the limiting percentages applying to the proposed coverage area of the service. The law also defines, with regard to shareholders that a dominant influence on a broadcaster can be achieved with a 25% ownership or voting share. The regulatory authority

⁸⁷ Department for Culture, Media and Sport, “[The Media Ownership \(Radio and Crossmedia\) Order 2011: Impact Assessment](#)”, cited in Ó Fathaigh, R. (2016): “[Current National Developments](#)”. In [Regional and local broadcasting in Europe](#).

⁸⁸ Paapst, M.H. and T. Mulder (2016): [Media Pluralism Monitor 2016 Monitoring Risks for Media Pluralism in the EU and Beyond. Country report: Netherlands](#).

⁸⁹ Some data in this section has been sourced from European Audiovisual Observatory (2018, forthcoming): *Mapping of licensing and related systems for audiovisual media services in EU-28*. Report prepared for the European Commission DG Connect.

determines reach and levels of coverage of media operators and publishes this data once a year.⁹⁰ Austrian law requires (similar to the new law in France, see below) that media operators have to make available and easily accessible a range of information on ownership, shareholders and their shares, voting rights etc.⁹¹

France

In France, the transparency of ownership is ensured via the obligation to provide the relevant data when applying for a licence or completing a notification, as well as in case of a direct or indirect modification concerning a legal person holding a licence.⁹²

With regard to restriction of licences, as outlined above, the law also limits the number of licences to be held by an individual or company: *No one natural person or legal entity holding an authorisation in respect of a national television service broadcast terrestrially with an audience that exceeds this threshold [8%] may hold, either directly or indirectly, more than 33% of the capital or voting rights of a company that holds an authorisation in respect of a service that is not national and which does not consist essentially of relaying a national television service in the French overseas territories.* (Article 40) The law specifically limits licences for national terrestrial television, with an exception where the services are edited by different companies: *the Article provides that no-one may hold two authorisations each for a national television service broadcast terrestrially. However, a single person may, directly or indirectly, hold up to seven authorisations each for a national television service or programme other than personal mobile television broadcast terrestrially in digital mode if the services or programmes are edited by separate companies.* (Article 41)⁹³

In addition, according to a recent Observatory study: pluralism, diversity of operators and free competition are regarded as "priority requirements" to be taken into consideration by the CSA in the DTT licensing process. The CSA has to consider the interest of each project for the public, in particular with regard to "the need to avoid abuses of dominant position or anti-competitive practices." In order to limit media concentration, the CSA has also to take account of the applicant's direct and indirect shareholdings in the capital of one or several advertising or press publishing companies. Legal agreements to be concluded between the CSA and private AVMS providers have to set up specific rules "in accordance with fairness and pluralism of information" and taking into account the competition conditions of various services on the market. The agreement should also provide for measures to be carried out to ensure fairness, independence and the pluralism of information.⁹⁴

Germany

As outlined above, in Germany a dominant "opinion-forming" power will disqualify a company from being granted new broadcasting licences. Such a power is achieved with 30% audience share of the national TV market (or 25% where the company has other media-related business interests).

Preventing certain types of ownership – political, cross-media

Austria

In Austria, the Audiovisual Media Services Act includes a cross media ownership restriction as the provision of TV channels will be limited if the company has more than 30% reach in the following

⁹⁰ Austria: [Audiovisuelle Mediendienste-Gesetz \(AMD-G\)](#) (Law on Audiovisual Media Services)

⁹¹ Ibid

⁹² French media legislation: [Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication \(Loi Léotard\)](#)

⁹³ Ibid

⁹⁴ European Audiovisual Observatory (2018, forthcoming): *Mapping of licensing and related systems for audiovisual media services in EU-28*. Report prepared for the European Commission DG Connect.

markets: terrestrial radio, daily press, weekly press, cable networks. The same restrictions apply to digital television services, with the limiting percentages applying to the proposed coverage area of the service.

United Kingdom

In the UK, the Disqualified Persons Restrictions prevent certain bodies or persons from holding any broadcast licences, others from holding certain kinds of broadcast licences, and still others from holding broadcast licences unless Ofcom has determined that it is appropriate for them to do so. These include the following:

Advertising agencies and political bodies, such as political parties or issue-groups, are prohibited from holding any broadcast licences.

Local authorities are disqualified from holding broadcast licences except to operate a broadcast service solely to provide information on their functions and services within their area.

Bodies which receive more than 50% of their funding from UK public funds, such as some universities or museums, are disqualified from holding most radio licences but are permitted to hold all types of TV licences.

Religious bodies are prohibited outright from holding licences for Channel 3, Channel 5, sound broadcasting and multiplexes. For other licence types, such as digital television programme services, community radio, digital sound programme services or digital additional sound services, Ofcom is given discretion to determine if it is appropriate for that body to hold a licence.

The BBC, Channel 4 Corporation and S4C (the Welsh-language public-service TV channel) are prohibited from holding Channel 3 and Channel 5 licences.

Promoting pluralism of content

The process of licensing broadcasting services can also influence the content diversity in the market. If certain services are part of a tender process – for example regarding use of spectrum and also often licences for digital terrestrial services - the regulator will stipulate the type of service or type of content that is required in the service. For other types of licences, there may also be specifications regarding minimum amounts of certain types of programming. The implementation of the Audiovisual Media Services Directive ensures that most television broadcasters comply with quotas on European content, and independent productions which enhances the cultural diversity of content.

5.3 Competition policy and media mergers

Austria: media mergers that impair diversity

In Austria, media mergers are covered in the general competition law – the Antitrust Act - (Kartellgesetzes (KartG)).⁹⁵ The general merger control looks at the turnovers of companies in order to assess the size of the merger. For media mergers, a specific system has been introduced. The rules are stronger and listed under article 13 KartG). On the one hand, the thresholds to be observed are much lower. In the case of a media merger, the revenues of media companies and media services are to be multiplied by 200, the revenues of media auxiliary companies are multiplied by 20. Hence, the mergers are more likely than those in other industries to fall under an examination under the competition law rules.

A media merger is defined as being where at least two of the participating companies belong to one of the following groups: Media companies or media services; Media auxiliary companies (for example, publishers, printers, advertisers, film distributors); Companies that individually or jointly hold at least 25% of one of the aforementioned types of companies, directly or indirectly.

⁹⁵ Austrian Antitrust Act - ([Kartellgesetzes \(KartG\)](#))

Mergers can also be prohibited if they are expected to affect media diversity, separately to general competition issues. As noted in the last chapter, "Media diversity" itself is defined in § 13 para. 2 KartG as "*a variety of independent media companies that are not in the sense of § 7 interconnected and it is considered that via their reporting a range of different opinions is guaranteed.*"

The procedure to assess this takes place in two phases: After the registration of the merger with the Federal Competition Authority, it must be made public. Affected companies (those whose legal or economic interests are affected by the merger) can make a written statement within 14 days. The two official parties - the Federal Competition Authority and the Federal Cartel Lawyer - can apply for examination of the merger with the Cartel Court within four weeks after receipt ("Phase II - Examination"). This application must also be published. Any entrepreneur whose legal or commercial interests are affected by the merger may make written statements to the cartel court in the proceedings, but will not obtain a party status. It is also possible to expressly renounce the ex officio parties to the applicant within the deadline.

As regards the regulator, the Federal Competition Authority shall give KommAustria the opportunity to comment on the impact of the merger.

The examination concerns whether a merger will cause "impairment of media diversity." It is noted by the authorities that the term "impairment" will therefore have to be understood in such a way that the question must always be asked as to *whether the merger reduces the number of independent media to a level that is no longer justifiable from the point of view of media diversity.*⁹⁶

United Kingdom: media mergers and the public interest test

Media Mergers are addressed in Chapter 2 of the Communications Act 2003, which also amended the Enterprise Act 2002. The legislation outlines the role of the regulator Ofcom and the Competition and Markets Authority – CMA- (formerly the Office of Fair Trading - OFT). The Enterprise Act provides for possible intervention in the case of media mergers by the Secretary of State for Business, Innovation and Skills in relation to stated public interest considerations: the need for accurate reporting, free expression, and a plurality of opinion in newspapers in each market. These considerations were added to the enterprise Act under s.375 of the Communications Act.

Media public interest considerations can be summarised as:

- *The need for accurate presentation of news and free expression of opinion in newspapers.*
- *The need for, to the extent that it is reasonable and practicable, a sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom or a part of the United Kingdom is specified in this section.*
- *The need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience.*
- *The need for the availability throughout the United Kingdom of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests.*
- *The need for persons carrying on media enterprises, and for those with control of such enterprises, to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in section 319 of the Communications Act 2003*

⁹⁶ Information from the Federal Anti-trust Agency in Austria: <https://www.bundeskanzleramt.gv.at/-/medienfusionskontrolle>

The Secretary of State for Business, Innovation and Skills can ask Ofcom to report on the public interest concerns. This may involve one of the following: *a newspaper test for mergers involving newspaper enterprises, and a broadcasting and cross-media test for mergers involving broadcasting enterprises or mergers between broadcasting enterprises and newspaper enterprises.*⁹⁷

The Ofcom has developed a framework for measuring media plurality, the purpose of which is to support the assessments of media mergers and the potential impact on plurality. The details regarding the framework have been outlined in the previous chapter (regarding media pluralism definitions, frameworks and measurement).

Germany: controlling the dominant influence on public opinion

The examination of media mergers requires that for broadcasters, the merger also has to be notified to the state media agency that granted the broadcasting licence. If a nationwide broadcaster is involved, the Commission on Concentration in the Media (KEK) has to be involved.

under the German merger control rules

The purpose of the KEK procedure is to prevent a single entity from exercising a controlling influence on public opinion. Similar to the Austrian system, examination of media mergers use a calculation of the parties' turnover in order to assess the significance: in this case the actual turnover in the case of revenues generated from broadcasting activities is multiplied by 20, and the actual turnover in the case of revenues generated from activities relating to newspapers and magazines is multiplied by eight.

The KEK has a stronger role than that of broadcast regulators involved in the media merger process in other states. In Austria, the regulator has "an opportunity to comment" on a merger, in the UK the Ofcom can be asked to report on the public interest concerns. The KEK, on the other hand is in a position to block media mergers. A merger in the national TV landscape should not create a dominant opinion forming power (defined above as 30% audience share, or 25% where the company has other media interests).⁹⁸

France: impact assessments of media mergers

The French CSA plays a role in the assessment of the impact of media mergers. According to the French legislation (Loi L  otard)⁹⁹ under Article 41-4, where concentration directly or indirectly involving a publisher or distributor of radio and television services is the subject of an in-depth review, the Competition Authority must request the opinion of the CSA before making a final decision. The Competition Authority may also seek the opinion of the CSA with regard to any anticompetitive practices that it is investigating in the of radio, the television and the services of audio-visual media on demand. The CSA also advises the competition Authority when it becomes aware of anticompetitive practices in the market.

For the CSA impact assessment, an extensive overview and analysis is carried out looking at the current markets, the situation of the parties in the markets, the acquisition of rights, diversity of programming, audience market shares, advertising market shares, the overall economic situation of players in the market, and the potential effects, for all players, of the proposed merger.

⁹⁷ L. Woods (2016): "Media Concentration in the United Kingdom". In *Media ownership - Market realities and regulatory responses*. IRIS Special. European Audiovisual Observatory.

⁹⁸ See the interesting analysis from Michael Petri in *Media ownership - Market realities and regulatory responses*. IRIS Special. European Audiovisual Observatory.

⁹⁹ Loi n   86-1067 du 30 septembre 1986 relative    la libert   de communication (Loi L  otard)

5.4 Transparency of media ownership

The transparency of ownership of the media has long been considered to be a very important aspect of promoting media plurality. It should be noted that media ownership databases generally do not cover the press, and do not necessarily include the radio sector.

This transparency, for the broadcast regulator, is frequently covered in the licensing process, as noted above, whereby applicants for licences must provide detailed ownership information when applying for a licence. In addition, it is often the case that any changes in ownership structures must be communicated to the relevant regulators, and approved by the relevant regulators.

In Austria, all AVMS providers are obliged to provide the relevant data in the licensing or notification process. In Germany, under sec. 29 RStV, changes of ownership or of other influences on the broadcaster or with regard to a participating company must be notified in writing with the responsible State Media Authority before they may be realised. This notification applies both to changes in the ownership structure or on the execution of voting rights.¹⁰⁰

Also, as detailed above, in France there is an obligation to communicate to the regulator a direct or indirect modification concerning a legal person holding a licence. In order to limit media concentration, the CSA has also to take account of the applicant's direct and indirect shareholdings in the capital of one or several advertising or press publishing companies.¹⁰¹

Similar rules apply in the UK where detailed information on company directors, partners, governors and share-holders must be provided in the licence applications.

In Denmark, there are also no obligations to provide media ownership data in the licensing process, while in the Netherlands, there are no rules about transparency of ownership during the licensing or notification process, however, the CvdM asks for a description of the organisational and legal structure of the applicant in the application form. As noted in the European Audiovisual Observatory report: such obligations exist *not in theory, but data is available in practice*.¹⁰²

Transparency of media ownership for the public

However, the availability of this data to the public, and other interested stakeholders and civil society is also considered crucial to the promotion of media plurality.

In the European Commission consultation on Media Pluralism and Democracy carried out in 2016, most of the respondents "*considered the transparency of ownership as fundamental to media freedom and pluralism. Respondents gave examples of threats from owners protecting other businesses, owners with political goals and over-reliance on a few large advertisers. Multiple respondents suggested national and EU-wide databases, the strengthening of national or EU transparency rules and the extension of transparency and ownership rules to online platforms.*"¹⁰³

¹⁰⁰ KEK (2015): [Turning from a Television-Centred View to a Broader Focus on Media Requirements for a Present-Day Regulation to Secure Plurality of Opinion in the Media](#)

¹⁰¹ European Audiovisual Observatory (2018, forthcoming): *Mapping of licensing and related systems for audiovisual media services in EU-28*. Report prepared for the European Commission DG Connect.

¹⁰² European Audiovisual Observatory (2018, forthcoming): *Mapping of licensing and related systems for audiovisual media services in EU-28*. Report prepared for the European Commission DG Connect.

¹⁰³ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. "[Media pluralism and democracy](#)". [Public Consultation Summary Report](#)

The Council of Europe Recommendation of 2018 also stresses the importance of transparency of media ownership: "... legislation should also provide for the independent national media regulatory authority or other designated body to ensure that the public has easy, swift and effective access to data about media ownership and control arrangements in the State, including disaggregated data about different types of media (markets/sectors) and regional and/or local levels, as relevant. These data should be kept up to date on a rolling basis; made available to the public free of charge and without delay, and their availability publicised. Ideally they should be accessible and searchable, for example in the form of online databases; their contents should be made available in open formats and there should be no restrictions on their re-use."¹⁰⁴

Norway has historically been the only country with a specific law relating to this issue. The Norwegian Act on transparency of Media Ownership¹⁰⁵ gives the regulator – the Norwegian Media Authority – the responsibility to contribute to create greater transparency, awareness and knowledge of ownership interests in Norwegian media. The Authority shall collect and systematize information about the ownership structure, and make the information available to the public. All companies operating media outlets are obliged to supply this information to the Authority.

However, in France the 2016 Act on strengthening media freedom, independence and pluralism¹⁰⁶ has also addressed issues of transparency of ownership. The Act contains a section concerning the transparency obligations of companies in the press and audiovisual sectors: such companies must annually make the readers of their publications or online news services fully aware of the composition of their capital if any legal or natural person owns a holding of 5% or more, and of its governing bodies. The company must mention the identity and shareholding of each of its shareholders.¹⁰⁷

In Austria, the law also requires that media operators have to make available and easily accessible a range of information on ownership, shareholders and their shares, voting rights etc.

The MAVISE database on European audiovisual services

The MAVISE database developed by the European Audiovisual Observatory (a partial agreement of the Council of Europe) was funded by the European Commission¹⁰⁸ and launched in 2008. The purpose of the database was to provide transparency on the audiovisual media services market by mapping the audiovisual services, their owners and their distribution throughout Europe. The database currently contains data on 42 national TV markets with information on TV channels, on-demand audiovisual services and details on the companies: broadcasters, media groups, distribution companies and Pay TV packagers.

In recent years, the co-operation between the MAVISE data collection and the data collection of national broadcast regulators has been intensified with national regulators directly supplying lists of services and the companies who have licensed/ registered/ or notified the services to the MAVISE.

¹⁰⁴ Council of Europe, Committee of Ministers (2018): [Recommendation CM/Rec\(2018\)1\[1\] of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

¹⁰⁵ [Norwegian Law on Transparency of Media Ownership](#) (Unofficial translation):

¹⁰⁶ Loi n° 2016-1524 du 14 novembre 2016 visant à renforcer la liberté, l'indépendance et le pluralisme des médias [Act on strengthening media freedom, independence and pluralism]

¹⁰⁷ Blocman, A. (2017) [France - Publication of the Act strengthening media freedom, independence and pluralism](#). IRIS Legal Observations of the European Audiovisual Observatory. 2017-1:1/12.

¹⁰⁸ The MAVISE database was developed by the European Audiovisual Observatory in the context of a framework contract with the European Commission DG COMM <http://mavise.obs.coe.int/>

Also, the wealth of data in the MAVISE database has allowed the Observatory analysts to provide data and analysis on media ownership – particularly at a pan-European level.¹⁰⁹

Databases, lists and websites of the national regulators

In Germany, the KEK (Kommission zur Ermittlung der Konzentration im Medienbereich – the Commission for the determination of concentration in the Media) has a specific remit to monitor compliance with media ownership laws and to ensure the diversity of opinion in nationwide private television.¹¹⁰ The KEK provides a database of the national television broadcasters and their shareholders, and produces annual reports on the state of media concentration. In addition, it provides infographics on the major media groups operating in the country, on their shareholders and their subsidiaries.

The Austrian regulator provides a range of databases covering radio broadcasters, TV broadcasters,¹¹¹ and on-demand services (while also providing lists of multiplex operators, programme aggregators, networks and other services). The databases on the audiovisual media services allow searches by name of service, name of operator, by area of broadcasting and by means (DTT, cable, satellite etc.) of broadcasting. The licence holders are included but without any ownership details.

The Commissariaat voor de Media was commissioned to monitor media concentrations in 2001 from the Ministry of Education, Culture and Science. Since then, the Media Authority has provided up-to-date information about ownership relationships and market shares in newspapers, magazines, television, radio, internet and distribution in the form of the Media Monitor (formerly Monitor Media Concentrations).¹¹² In addition, the Dutch regulator provides registers of audiovisual media services. These are in the form of excel files and include the name of the service, the licence/registration holder, the type of service and dates of licence/registration.

As mentioned in the previous chapter, the regulator of the Belgian French speaking community media sector – the Belgian CSA - also provides a focus on pluralism on a dedicated website¹¹³ which includes: a database of all the services available (television, radio, on-demand services, print media and other electronic media services); an overview of media groups as well as their structure and shareholding (graphic representation); audience and market shares by sector (television, radio and daily newspapers); media use, the turnover of publishing companies and the level of concentration; data on media content, i.e. the general content offer of television and radio services licensed or authorized (the information, cultural and musical offer as well as the proportions devoted to the different categories of programmes: European, Francophone, etc.)

In Denmark, the regulator provides online lists of the services¹¹⁴ that are registered, including the name and address of the licence holder and the date of licensing. Although the British and Danish regulators provide lists of services that they licence and the names of the companies holding the licences, no information is overtly made public regarding the share-holding in these companies. The

¹⁰⁹ See for example the European Audiovisual Observatory publications: Fontaine, G. and D. Kevin (2016): *Media ownership: towards Pan-European groups?*; and also L. Ene (2017): *Media Ownership - Children's TV channels in Europe - Who are the key players?*

¹¹⁰ Homepage of the KEK: <https://www.kek-online.de/>

¹¹¹ AVMS databases of the Austrian regulator RTR: <https://www.rtr.at/de/m/Fernsehveranstalter>

¹¹² Website of the Media Monitor of the Dutch media regulator: <http://www.mediamonitor.nl/>

¹¹³ The Pluralism database of the Belgian CSA: <http://www.csa.be/pluralisme>

¹¹⁴ Example of list of cable and satellite licence holders on the Danish regulator website: <https://slks.dk/medier/tv/kabel-satellit-og-internet-tv/liste-over-tv-registreringer/>

French CSA also do not link their lists of services to ownership. As noted above, the obligation is on the companies to make their ownership structures directly available to the public.

National reports on media markets, and on media concentration

Another contribution to transparency of the market is the provision of reports on the market- and/or reports on market concentration or media pluralism. The production of such reports is often mandated by law.

In Germany, the Interstate Broadcasting Treaty (article 26) requires the publication of regular reports on the development of concentration in the market:

(6) Every three years or upon the request of the states, the state media authorities shall jointly publish a KEK report on the development of concentration and on measures to ensure plurality of opinion in the commercial broadcasting sector, taking into account:

- 1. interdependencies between television and media-relevant related markets;*
- 2. horizontal interdependencies between broadcasters in different areas of transmission, and*
- 3. international interdependencies in the media sector.*

The report should also comment on the application of Articles 26 to 32 and on any necessary amendments to these provisions.

(7) The state media authorities shall publish an annual list of services to be drawn up by the KEK. The list of services shall include all services, their broadcasters and parties with participating interests.

In Germany, there are also bi-annual reports from the “MedienVielfaltsMonitor” (media diversity monitor) on the “opinion forming weight” (the strength of influence on opinion-formation) of the media by sector, and by specific brands.¹¹⁵

The Communications Act 2003 in the UK under section 391 requires the Ofcom to provide reports every three years reviewing media ownership and the media ownership rules. The last review was in 2015.¹¹⁶ In addition the Ofcom produces a wealth of reports on the market. The Communications Market Reports published annually cover market revenues, services and media use, and also data on broadband, telecommunications and post markets. In addition, the Ofcom publishes annual reports on news consumption to inform the media plurality assessment.¹¹⁷ They also completed a study into audience’s attitudes to the impartiality of television news in 2014.¹¹⁸

As noted above, the Dutch regulator - Commissariaat voor de Media (CvdM) – carries out annual research into developments in the Dutch media sector as part of the work of the Media Monitor.¹¹⁹

Since 2014, the Danish Agency for Culture and Palaces has been publishing reports on media development in Denmark.¹²⁰ These reports cover a range of issues such as media use, economic market data in particular relating to the advertising, and the reports also provide summaries of “special reports” that have been carried out during the year on the market. Examples of such reports have included reports on: local and regional media content; on the impact of media mergers on local and regional media; and on social media use. Another significant recent report was the report on the *Globalisation of the Danish Media Industry: Studies of international players’ impact on the Danish media*

¹¹⁵ The report from the first half year of 2016 is available here:

https://www.blm.de/files/pdf1/alm_viefaltsmonitor_1-halbjahr-2016-1.pdf

¹¹⁶ Ofcom (2015): [Measurement framework for media plurality. Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#)

¹¹⁷ Ofcom (2017): [News consumption in the UK: 2016](#)

¹¹⁸ Ofcom (2014): [Attitudes towards the impartiality of television news – summary of findings](#)

¹¹⁹ The most recent report is here: <http://www.mediamonitor.nl/>

¹²⁰ An English summary of the latest report: [Media Development in Denmark 2016](#)

market, Danish media providers and Danish media content. This will be dealt with in more detail in the following chapter.¹²¹ The report on the impact of media mergers on local and regional media strategies and content is of particular interest in relation to media pluralism. The methodology for this report included a team of researchers carrying out interviews with staff and journalists at the companies involved in mergers.

As another example of a smaller regulator the Austrian regulator produces a “Kommunikationsbericht” (Communications Report) which alongside detailing the year’s activities of the regulator on the market, also provides an overview of trends in the media market: advertising shares, audience shares, development in consumption of media etc.¹²²

In France, the CSA has a particular focus on political pluralism, particularly during times of elections. It publishes reports regarding the compliance with rules on election coverage and air time for candidates. Recently the CSA also established the CSA LAB a think tank whose purpose is to provide forward-looking insight on how audiovisual regulations should evolve in light of digital transformations of audiovisual creation and distribution. The CSA lab consists of two commissioners from the CSA board, and nine outside experts.¹²³ Several of their reports are referred to in the next chapter.

5.5 Bringing pluralism and diversity to the programming decisions

France

The 2016 Act on strengthening media freedom, independence and pluralism¹²⁴ also introduces a requirement that all television companies who broadcast “political and general news programmes”, as well as mainstream radio services, to appoint “committees to monitor the integrity, independence and pluralism of information and programmes”. These committees can act on their own initiative or be consulted at any time by the governing bodies of the company concerned or by any individual. Particular attention is paid to the independence of committee members, which must be established prior to their appointment, and to the workings of the committees themselves.¹²⁵

Germany

In Germany, public service media have internal broadcasting councils. As regards commercial broadcasting, external councils exist in the form of the councils of the regulators who licence and control commercial channels. According to the Interstate Broadcasting Treaty, commercial TV channels may be obliged to introduce programme advisory councils when they reach a certain audience share threshold (30%). The programme advisory council must advise those responsible for the management of the broadcaster and the partners or shareholders on how programming is to be designed. With its proposals and suggestions, the programme advisory council should contribute to ensuring plurality of opinion and programme diversity. When setting up a programme advisory council the broadcaster must ensure effective influence on programming for the programme advisory council by means of an agreement or statute. The members of the programme advisory

¹²¹ Danish Agency for Culture and Palaces (Slots- og Kulturstyrelsen) (2017): [Globalisation of the Danish Media Industry: Studies of international players' impact on the Danish media market, Danish media providers and Danish media content](#). English summary

¹²² https://www.rtr.at/de/inf/KBericht2016/K-Bericht_2016.pdf

¹²³ CSA LAB [launch press release](#)

¹²⁴ Loi n° 2016-1524 du 14 novembre 2016 visant à renforcer la liberté, l'indépendance et le pluralisme des médias [Act on strengthening media freedom, independence and pluralism]

¹²⁵ Blocman, A. (2017) [France - Publication of the Act strengthening media freedom, independence and pluralism](#). IRIS Legal Observations of the European Audiovisual Observatory. 2017-1:1/12.

council shall be appointed by the broadcaster. As members of the different groups of society they must as a whole ensure that the major views of society are represented.¹²⁶

5.6 Funding initiatives that promote media plurality

Austria - diversity of programming and development of journalism

In Austria, a wide range of funding exists that supports the plurality of media content. All of these funds are administered by the Austrian regulator RTR. Several relate to issues of cultural pluralism. These include specific television funds (Fernsehfonds)¹²⁷ that since 2004, the RTR administers (funds of 13,5 million from the TV licence fee). The aim of the funds is to increase the quality of TV production, to support the capacity of the film industry, strengthen Austria as a media location, and ensure a diverse cultural landscape.

In addition, there is a non-commercial broadcasting fund (established in 2009) and also managed by the RTR and used to promote non-commercial broadcasters. The funds are used to promote non-commercial broadcasting within the Austrian dual broadcasting system and are intended to support broadcasters in providing a high-quality and diverse range of programs. A private broadcasting fund was also established in 2009, is managed by the RTR and used to promote private commercial broadcasters. The funds are used to promote the Austrian dual broadcasting system and to support broadcasters in providing a high-quality and diverse range of programs.

There are also press support funds,¹²⁸ established under the Presseförderungsgesetz 2004. These are managed by Komm Austria. These are focused on the development of journalism. Daily and weekly periodicals can receive funds for: the education of young journalists; the costs for foreign correspondents; and refunds for delivery of free newspapers to schools. Other organisations and initiatives that qualify for funds are associations that promote reading of press, to associations of journalism education, press clubs, and other relevant research projects.

Denmark - supporting innovation and diversity in news media production

In Denmark, the provision of subsidies to the media market an important aspect of promotion of media pluralism. An amended law on media support represents a new approach to subsidising the media and was introduced in 2013. It concerns production and innovation aid for printed and digital media. Production aid is granted to news media production of editorial content. The aid scheme consists of a main and supplementary scheme (as well as a three-year transition fund for media that obtain less in total aid from the production aid scheme than under the previous distribution of aid scheme). Innovation aid is granted for projects or feasibility studies concerning the establishment of new or development of existing media. In addition, aid is provided from the "Magazine Fund" to distribution of certain periodic journals and periodicals, mainly union magazines whose content is non-profit or of humanitarian nature or about culture, education, sports, environment and religion.¹²⁹ According to (Hjarvard and Kammer, 2015): *what is new about this system is its platform neutrality. Before, press subsidies would only be granted to printed newspapers, and newspapers' individual subsidies would be calculated on the basis of circulation. With the new law, the basis for calculating subsidies is no longer circulation numbers but the number of 'journalistic full-time equivalents' employed,*

¹²⁶ German [Interstate Broadcasting Treaty](#)

¹²⁷ Website of Austrian regulator RTR on television funds: <https://www.rtr.at/de/ffat/Fernsehfonds>

¹²⁸ Website of Austrian regulator RTR on press funds: <https://www.rtr.at/de/ppf/Pressefoerderung>

¹²⁹ Information from the Danish Ministry of Culture: <https://english.kum.dk/policy-areas/media/>

and subsidies are no longer limited to newspaper organizations, but are potentially available for any-one conducting journalism. A small part of the total press subsidies is earmarked for online news.¹³⁰

France – funding audiovisual content and protecting cultural diversity

France potentially has the most comprehensive system in Europe for funding of audiovisual content with the aim of protecting and promoting the national audiovisual sector and also with protecting cultural pluralism. These are managed by the CNC (*Centre national du cinéma et de l'image animée*). Included in this are specific funds to promote diversity – encourage audiovisual content representing the diverse society in France.

Germany – reduced VAT for national print media

In Germany, at the national level, there are no similar funding approaches for promoting pluralism. Although state subsidies are mainly granted for film production, according to the Media Pluralism Monitor Report on Germany the main indirect subsidy for all print media (except printed material primarily dedicated to advertising) is the reduced VAT rate of 7% instead of the normal rate of 19%¹³¹. The only other process of public funding concerns community media, the “open channels” (Offene Kanäle). Many regulatory authorities either operate them or control and fund them (partly or entirely).

Netherlands – journalism promotion fund

In the Netherlands, the Dutch Government supports the media through the Journalism Promotion Fund. According to website of the Ministry, *the government makes an active contribution to independent journalism and thus to safeguarding freedom of expression with grants from the Journalism Promotion Fund. The Fund targets not only newspapers and magazines but also journalistic websites. The Fund awards up to around €2 million a year in grants for innovative journalism and regional cooperation between journalists' organisations. The reason for these grants is that more and more local and regional newspapers, magazines and broadcasters are disappearing or having to cut back, which could harm democracy.*¹³²

To prevent journalistic media from becoming dependent on government aid, support from the Fund is always temporary. The Netherlands also has a further fund – the CoBo (also incorporating the work of the former Dutch Cultural Media Fund). The CoBo Fund promotes the co-production of films and documentaries by public broadcasters, or public broadcasters and independent producers, and continues the work of the Media Fund in promoting the development of radio and TV productions, and websites.¹³³

United Kingdom - public funding for the promotion of local media and of local journalism

Aside from funding that is aimed at audiovisual production, in the UK in recent years, television licence fee funding has been earmarked to support local media. The first initiative was the development of local DTT television channels. Part of this included funding, whereby £25 million (EUR 31 million) of licence fee funds were made available for the initial capital costs for setting up

¹³⁰ Hjarvard, S. and A. Kammer (2015): [Online news: between private enterprise and public subsidy](#). In *Media, Culture & Society* 2015, Vol. 37(1) 115.

¹³¹ Schroeder, H.D., and K. Dankert (2016): [Media Pluralism Monitor 2016 Monitoring Risks for Media Pluralism in the EU and Beyond. Country report: Germany](#).

¹³² Website of Dutch Government: [the media and broadcasting](#)

¹³³ Source: Dutch government website: [Ministry for Education, Culture and Science](#)

local television, and the BBC also agreed to acquire content worth GBP 5 million per year from local television, until March 2017.

According to the Reuters Digital News Report 2017: *"There is particular concern about the future of local news as newspapers scale back coverage of local democratic institutions such as councils and courts. Trinity Mirror is looking to deliver cost savings of around £20m while Johnston Press, which owns 200 titles across the UK, including the i, the Yorkshire Post, and The Scotsman, is selling of some of its smaller weekly papers. To address concerns of a democratic deficit, the BBC has been encouraged by the government to fund 150 local reporters, which other local newspaper groups can use."*¹³⁴

This is part of the recent initiative that led to the establishment of the Local News Partnership (LNP). This is an agreement between the BBC and the regional news industry to provide a commitment to full and fair reporting of decisions taken by local authorities and other public bodies across the UK. Through a joint working agreement between the BBC and the News Media Association, the partnership will create 150 new journalism jobs, establish a shared data journalism unit and offer the regional media access to BBC news video and audio material. In addition to increased and improved reporting on decisions taken by public bodies, the LNP will ensure expertise is shared around the industry. The LNP includes:

- A News Hub giving external media organisations access to BBC video and audio material for use online.
- A Shared Data Unit - staffed by the BBC alongside reporters on secondment from local news providers - that will share data journalism with news organisations across the media industry.
- The employment of Local Democracy Reporters, who will cover councils and other public services on behalf of the BBC and local news organisations. There will eventually be 150 of these reporters, funded by the BBC and based in the offices of regional news organisations across the UK.¹³⁵

In December 2017, the BBC made an announcement regarding the "Local Democracy Reporters" and the regions and companies where they would be employed. Initially, 143 full-time and two part-time Local Democracy Reporters have been allocated to 58 news organisations in England, Scotland and Wales following a competitive bidding process. Those news organisations - ranging from a radio station to online media companies and established regional newspaper groups - will now receive funding from the BBC to cover employment costs of the reporters. As part of its Charter commitment, the BBC is investing up to £8 million annually in the Local News Partnerships during the next nine years to the end of the Charter in 2026.¹³⁶

Denmark and promoting pluralism

In Denmark, the media legislation refers only to the public service media with regard to issues of media diversity – that is internal pluralism.

Part 3 Public service activities

10. The overall public service activities shall, via television, radio and the Internet or similar, provide the Danish population with a wide selection of programmes and services comprising news coverage, general information, education, art and entertainment. Quality, versatility and diversity must be aimed at in the range of programmes provided. In the planning of programmes, freedom of information and of expression shall be a primary concern. Objectivity and impartiality must be sought in the information coverage.

¹³⁴ Reuters Institute (2017): [Digital News Report 2017](#)

¹³⁵ BBC Corporate pages: [Local News Partnership](#)

¹³⁶ BBC Media Centre (07.12.2017) [BBC announces media organisations which will employ Local Democracy Reporters as latest step in the Local News Partnerships](#)

Programming shall ensure that the general public has access to important information on society and debate. Furthermore, particular emphasis shall be placed on Danish language and culture. Programming shall cover all genres in the production of art and culture and provide programmes that reflect the diversity of cultural interests in Danish society.¹³⁷

¹³⁷ Danish Radio and Television Broadcasting Act:
https://english.slks.dk/fileadmin/user_upload/dokumenter/medier/radio_og_tv/Engelsk_side/Promulgation_of_the_Radio_and_Television_Broadcasting_Act_2010.pdf

Section III: Summary of key issues and recommendations - where to now for pluralism

Chapter 6 Summary of debates and proposals for regulation

6.1 The current regulatory approach to promoting pluralism

As was apparent in the previous chapters, there are well established systems in place for protecting and promoting media pluralism: with media ownership and concentration rules, with competition policy, broadcast licensing regulation, and other means of support –financial or otherwise. The extent to which these have been successful is not an issue addressed in this report. However, it is clear that these approaches have largely been designed for the traditional, nationally based media systems which were illustrated in Fig.1 in chapter 1.

Given the continued relevance of traditional media these systems are still vital for the protection and promotion of pluralism, and continue to be the core elements of media policy recommendations at the international and European level. In its recent review (2015) of the media ownership rules in the UK, the Ofcom concluded that despite changes in consumption that the rules still served their purpose and should be retained.¹³⁸

The German regulatory commission concerned with media concentration –the KEK – also recently (2015) published an analysis on the current approach to media concentration. The KEK believes that media concentration in Germany should be embracing a broader range of sources in the “opinion market” than television. However, they also believe that the current media ownership rules should be retained, at least for the time being, to ensure pluralism in the broadcast market.¹³⁹

At the same time, there are many examples of relaxation of media ownership rules – in particular in relation to cross media ownership at the local level. The justification for this was usually the argument that local media companies faced economic risks without the possibility of cross ownership and synergies. This happened in the UK, in Ireland, and in German Lander such as Bavaria. In the Netherlands, these rules were removed completely from the entire market citing similar arguments: the reasoning for relaxation of rules is that the legislator argued that the law restricted publishers’ survival strategies through mergers and acquisitions (i.e. takeovers as a means to prevent termination of outlets) and publishers’ cross-media development. They also noted the abundance of online news sources.¹⁴⁰

It is not possible to assess whether the relaxation of rules have ensured the long-term viability of local media. However, in both the UK and the Netherlands specific funds have been developed because of fears that “more and more local and regional newspapers, magazines and broadcasters were disappearing or having to cut back, which was considered potentially harmful to democracy” (Netherlands), and there was “particular concern about the future of local news as newspapers scale back coverage of local democratic institutions such as councils and courts. Press groups were looking to deliver cost savings or selling smaller weekly papers” (UK).

Despite several recommendations regarding the need for approaching media mergers with a specific set of tools to examine the impact on pluralism, there are still very few countries where this is done. Most of these were reviewed in the previous chapter.

¹³⁸ Ofcom (2015): [*Report to the Secretary of State on the operation of the media ownership rules listed under Section 391 of the Communications Act 2003*](#)

¹³⁹ KEK (2015): [*Turning from a Television-Centred View to a Broader Focus on Media Requirements for a Present-Day Regulation to Secure Plurality of Opinion in the Media*](#)

¹⁴⁰ Paapst, M.H. and T. Mulder (2016): [*Media Pluralism Monitor 2016 Monitoring Risks for Media Pluralism in the EU and Beyond. Country report: Netherlands.*](#)

The licensing of broadcasters emerges as a significant tool in many countries to limit the number of licences that a company has. This does not, however, play a major role in Denmark or the Netherlands.

There are numerous examples of public funding to promote pluralism of content, to support certain types of media such as the press and local or community media, and to support the development of journalism in the countries reviewed – particularly in Austria, Denmark and the Netherlands. In addition, market research and in particular research on media use, has become a very important part of policy development in many countries. It has added to the transparency of markets and helped to shape frameworks for the assessment of media pluralism.

Despite numerous recommendations on the need for transparency of media ownership, this has been achieved to a limited extent. Aside from detailed reports on this in Germany and the Netherlands, and efforts to increase this transparency that have been made by regulators such as the Belgian CSA, there still remains an opacity regarding the share-holding of media companies. This is mitigated somewhat by regular reports on media markets produced in several countries such as Denmark and the United Kingdom.

6.2 Challenges in the new digital media environment

More or less diversity?

On the one hand, many commentators consider that new forms of access to news online have had a positive impact on pluralism. McGonagle (2015), for example, notes both the positive and negative aspects of the proliferation of sources and the development of potential for citizens to participate in democratic debate:

Internet and social media are inherently democratic in that – depending on universal access - they enable potentially everyone, not just traditional media actors, to participate. They provide greater possibilities than traditional media for individuals to express themselves, communicate, create content and access content. Consequently, they offer obvious opportunities to foster pluralism. Indeed, the abundance of media and media outlets we now have is a triumph of technology and a great asset to democracy, an unprecedented opportunity for so many people in society to move from being passive onlookers to become actively engaged in issues that have relevance for them, to air their views and have a chance to have their voices heard, to have a say directly in matters – including political – that affect them. On the other hand, the argument prevails that there is now too much diversity, with the resultant fragmentation leading to polarisation, with citizens no longer being exposed to a wide range of views, resulting in a decline of shared experiences.¹⁴¹

Respondents to a public consultation on media pluralism and democracy carried out by the European Commission: "underlined the benefits of the converged media environment as it: enables political actors to reach out to citizens; makes it possible for citizens to engage and participate in a way that is particularly appreciated by the younger generation; enables civil society to play a watchdog role; makes it easier for journalists to work more independently and disseminate information quickly; opens the door to new business models and so-called 'citizen journalism'."¹⁴²

¹⁴¹ McGonagle, M. (2015): *Monitoring Media Pluralism – an exercise in futility?* Background paper. Plenary session 2: How to ensure and assess Media Pluralism and Diversity of Media Content? 41st EPRA meeting Berne, 14-15 May 2015.

¹⁴² European Commission (2016): Annual Colloquium on Fundamental Rights 2016. "Media pluralism and democracy". Public Consultation Summary Report

In a Special Eurobarometer (European Commission) on Media Pluralism and Democracy, two thirds of respondents in the EU28 (66%) agreed that their national media provide a diversity of views and opinions. More than four in ten EU citizens (44%) said that the level of diversity of views and opinions in the national media are the same as it was five years ago, while 29% think there is more diversity, and 18% say there is less.¹⁴³

Despite the increase in diversity of news sources, there are several areas of concern that have consistently been raised regarding potential threats to plurality of the media in the online environment, including:

- the ways in which people are sourcing news and the impact of news filters, intermediaries and algorithms which can lead to polarisation and to a limitation of exposure to a diversity of viewpoints;
- linked to this is the concern regarding issues of fake news and disinformation;
- the threats to the financial ecosystem of news production due to the loss of income from news payment and from advertising.

Foster (2014) has outlined the broader challenges of the digital world to media plurality as being: a narrowing of perspectives; powerful new digital gateways; economic pressures on supply; and threats to local content.¹⁴⁴

6.3 News filters, intermediaries, algorithms

Addressing the "information bubble"

In the European Commission's public consultation on media pluralism many respondents: "*mentioned the use of algorithms by social media that filter the information reaching the user, based on profiles and preferences. They questioned the impact of such filters on the possibility to access a variety of views and information and the resulting effect on a sound and well-informed democratic debate.*"¹⁴⁵

A recent report from the French CSA noted both the positive and negative aspects of algorithms for cultural diversity: *The use of algorithms by the cultural industries contributes to diversity by facilitating the discovery of audiovisual works that would not otherwise be programmed because of their small budget, or because of the lack of a distributor or promotion budget.But these algorithms can also lead to the opposite effects, namely to lock people into customizing services according to their tastes and opinions. If this were the case, the result would potentially be an attack on free choice, a homogenization of information, a polarization of content around dominant visions in opposition to the goal of cultural diversity. The massive and automatic use of algorithms therefore requires vigilance, to ensure that potentially harmful sides do not overtake the positive sides.*¹⁴⁶

The report recommends that the consumer should be able to have more information on the working of algorithms and the possibility to contextualize recommendations – for example, are they based on "natural" suggestions or on "commercially sponsored" suggestions?

¹⁴³ EC (2016): [Special Eurobarometer 452: Media Pluralism and Democracy](#). November 2016.

¹⁴⁴ Foster, R. (2014): *Plurality in a digital age*. Presentation to a seminar on media plurality, organised by the Broadcasting Authority of Ireland (BAI), September 2014.

¹⁴⁵ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. "[Media pluralism and democracy](#)". [Public Consultation Summary Report](#)

¹⁴⁶ CSA LAB, France (2017): [Les mutations de la mise à disposition de contenus audiovisuels à L'ère du numérique : conséquences et enjeux. Rapport 1: Le rôle des données et des algorithmes dans l'accès aux contenus](#). (Changes in the provision of audiovisual content in the digital era: consequences and challenges. Report 1: The role of data and algorithms in accessing content)

Foster (2012) categorised the digital intermediaries as: news aggregators like Yahoo, search engines like Google, social media like Facebook, and digital stores/devices like Apple.

He outlined the following ways in which their activities could have a bearing on plurality of news:

- control of what might be thought of as distribution bottlenecks through which users access news;
- editorial-like judgements they make about the news content they link to or carry;
- role in shaping future economic models for news provision;
- their inclination and ability to influence the political agenda.¹⁴⁷

He suggests various recommendations for addressing these issues in the context of pluralism regulation following a four-tiered approach: securing effective competition: developing a new plurality dialogue, involving government, intermediaries and other relevant parties; incorporating digital intermediaries into frameworks for measuring plurality; and (presumably in a co-regulation environment) considering remedies or backstop regulatory approaches, particularly in the area of access, that might be called on should intermediaries over time prove to be a threat to plurality.¹⁴⁸

The Reuters Digital News Report analysed the role of online media sources, considering the important issue of gateways to online content - how people are discovering news, i.e. whether content is selected by an editor, as on a news site (accessed directly, or perhaps via mobile or email notification), or whether content is selected by an algorithm (searches, social media and many news aggregators). They conclude that more than half (54%) of the people surveyed in all countries choose an access that used algorithms to select stories, with 44% choosing an access that implied that editors selected stories.¹⁴⁹

Tambini (2016) examined the implications of digital intermediaries for news plurality in the UK by trying to assess the gatekeeping power of these actors and also their position in relation to overall news consumption. He offers a new definition for intermediaries: *Digital intermediaries are software-based institutions that have the potential to influence the flow of online information between providers (publishers) and consumers.*

The research used available limited data to answer three key questions:

- 1) *How prevalent is online news within consumers' media diets?* The findings suggest that while: "news distribution platforms such as TV and the press remain highly important, online is heading towards being the most important distribution platform, particularly for younger people";
- 2) *What proportion of online news flows through Intermediaries?* The author notes that "intermediaries such as search and social media control access to a significant proportion of online news content..... somewhere in the region of half of online news readers are referred by intermediaries in the UK";
- 3) *How much editorial influence is exerted on the online news that flows through Intermediaries?* The findings conclude that "the available evidence is weakest due to the lack of transparency of relevance algorithms. However, we have outlined a crucial but important distinction. While algorithms influence the news content users see and subsequently read so also do users themselves. This insight is important for any regulatory intervention into intermediaries. Unlike T.V. and broadcasting, regulators cannot intervene solely on the basis of market share as this masks underlying nuances in how power is exercised."¹⁵⁰

¹⁴⁷ Foster, R. (2012), ["News plurality in a digital world"](#). Reuters Institute for the Study of Journalism.

¹⁴⁸ Ibid

¹⁴⁹ Reuters Institute (2017): [Digital News Report 2017](#).

¹⁵⁰ Tambini, D. (2016): [Digital Intermediaries in the UK: Implications for News Plurality](#)

Addressing the issues of "fake news", or "Information Disorder"

The Council of Europe report on information disorder¹⁵¹ presents an extensive range of recommendations addressed to technology companies, national governments, media organisations, civil society, education ministries and grant/making foundations. For national governments, it highlights the following:

- Commission research to map information disorder
- Regulate ad networks.
- Require transparency around Facebook ads.
- Support public service media organisations and local news outlets.
- Roll out advanced cyber-security training.
- Enforce minimum levels of public service news on to the platforms

The European Commission in March 2018 also published a report on fake news and information disorder which provides a range of recommendations on the basis of what they describe as five pillars:

1. enhance transparency of online news, involving an adequate and privacy-compliant sharing of data about the systems that enable their circulation online;
2. promote media and information literacy to counter disinformation and help users navigate the digital media environment;
3. develop tools for empowering users and journalists to tackle disinformation and foster a positive engagement with fast-evolving information technologies;
4. safeguard the diversity and sustainability of the European news media ecosystem, and
5. promote continued research on the impact of disinformation in Europe to evaluate the measures taken by different actors and constantly adjust the necessary responses.¹⁵²

Media literacy and digital empowerment

Including media literacy as part of the overall regulatory and policy strategy for the promotion of media pluralism is now firmly part of policy proposals and recommendations. The report of the European Commission High Level Group on Media Freedom and Pluralism recommends that: *Media literacy should be taught in schools starting at high-school level. The role media plays in a functioning democracy should be critically assessed as part of national curricula, integrated either with civics or social studies.*¹⁵³

The responses to the public consultation on the High Level Group Report on media freedom and pluralism also stressed that *"Media literacy was seen as a way for citizens to develop critical thinking, which is especially important in the new converged media environment where the shaping of ideas increasingly happens online."*¹⁵⁴

The recent Recommendation of the Committee of Ministers of the Council of Europe recommends *inter alia* that: *"States should introduce legislative provisions or strengthen existing ones that promote media literacy with a view to enabling individuals to access, understand, critically analyse, evaluate, use and create content through a range of legacy and digital (including social) media,"* and that *"States are encouraged to include in their national media literacy programmes focuses on media pluralism and*

¹⁵¹ Council of Europe (2017): [Information Disorder: Toward an interdisciplinary framework for research and policy making](#). By Claire Wardle, PhD and Hossein Derakhshan

¹⁵² European Commission (2018): [Report of the independent High level Group on fake news and online disinformation](#).

¹⁵³ European Commission - High Level Group on Media Freedom and Pluralism (2013): [A free and pluralistic media to sustain European democracy](#).

¹⁵⁴ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. ["Media pluralism and democracy". Public Consultation Summary Report](#)

transparency of media ownership in order to help citizens to make an informed and critical evaluation of the information and ideas propagated via the media."¹⁵⁵

With regard to the issues of fake news and information disorder, the two European reports mentioned above also stress the importance of media literacy. The report for the Council of Europe on Information Disorder (2017) also recommends that education ministries should: "*Work internationally to create a standardized news literacy curriculum. Such a curriculum should be for all ages, based on best practices, and focus on adaptable research skills, critical assessment of information sources, the influence of emotion on critical thinking and the inner workings and implications of algorithms and artificial intelligence.*"¹⁵⁶

Media literacy has traditionally been seen as a way of supporting public policy issues such as protection of minors, safer use of the Internet, and of challenging radicalization and hate speech online. A 2016 study carried out by the European Audiovisual Observatory for the European Commission DG Connect investigated the extent of media literacy projects and initiatives throughout Europe.¹⁵⁷

The authors found that initiatives to develop 'critical thinking' were the most prevalent, followed by 'media use' covering projects which aim to improve our ability to search, find and navigate and use media content and services. Projects and initiatives directly dealing with news, information and journalism were less common but several examples were found in Belgium (understanding newspaper production), in Lithuania (news literacy education), Luxembourg, Spain (digital citizenship), and a range of practical training initiatives linked to journalism and schools (Estonia, Belgium, Greece). A total of 100 projects were identified that deal with questions such as "how media works and message constructed", and 99 projects addressed questions such as "recognising and evaluating different content".

The results of this research would suggest that a significant framework exists for media literacy programmes that would focus on news consumption, sources, and evaluation of reliability.

6.4 Threats to the financial stability of news production

Perhaps the most significant concern arising in debates about pluralism is that of the financial stability and the financial resources of media outlets that provide news and information impacting on the financial stability of news production, and the preservation of the quality of journalism.

These concerns are also reflected in national several reports summarised in the next section. The threats to the economic environment for journalism and production of news are described as "urgent" in the Norwegian report (from 2015) and the Danish report (from 2017) stresses that: "Danish culture and media policy has never been more challenged than now." It is worth noting that these concerns are from two of the countries where the public have very high levels of trust in the

¹⁵⁵ Council of Europe, Committee of Ministers (2018): [Recommendation CM/Rec\(2018\)1\[1\] of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#) (Adopted by the Committee of Ministers on 7 March 2018 at the 1309th meeting of the Ministers' Deputies)

¹⁵⁶ Council of Europe (2017): [Information Disorder: Toward an interdisciplinary framework for research and policy making](#). By Claire Wardle and Hossein Derakhshan

¹⁵⁷ European Audiovisual Observatory (2016): [Mapping of media literacy practices and actions in EU-28](#). Study carried out for the European Commission DG Connect.

media, where there are high audience shares for public service media, and people are more likely to pay for online news.¹⁵⁸

In the recent European Commission public consultation on "Media pluralism and democracy": *"respondents considered that institutions which had traditionally invested in journalism were now threatened by online 'information intermediaries' who capture the biggest share of advertising revenue traditionally used to fund investment in news and ask news providers to pay to make their content cheap and easily and accessible to users ('zero-rating agreements'). This was seen as jeopardising the financial sustainability of resource-intensive investigative and quality journalism, especially in a new media environment where low-cost commercial, popular and fast content is on the rise ('click-bait').*¹⁵⁹

The report of the European Commission High Level Group on Media Freedom and Pluralism recommended that: *There should be streamlining and coordination of support and funding for quality journalism, as already exists in several EU countries. Europe-wide awards should be made available for talented journalists and those having made significant breakthroughs. An additional study should be commissioned on possible new forms of funding for quality and investigative journalism, including making use of new technologies such as crowdfunding.*¹⁶⁰

The judicial review of plurality policies, guidelines, practices and rules has revealed the significance of funding to the promotion of pluralism. Examples are summarised here:

Austria - press funds focused on the development of journalism;

Denmark - production aid is granted to news media production of editorial content.

Netherlands - a Journalism Promotion Fund for innovative journalism and regional cooperation between journalists' organisations.

Germany – support for open channels (community media).

United Kingdom – the Local News Network of the BBC supporting local journalism.

Norway – Production grants for news.

6.5 Recent national reports on challenges for pluralism in the digital age

Several recent national reports have stressed the impact of the new global Internet players on various aspects of media pluralism at the national level.

Denmark – a small nation swamped by international technology companies

The Danish regulator (Danish Agency for Culture and Palaces - Slots- og Kulturstyrelsen) published an extensive study in 2017 on the impact played by international players (such as Google and Facebook) on the media market, media providers and media content in Denmark. According to the report summary, the report looks at "technological upheaval and new players", concludes that, in the last 30 years, the Danish media market has changed so much that it is almost unrecognisable. Regarding "economic displacement and the search for new business models" the research looks at the significance of international players for Danish media's business opportunities – with focus on trends in the advertising market and the market for subscription-based media content.

¹⁵⁸ According to the *Reuters Digital News Report 2017*, 25% of Norwegian respondents were paying for digital news (number 1 out of 36 countries), while 15% of Danish respondents paid for digital news (number 10 out of 36 countries).

¹⁵⁹ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. ["Media pluralism and democracy". Public Consultation Summary Report](#)

¹⁶⁰ European Commission - High Level Group on Media Freedom and Pluralism (2013): [A free and pluralistic media to sustain European democracy.](#)

The report notes that 26% of *all* advertising revenue in Denmark went to foreign companies, while the estimates suggest that around 50% of online advertising revenue go to Google and Facebook. Furthermore, Danish media companies have become increasingly heavily dependent on foreign technology companies, chiefly Google and Facebook, who now dictate how Danish media companies interact with users and advertisers. For example: *Media houses are forced to attract new users through free content, put on social media to create awareness, generate traffic, and get broader reach. This increases the dependence on Google and Facebook.*

The report deals with “upheavals in distribution and new journalistic processes” and describes how international technology companies influence Danish news media content. The principal conclusion of this part of the report is that social media have transformed the distribution of news media content, re-organised work processes and created strong pressure on Danish media companies to adapt accordingly. With regard to trends and perspectives, the report focuses on potential future roles of artificial intelligence, robots and virtual reality.

Denmark has no media ownership-concentration rules outside of competition policy. The main focus of pluralism policy (similar to other Nordic states) is the provision of subsidies for the media industry. The conclusion of the report poses a range of questions –highly relevant and provocative – as regards where the politicians and industry actors should focus with regard to future negotiations on Danish media support, summarized as follows:

- *Should there still be state aid support for Danish media production if users prefer to spend money on international streaming channels and spend time on international social media and video services? Is it possible at all times to maintain media support on the current criteria in a deeply fragmented media and with the economic weakness of the Danish media industry? Will the current level of support be enough to ensure a diverse, geographically dispersed and versatile high quality Danish media in the foreseeable future?*
- *How can we avoid a situation where high quality journalism and high-quality cultural dissemination is only available for the elite who want to pay for it, while the vast majority of people focus on free information, and where social media are the source of the social debate and the development of Danish culture and identity? What should be the role of public service in the future?*
- *How do you prevent a situation where parts of Denmark are losing local news coverage and local community anchored in local media, while national media lose the broad connection with the population and are instead focusing on selected segments and target groups?*
- *How can we - other than with media support - support a viable media industry in Denmark and a highly creative production environment?*
- *How can we ensure media policy is a basis for digital education in the broad population, so that all citizens can navigate competently and so that we can increase awareness of the media reality depicted in this report?*

France – platforms, intermediaries, content and threats to pluralism

The CSA France in France have recently focused on several issues with regard to some of the new players in the media scene and their impact on the audiovisual media ecosystem. The first report, in 2016, addressed competition and regulatory issues regarding platforms and access to content. The report looks at the new economic players in the delivery of content. With regard to threats to pluralism, it notes that:

"concentration of platforms and their market power are also issues related to the objectives of audiovisual regulation, which remain relevant in the digital world. Thus, the objectives of cultural diversity, pluralism and freedom of communication can be harmed: on the one hand, by the ability of platforms - given their market power - to favour certain content to the detriment of others in terms of access to the platform or with regard to their referencing; and on the other hand, there is a risk of standardization of the content offered which is related to the dominant position of certain platforms.

Concerning the impact on financing it notes that:

*The development of platforms also raises the question of adapting creative financing mechanisms to an environment in which platforms are becoming increasingly important in the economic equation of the sector on a supranational scale. The prescriptive force of the platforms vis-à-vis the users and the ever-increasing personalization of the contents are also an issue for these objectives.*¹⁶¹

A second report focused on algorithms noting both the potential positive and negative effects for the cultural industries:

The use of algorithms by the cultural industries contributes to diversity by facilitating the discovery of audiovisual works that would not otherwise be programmed because of their small budget, or because of the lack of a distributor or promotion budget. Thus, thanks to the recommendation engines, some films can find an audience even if these films are not programmed by the traditional television channels.

*But these algorithms can also lead to the opposite effects, namely to lock people into customizing services according to their tastes and opinions. If this were the case, the result would potentially be an attack on free choice, a homogenization of information, a polarization of content around dominant visions in opposition to the goal of cultural diversity. The massive and automatic use of algorithms therefore requires vigilance, to ensure that potentially harmful sides do not overtake the positive sides.*¹⁶²

The report recommends that the consumer should be able to have more information on the working of algorithms and the possibility to contextualize recommendations – for example, are they based on “natural” suggestions or on commercially sponsored suggestions? The general focus of the report is the call for more transparency on different types of algorithms (statistical and semantic, for example), how they work, and the need for ways to enable citizens to have more control or influence on algorithms.

Germany – a need to privilege plurality?

The current debates regarding regulation of the German media sector have been focusing on amending the legislation with regards to media distribution platforms. The debates, and proposals developed in the Land of Northrhine-Westphalia are outlined in a dedicated essay in the 2017 Digitisation Report of the DLM, asking whether there is a need for “privileging plurality”.¹⁶³ The focus is on the balance between pluralism and non-discriminatory findability. A debate is currently ongoing with the industry on the legislative proposal to amend the Interstate Broadcasting Treaty (which has been introduced in April by the State Chancellery of Northrhine-Westphalia). The proposal and the subsequent consultation process address *inter alia* the questions of ensuring balance for findability and of platform regulation.

On the one hand, it is proposed that a range of other types of platforms (what they term “user surfaces”) should be regulated in a similar way to that of the traditional cable and satellite offers with regard to the way that content is offered. In particular, the proposals consider the presentation of

¹⁶¹ CSA, France (2016): [Plateformes et accès aux contenus audiovisuels. Quels enjeux concurrentiels et de régulation?](#) (Platforms and access to audiovisual content. What are the issues for competition and regulation?). Unofficial translation.

¹⁶² CSA LAB, France (2017): [Les mutations de la mise à disposition de contenus audiovisuels à L'ère du numérique : conséquences et enjeux. Rapport 1: Le rôle des données et des algorithmes dans l'accès aux contenus.](#) (Changes in the provision of audiovisual content in the digital era: consequences and challenges. Report 1: The role of data and algorithms in accessing content)

¹⁶³ DLM/ALM (2017): [Digitisation 2017 Report: Orchestrating diversity - Securing plurality via non-discriminatory findability and privilege.](#)

offers on APPs on smart TV. The report also refers to other types of platforms online such as OTT offers. The presentation of the content should be non-discriminatory. Of course, these proposals will clash with the use of recommendations via algorithms used on the platforms.

At the same time, the debate is covering whether or not certain types of content should be privileged on these new platforms (in a way similar to the must-carry rules, and to the regulation of placement of public service content on EPGs).

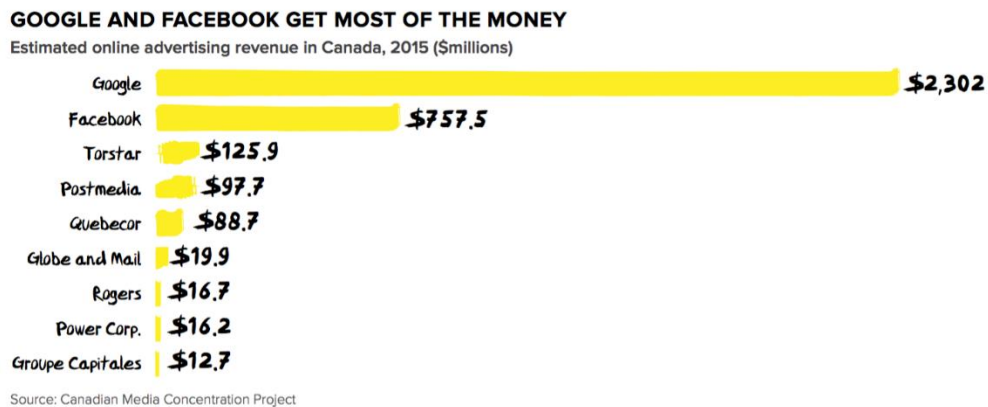
Canada - news, democracy and trust in the digital age

A recent report commissioned by the Canadian government and produced by the Public Policy Forum addressed the issue of news, democracy and trust in the digital age.

The introduction addressed many of the same issues outlined above from a Canadian perspective: *The disruption of news media has been taking place for a long time. But it has risen to an entirely new plane with the shockingly sudden consolidation in unseen hands of both Internet ad revenues and control of who sees what among the thousands of competing political and social narratives. The loser is not just the incumbent news media, whose models and management have struggled to adapt. The question now before Canadian policy-makers is whether democracy itself is being put at risk.*

The report noted that with regard to online advertising that Google and Facebook: *"pocket two of every three digital ad dollars spent in Canada and, in recent months, have generated 82.4 percent of the ads served up with digital news. In 2016, Canadian publishers accounted for just 11.5 percent of the digital display ad market in their home country, according to comScore."*¹⁶⁴

Fig. 6.1: Dominance of Google and Facebook in the Canadian online advertising market



The recommendations of the report included measures to strengthen the economic sustainability of the media and measures to promote civic-function journalism and digital innovation in support of news that is vibrant and trustworthy. Some recommendations are summarised below:

- adjusting the Canadian tax system so as to no longer discriminate between national and foreign media companies with regard to subscription and advertising revenues, thus levelling the playing field. They claim the existing arrangement discriminates against Canadian news media in providing better tax treatment to foreign companies.
- creating a "future of journalism and democracy fund"
- creating a new "local" mandate for The Canadian Press;

¹⁶⁴ Public Policy Forum, Canada (2017): [The Shattered Mirror. News, Democracy and Trust in the Digital Age](#)

- requiring the public broadcaster CBC to share for free the right to publish its news content with other organizations such as not-for-profit news entities;

Norwegian media pluralism – A stronger media policy for the public

In September 2015, the Norwegian Government appointed a Media Pluralism Commission with a mandate to evaluate what the State's media pluralism objectives should be and to examine the totality of Norwegian media output with a particular focus on two areas: the function of news and current affairs media and the media in general in disseminating news and debate, as well as the impact of public service broadcasters on Norwegian language and culture. Based on this analysis, the Commission was asked to make proposals as to the focus of State fiscal policy instruments in order to promote open, informed public debate and diverse media output.¹⁶⁵

Norwegian regulation of media pluralism focuses on the role of the public service broadcaster, the transparency of media ownership and on the provision of subsidies to the media sector. As noted earlier the Norwegian Media Authority collects information about the ownership structure, and makes the information available to the public.

The report stressed that independent, editorial news media are experiencing extensive changes due to technological developments, global competition and changes in media usage. Established business models are failing to provide sufficient income. The Commission believes there is a significant risk that journalism that is essential for the public discourse, may diminish before sustainable business models are developed. The report also noted that a significant aspect of pluralism is related to the citizen use of a diverse range of news sources, and that continuing to measure media use is fundamental to assessments of pluralism.¹⁶⁶

The Media Pluralism Commission proposed several new initiatives and schemes:

- The ownership of public service broadcaster NRK should be transferred to an independent foundation. There should be regular reviews of the NRK's obligation to promote media diversity and to make its archives available, linked to the process that is to be carried out every four years in order to determine the NRK's income, the public broadcaster's impact on commercial media and the overall provision of media content to the public;
- The exemption from VAT be extended to encompass all news and current affairs media. Media that cover a limited range of news, but cover these areas in depth, should also be included. The VAT-exemption should also apply to the purchase of single articles from publications that already are VAT-exempt;
- A time-limited exemption from employer's national insurance contributions for news-focused Norwegian media companies;
- Retention of production grants for news media, albeit with several adjustments: local media receive a minimum grant of NOK 750,000; the grant rate for "number two newspapers" in cities (not the national, opinion-forming newspapers) will be replaced by the rate for local number two media. The change will be phased in over four years; the grant ceiling will be reduced to 27% of a recipient's operating costs. The change will be phased in over four years;
- Three new grant schemes: NOK 30 million per year to support news media innovation projects; NOK 20 million per year to promote journalism of societal importance; NOK 20 million per year for news media that are free for users;

¹⁶⁵ Information sourced from the website of the European Platform of Regulatory Authorities (EPRA):

¹⁶⁶ Norwegian Ministry of Culture (2015): ***Norwegian media pluralism – A stronger media policy for the public***. English Summary.

- The government should submit every four years a report to the Storting (The Norwegian Parliament) reviewing media policy objectives and instruments in the light of recent media developments.

6.6 Conclusion - Towards new pluralism toolkits?

While some commentators argue that there may be a need to completely review the approach to protecting pluralism, there are many indications that there is a need to retain the current approaches for the time being, in particular as there is nothing concrete to replace them.

A focus on funding

Foster (2014) argues that: “there will in future need to be less reliance on “negative” measures designed to restrict media ownership, and more use of “positive” steps to secure diversity of outcomes. A new toolkit of plurality measures is needed and positive public support and funding will be a key part of that toolkit to secure a range and diversity of content across news and many other key areas of content.”¹⁶⁷

Experience of market development might suggest that the relaxation of ownership rules had short term benefits, but in the long-term media types such as local media appear to be under threat again. At least the recent push for funding of local journalism and media in the UK and Netherlands have indicated that this is the case. However, funding and support of media do appear to be important tools that are emerging from the discussions and from the reviews of the various jurisdictions. Many states already have these in place, and examples have been provided above. In the context of current debates regarding the role of major technology companies in the market, their share of the audiovisual revenue pie, and the question of taxation, there have been suggestions that these companies should pay for the news that they distribute on their networks.

A dialogue with industry

An important approach may be the development of dialogue with the industry as suggested by Foster (2012) – what he refers to as a new “plurality dialogue”. This is echoed in the recent Council of Europe Recommendation: *States should encourage the development of open, independent, transparent and participatory initiatives by social media, media actors, civil society, academia and other relevant stakeholders that seek to improve effective exposure of users to the broadest possible diversity of media content online. The visibility, findability, accessibility and promotion of media content online are increasingly influenced by automated processes, whether used alone or in combination with human decisions. States should encourage social media, media, search and recommendation engines and other intermediaries which use algorithms, along with media actors, regulatory authorities, civil society, academia and other relevant stakeholders.*

In summary, the aim of such a dialogue is to encourage: transparency of the processes of online distribution of media content, including automated processes; assess the impact of such processes on users’ effective exposure to a broad diversity of media content; enhance users’ effective exposure to the broadest possible diversity of media content; provide clear information to users on how to find, access and derive maximum benefit from the wide range of content that is available; and implement the principle of privacy by design in respect of any automated data processing techniques. Some of these proposals also reflect policy proposals in France and Germany that were outlined earlier.

¹⁶⁷ Foster, R. (2012), [“News plurality in a digital world”](#), Reuters Institute for the Study of Journalism.

Transparency and digital empowerment

The focus on transparency of the market, the players, their ownership and potential influence of ownership has long been an important aspect of assessing media pluralism. In addition, transparency of data on market shares of audiences, advertising and revenues, alongside data on consumption of media content are also key to assessment of pluralism. We can now add to this the suggestions outlined above for increased transparency with regard to the new processes that are used in the selection and delivery of content to the user.

Finally, it has been reiterated several times that consumer awareness and understanding of the processes involved in the production and delivery of content, and the ability of people to navigate in the vast new digital world of content – particularly news content – is vital to ensuring the promotion of, and exposure to a diversity of views and opinions.

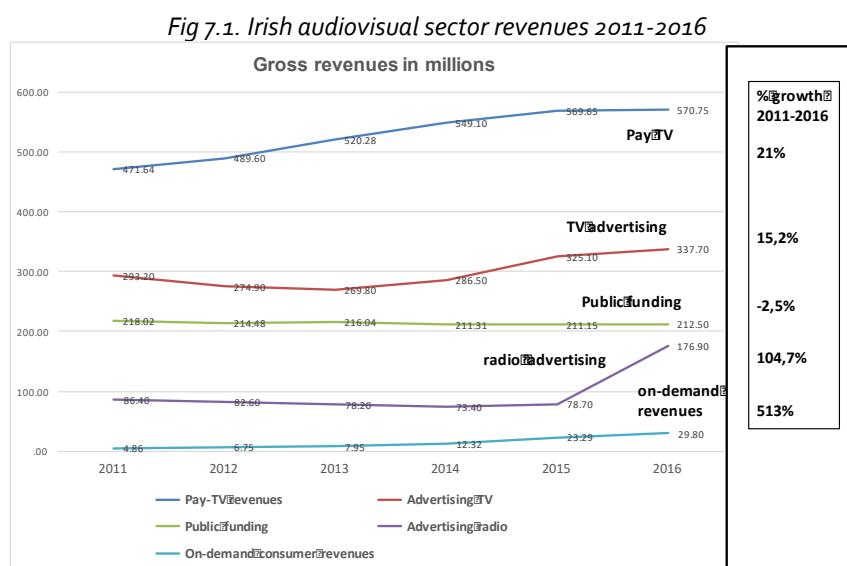
Chapter 7 The pluralism debate in the context of the Irish market

The Irish media market is characterized as being small and strongly influenced by the neighbouring UK market. As noted by Flynn (2017):

*Ireland's small population limits the scale of media markets whilst the country's Anglophone status has seen UK-based media in particular account for a share substantial of media audiences. UK papers account for one in four weekday and one in three Sunday newspapers sales. In television the combined market share of all Irish-based television station, public and private, is just 47.5%. By contrast radio remains overwhelmingly Irish in terms of ownership and content.*¹⁶⁸

7.1 Market revenues

Fig. 7.1 looks at the overall development of the Irish audiovisual sector over a five-year period from 2011 to 2016. It can be observed that, in a similar patten to the EU data outlined earlier, the income of those offering pay TV services (including cable, satellite and IPTV packages) continues to grow.



Based on data from the Yearbook Online Service of the European Audiovisual Observatory

There are only two significant players in the market for distributing pay television subscription services: Sky Ireland with more than 700 000 homes¹⁶⁹ and Liberty Global (Virgin Media Ireland) with 293 000 homes.¹⁷⁰ Public service revenues are relatively stable although public funding in 2016 was less than in 2011. In addition, television that is funded by advertising continues to increase its revenues.

As noted earlier (chapter 1), the revenues for advertising in the radio market represented a higher share in the overall market revenues than in any other country. The dramatic change in the revenue for radio advertising has been explained by a change in methodology of data collection – an increase

¹⁶⁸ Flynn, R. (2017): *Media Pluralism Monitor 2016 Monitoring Risks for Media Pluralism in the EU and Beyond. Country report: Ireland*. Centre for Media Pluralism and Media Freedom.

¹⁶⁹ According to Ampere analysis data supplied to the European Audiovisual Observatory, in 2016 there were 743 000 subscribers to satellite services in Ireland at the end of 2016.

¹⁷⁰ According to the Liberty Global website: <http://www.libertyglobal.com/oc-ireland.html>

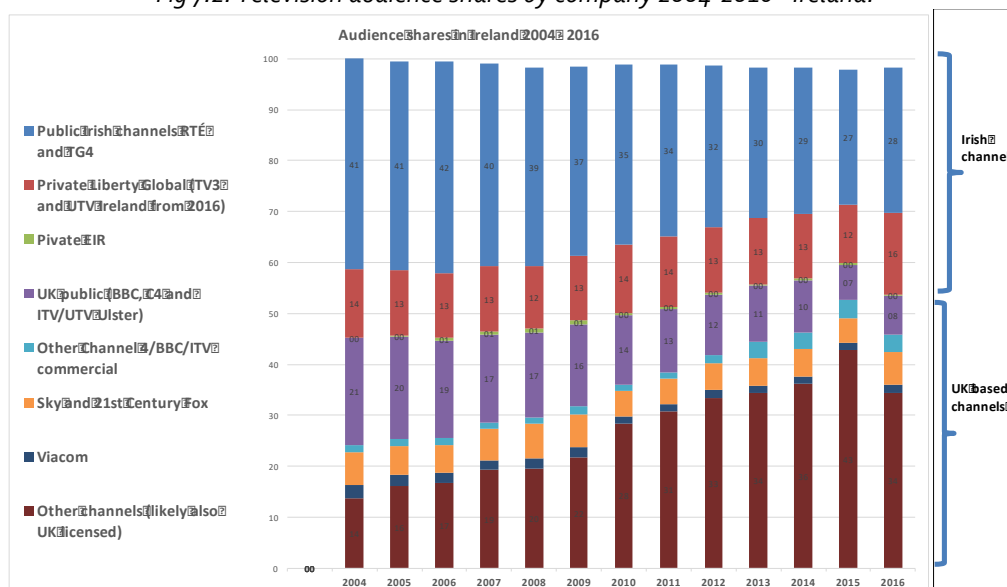
in coverage of stations and the addition of direct ad spend as well as sponsorship and promotion.¹⁷¹ The sector that shows the fastest growth over the past five years is that of on-demand revenues, although it still represents a very small part of the audiovisual revenue pie.

According to the BAI report on ownership and control of Irish media businesses published in 2016,¹⁷² the main players in the market were RTE, and International News Media/ Communicorp. Included in this analysis were the TV and audience shares, circulation of press shares, and also as online data (comScore). In the analysis UTV media and TV3 were separate, however since the takeover of UTV Ireland by Liberty Global in 2016 (and re-branding as Be3),¹⁷³ Liberty Global now also has a significant place in the television audience market and News Corporation, following its takeover of the UTV radio services now has a significant presence in that sector.

Audiences

With regard to television, Fig. 7.2 (below) outlines the changes in audience shares between 2004 and 2016, and indicates the continued significance of UK channels on the market.

Fig 7.2. Television audience shares by company 2004-2016 - Ireland.



Based on data from the Yearbook Online Service 2017 of the European Audiovisual Observatory

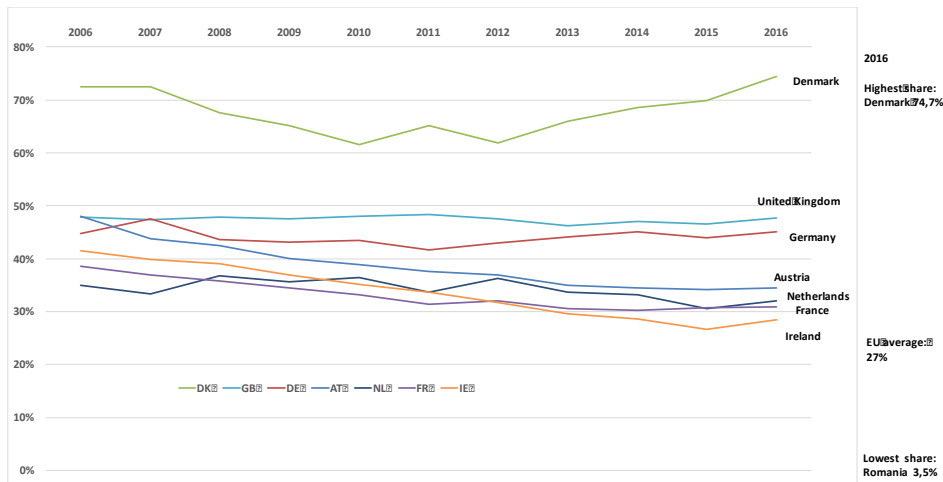
The share of Irish licensed channels on the market has dropped from 58.4% in 2004 to 48.4% in 2016. The main losses have been to the public service broadcaster RTE. The main UK channels that have been available in Ireland – BBC 1 and 2, UTV and Channel 4 have also lost audience share over the time period (a total of 15%). The additional digital channels of these broadcasters have picked up around 3.5% share. One of the main impacts on audience share for the larger broadcasters has (as elsewhere) been the digitization of distribution systems and the increase in channel availability and audience fragmentation. Fig.7.3 shows the development of audiences for public service broadcasters over the last 10 years with Denmark, the UK and Germany indicating a relative stability or audiences. All others have seen a decline, but remain above the average share for public broadcasters in the EU.

Fig 7.3 Public service TV audience shares in a range of EU countries 2006-2016

¹⁷¹ This large increase of revenues for radio advertising in 2016 is contradictory to industry reports. An explanation was provided from WARC via the European Audiovisual Observatory regarding the change in methodology of data collection.

¹⁷² Broadcasting Authority of Ireland – BAI (2016): [Report on Ownership and Control of Media Businesses in Ireland 2012–2014](#). Prepared by Communications Chambers.

¹⁷³ Media reports claim Liberty Global plans a further rebrand to Virgin in 2018.



Based on data from the Yearbook Online Service 2017 of the European Audiovisual Observatory

Advertising

The main audience gains in Ireland are those of a wide range of thematic TV channels, which are available over satellite and cable subscription packages and which are licensed in the UK. There are additionally many TV channels licensed in the UK – an estimated 30 - that *specifically* target Ireland, as is indicated in the title, for example “Channel4 ROI feed”, “Comedy Central Ireland”, “Film4 ROI feed”, “Sky 1 Republic of Ireland feed” and “E! Ireland” etc.¹⁷⁴

In 2010, Ofcom published a guidance regarding the need for additional licences for multi-country feeds of channels.

This guidance is designed to help television licensable content service (“TLCS”) providers comply with their obligations under the relevant broadcasting legislation. It is about whether licensees who hold, or intend to hold, broadcasting licences need separate licences for different feeds (versions) of a ‘service’ (for example, feeds broadcast in different territories).

3. In particular, it concerns feeds: 3.1 where the programmes (including the advertisements) on each feed are identical or almost identical and only the language of the feeds is different; 3.2 where the editorial content of each feed is identical or almost identical, but the advertisements are different (or the same advertisements are scheduled differently); and 3.3 where the editorial content of each feed is different (regardless of whether or not there are differences in the advertising or language).¹⁷⁵

This would suggest that licences with a specific Irish feed have either a different schedule (programme offer) or specific advertisements targeted to the Irish geographical space (as the question of language is not relevant). As there is not much evidence of a different offer of programmes, it could be assumed that a range of channels form part of the Irish TV advertising sales market.¹⁷⁶ This development has an impact on the finances available for programme production in Ireland and hence on the diversity of content and the extent to which content reflects Irish culture. According to media reports, the Irish government decided in 2016 to review the impact of “opt-out” advertising on the Irish market.¹⁷⁷ The same article cites a statement for the Screen Producers of Ireland: “It is currently unfair that broadcasters based in dominant media territories are permitted to sell

¹⁷⁴ The channels can be viewed here under the Ofcom list of cable and satellite channels: <http://static.ofcom.org.uk/static/radiolicensing/html/tv/cs/cabandsat-main.htm>

¹⁷⁵ Ofcom (2010): [Guidance regarding the licensing position of television licensable content services broadcast into multiple territories.](#)

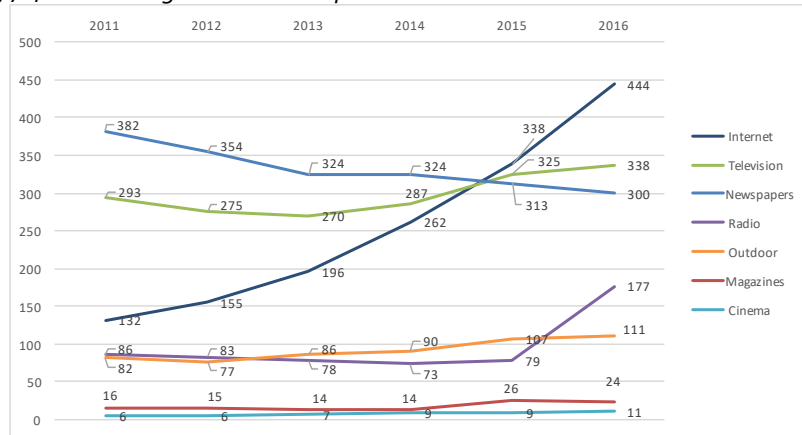
¹⁷⁶ Many of these companies have advertising sales houses in Ireland, for example Sky Media: <https://www.skymedia.ie/> and Channel 4 <https://www.4sales.com/contact>

¹⁷⁷ Irish Times (August 9th 2017, L. Slattery): [UK television channels drain Irish broadcasters of cash for content](#)

opt-out advertising into small territories like Ireland but are not bound to re-invest in the territory from which they receive this income,”

Fig.74 shows changes over time with regard to shares of advertising revenues in different media/platforms in Ireland.

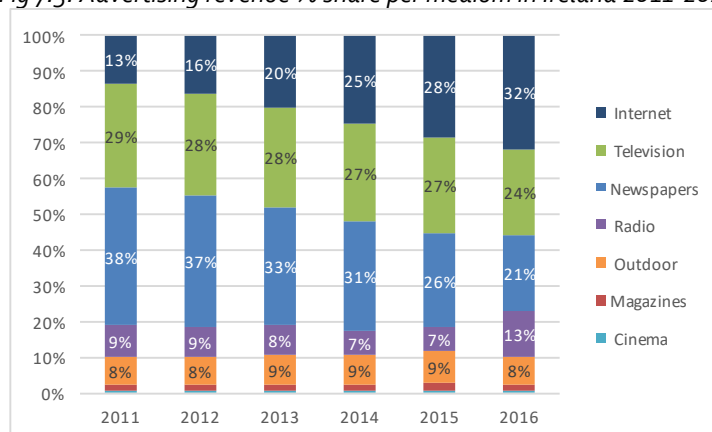
Fig 7.4. Advertising revenue share per medium in Ireland in Euro millions 2011-2016



Based on data from the Yearbook Online Service 2017 of the European Audiovisual Observatory

Internet advertising revenue has increased by more than 330% between 2011 and 2016. Television advertising indicates a stability over the period, while print newspapers have suffered the main losses over the time period. As noted earlier (chapter 1), it should be borne in mind that a share of the online or digital advertising pie still goes to online newspapers and to a lesser extent the online presence of traditional television channels. Fig. 7.5 shows the breakdown of the advertising share per media each year, as a percentage of the whole, again indicating the growth of the internet and dramatic decreases in revenues for newspapers.

Fig 7.5. Advertising revenue % share per medium in Ireland 2011-2016



Based on data from the Yearbook Online Service 2017 of the European Audiovisual Observatory

Market experts estimate that online advertising revenues in Ireland are dominated by Google and Facebook with a combined share of 58%,¹⁷⁸ while others estimated that in the first half of 2016 Google and Facebook enjoyed 50% of the €216 million spent on digital ads.¹⁷⁹

¹⁷⁸ Statement from Core Media, cited in Irish Independent (March 4th 2018, John McGee): [Time to reassess Ireland's digital advertising market](#)

¹⁷⁹ Citing research from IAB/PwC in Thejournal.ie (August 23rd, 2017): [Ireland's biggest newspaper group wants Google and Facebook to pay for news](#)

As noted in the first chapter providing an overview of markets, small markets are particularly impacted these major changes in the market. Foreign companies therefore have an additional (to the Google Facebook Internet advertising duopoly) impact on the media economies of small markets. Another player in the advertising system is the distribution company (particularly cable satellite and IPTV offers). For example, in the UK Sky and Virgin Media have agreed to combine their targeted advertising programmes. Sky AdSmart, for example, is also a data based approach to advertising. Its website states that: *With Sky AdSmart different ads can be shown to different households watching the same programme. This means brands and businesses can now advertise on national channels, but to relevant audiences.*¹⁸⁰ The advertising is placed on the Sky (and 21st Century Fox) channels. The agreement between Sky and Virgin will: *give the two companies access to a total of 30 million viewers in the UK and Ireland.*¹⁸¹

7.2 Research on news sources, trust and diversity of the media

There are a range of International studies that include Ireland and these are playing an important role in creating a pool of data that is useful for the assessment of media plurality.

Ireland has been part of the research of the Reuters Institute of Journalism regarding digital news since 2015. The Broadcasting Authority of Ireland is a partner in the research network with the Irish data and a specific Irish report being produced by DCU. Since 2014, the Centre for Media Pluralism and Media Freedom have been developing a tool for the measurement of risks to media pluralism in the EU member states. Ireland has been a part of this study since 2015 with the tool being implemented by Irish media landscape experts at Dublin City University.

In addition, between September and October 2016, the European Commission conducted a special Eurobarometer on Media Pluralism and Democracy.¹⁸² The results regarding Ireland are included in this report. The study asked questions of the interviewees in relation to their opinions on: whether the media provides a diversity of views and opinions and whether this had changed over the last five years; extent to which the media are independent, free from political or commercial influence; and whether the media are reliable and trustworthy.

Sources of news

This section relies mainly on the Irish study from the Reuters digital News project,¹⁸³ and briefly summarises some of the main findings. The first figure compares the sources of news in Ireland with those of the entire sample in the Reuters study. Irish people are more likely to use public service media as a news source than other respondents, and slightly less likely to turn to a local or regional paper or to commercial television for news.

Fig 7.6. Sources of news – Ireland – Reuters Digital News Report

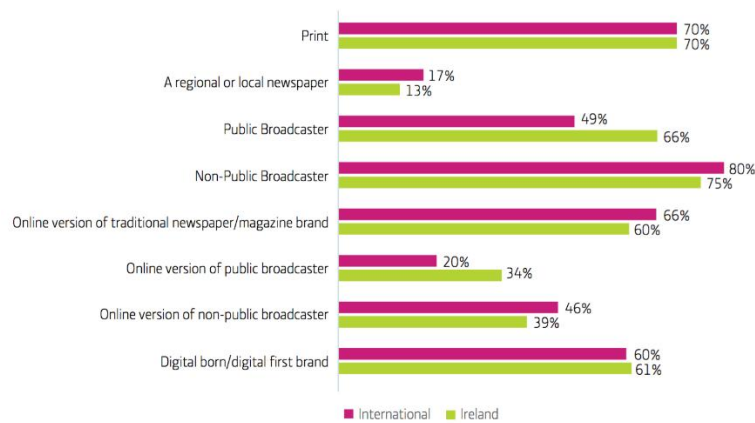
¹⁸⁰ Website of Sky adSmart: <https://www.skyadsmart.co.uk/>

¹⁸¹ Broadband TV News (June 15, 2017): [Sky and Virgin combine targeted advertising](#)

¹⁸² EC (2016): [Special Eurobarometer 452: Media Pluralism and Democracy](#). November 2016. Eurobarometer studies are opinion polls carried out on behalf of the European Commission by external companies (such as TNS).

¹⁸³ McNamara, P., K. Cunningham, E. Culloty and J. Suiter (2017): Reuters Institute Digital News Report 2017 (Ireland). BAI/ FuHo, Dublin City University.

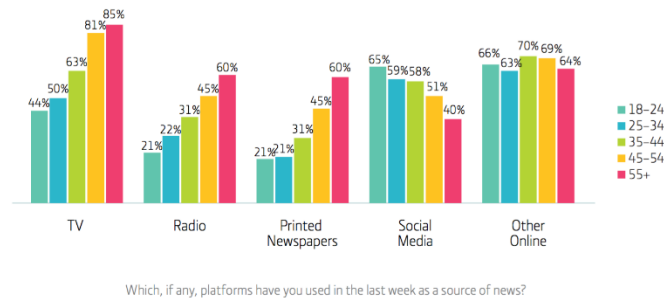
Fig. 47 Main sources of news 2017



The sources of news show a significant difference between age groups, with the 45+ age group much more likely than those under 34 to use television as a source for news, with at least 20% in the difference.

Fig 7.7. Sources of news – Age groups - Ireland – Reuters Digital News Report

Fig. 32 Platforms for news by age group 2017



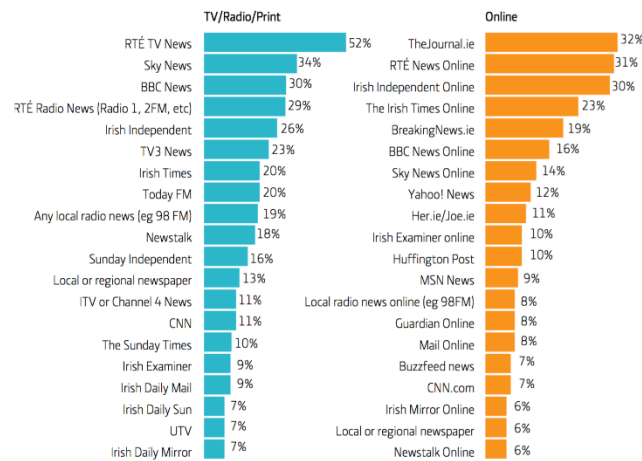
The use of radio and newspapers is also significantly different between these groups. Of interest is the fact that social media is significant for everyone, also for 40% of those aged 55+, which may perhaps explain the higher than average tendencies of Irish people to trust social media (as outlined in the next section). All other online news sources are accessed by all ages at an almost equal rate – with a slightly higher use of the 35-54 age group. It is important to note that social media is the most significant source of news for 18-24 year olds while being second for the 25-34 age group after other online sources.

With regard to news brands, the study found that the Irish public service broadcaster RTE was most often referenced for offline news and came in second place after TheJournal.ie in the online world. The significance of foreign (namely UK) media as a source of news is highlighted here with regard to television. Sky news (34% referenced) and BBC News (30%) are the second and third most referenced news sources in the offline world in Ireland.

Local news offline is referenced by about one fifth of respondents (local radio news 19% and local or regional newspapers 13%). The main Irish newspaper brands have more significance online than offline – but this may be largely explained by ease of access.

Fig 7.8 Most important news brands online and offline - Ireland – Reuters Digital News Report

Fig. 48 Main sources of news – traditional and online 2017



Issues of trust in the media and media diversity

The following outlines the results of several studies examining trust in the media, and media diversity, on the basis of user surveys. All data here is presented with comparisons of results in the other countries included in this review.

Table 7.1 Overall impression of diversity of the media

	Media provide a diversity of views and opinions (agree)	MORE diversity of views and opinion than 5 years ago	The same diversity of views and opinions than 5 years ago	LESS diversity of views and opinions than 5 years ago
NL	84%	44%	35%	18%
DK	80%	32%	43%	19%
DE	79%	21%	46%	19%
AT	76%	22%	46%	21%
IE	71%	42%	39%	11%
EU 28	66%	29%	44%	18%
GB	61%	33%	43%	17%
FR	57%	29%	38%	25%

Source: Eurobarometer 452 Special Report: Media Pluralism and Democracy

In the Eurobarometer, the highest positive perceptions on whether the media provide a diversity of views and opinions (*from all EU countries*) were from respondents in Finland (85%), the Netherlands (84%) and Denmark (80%).

Regarding public perceptions of diversity, Irish and Dutch people are the most likely in this group of countries (reviewed here) to believe that the diversity of the media has improved over the last five years. The French are the most negative regarding the diversity of views and opinions in their media.

As concerns trust in the news and perceived independence, the scores of overall trust from the Reuters news study are relatively close with the exception of France where respondents show low levels of trust across the board.

Table 7.2 Trust in news and perceived independence of media

	Overall trust in news media	I trust the news I use	News brands can be trusted to separate fact from fiction	Social media can be trusted to separate fact from fiction	Media are independent from political influence (agree)	Media are independent from commercial influence (agree)
NL	51%	62%			41%	37%
DK	50%	57%	42%	15%	41%	36%
DE	50%	58%	44%	20%	37%	35%
NO	49%	56%			41%	35%
AT	45%	53%			23%	24%
IE	46%	52%	47%	28%	32%	30%
CAN	49%	57%	51%	24%	39%	36%
GB	43%	51%	41%	18%	34%	29%
FR	30%	38%	33%	24%	22%	21%

Source: Reuters News Report 2017, and individual reports for certain countries (AT, DK, IE). The question on separation of fact from fiction was not found for the for Austria, Australia Norway and the Netherlands

Irish respondents have a slightly higher tendency to trust social media to separate fact from fiction, and quite a different response to the UK or Denmark. This seems to tally with the data from the previous section (Reuters news study) that showed that *more than 60% in all age groups* used social media for news.

The Austrians and French are most negative about the independence of the media. Dutch, Danish and Norwegian respondents are most likely to agree that media are independent of political influence.

The Eurobarometer results show higher perceptions of media independence than the Reuters news study (possibly due to the slight different in samples – Reuters conducts online interviews, while Eurobarometer conducts telephone or face to face).

However, the ranking of the countries is quite similar (with the exception of Austria). Irish respondents are most positive about the development of media independence and least likely to believe that there has been any negative change in the past five years.

Table 7.3 Overall impression of independence of the media

	Media provide information free from political or commercial pressure (agree)	Public service media are free from political pressure (agree)	National media more free and independent than 5 years ago (agree)	National media EQUALLY free and independent as 5 years ago (agree)	National media LESS free and independent as 5 years ago (agree)
NL	61%	55%	20%	51%	28%
DK	61%	54%	21%	51%	20%
DE	53%	50%	9%	47%	27%
AT	54%	48%	14%	48%	28%
IE	47%	44%	35%	41%	16%
EU 28	38%	35%	18%	45%	28%
GB	32%	34%	20%	45%	27%
FR	26%	16%	15%	40%	38%

Source: Eurobarometer 452 Special Report: Media Pluralism and Democracy

44% of Irish people believed that public service media are free from political pressure (compared to the average of 35%). (For the entire EU, the highest positive perceptions on this issue were from respondents in Finland (65%), Sweden, the Netherlands (both 55%) and Denmark (54%).)

Regarding the reliability of news sources (Eurobarometer), radio scores the highest in all countries. Newspapers have very high levels of trust in Denmark and the Netherlands. The French, Germans and Dutch are most sceptical about social media, while the Austrians followed by the Irish have most confidence in social media.

Table 7. 4 Reliability of news sources

	Radio considered as reliable	Newspapers (printed and online) considered reliable	Television considered reliable	Social media (online social networks, blogs, video hosting sites) considered reliable	National media provide trustworthy information (agree)
DK	91%	85%	89%	31%	73%
NL	84%	83%	79%	22%	77%
DE	72%	68%	66%	24%	72%
AT	79%	66%	77%	42%	72%
IE	77%	60%	71%	35%	61%
EU 28	66%	55%	55%	32%	53%
GB	67%	46%	61%	31%	44%
FR	62%	58%	41%	19%	34%

Source: Eurobarometer 452 Special Report: Media Pluralism and Democracy

Irish respondents' assessments of reliability are as follows: radio (77%), newspapers (60%), TV (71%), social media (35%). The EU averages in each case were 66%, 55%, 55% and 32% respectively. Nordic states have most trust in the media. Those in Finland (90%), Denmark (89%) and Sweden (82%) are the most likely to say TV is reliable. Respondents in Finland (93%), Denmark (91%) and Sweden (88%) are most likely to find radio reliable. And as regards newspapers: Finland (88%), Denmark (85%) and the Netherlands (83%) have a strong trust in their press.

Hence a couple of patterns appear to be emerging. Irish people have a higher than average (across the EU) trust in their media systems. Those who are most confident in their media systems are Nordic countries. The only interesting exception concerns social media as a reliable source of information.¹⁸⁴

Some of the Irish results (Eurobarometer) need to be balanced with the negative responses not outlined above: While 47% believed that the media provided information free from political or commercial pressure, 46% disagreed with this statement. While 44% believed that public service media are free from political pressure, 46% disagreed with this statement. Also, while 61% felt that the media provided trustworthy information, 36% disagreed with this statement.

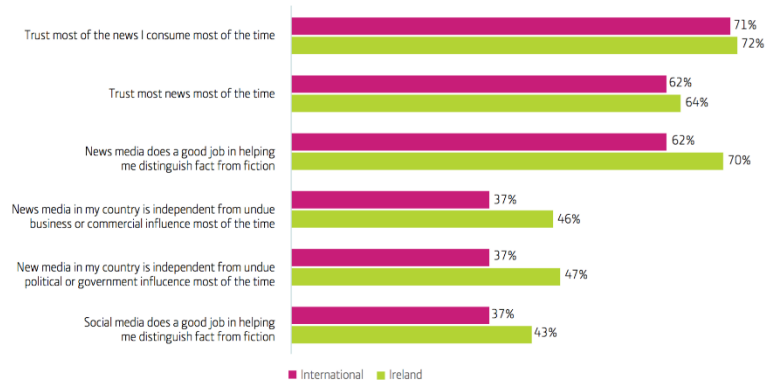
The Irish study from the Reuters digital News project,¹⁸⁵ also illustrates this higher than average trust in media of Irish people compared to the international survey sample. There are higher than average levels of trust in relation to all questions. There is a significantly higher than average perception of independence. In relation to social media, there is also a significant higher than average level of trust.

¹⁸⁴ In the Eurobarometer study, for the entire EU, social media scored highest in Poland, Romania, Slovenia, Austria and the Czech and Slovak Republics, but had the lowest reliability scores in Sweden, France, Finland and the Netherlands.

¹⁸⁵ McNamara, P., K. Cunningham, E. Culloty and J. Suiter (2017): Reuters Institute Digital News Report 2017 (Ireland). BAI/ FuHo, Dublin City University.

Fig 7.8 Perceptions of Trust- Ireland and International – Reuters Digital News Report

Fig. 43 Irish and international perceptions of trust



Conclusions

This chapter has indicated that as regards the overall revenues of the audiovisual sector, and in line with other European countries, the income of those offering pay TV services (including cable, satellite and IPTV packages) continues to grow. Public service revenues are relatively stable although public funding in 2016 was less than in 2011. The sector that shows the fastest growth over the past five years is that of on-demand revenues, although it still represents a very small part of the audiovisual revenue pie.

The share of Irish licensed channels on the market has dropped from 58.4% in 2004 to 48.4% in 2016. The main losses have been to the public service broadcaster RTE. The Irish television market is strongly influenced by the presence of UK channels whose audience share is more than 50%. It is also clear that many of these UK channels are part of the Irish television advertising market. An incentive by the government to examine the impact of this has not yet produced any report that could be found online.

TV advertising’s share of revenues in Ireland for the moment remains stable however, it is not clear to which extent the TV advertising pie is being “drained” by UK TV broadcasters. Industry players have stressed that the diverting of revenues to channels outside the country is impacting on the finances available for programme production in Ireland. This could have an impact on the diversity of content and the extent to which content reflects Irish culture.

Hence, it is recommended that any market assessments in the context of media mergers, and any frameworks that attempt to measure plurality or examine the market power of players should not exclude taking note of companies established outside of Ireland who are active on, and earning revenues in, the Irish markets.

Data on advertising revenues indicate the massive growth of revenues going to the Internet increasing by more than 330% between 2011 and 2016. These changes over time are also indicated showing a progressive growth of Internet advertising and a slow decline of TV advertising share. Market experts estimate that online advertising revenues in Ireland are dominated by Google and Facebook with a combined share of between 50 and 58% in 2016. A similar development has been observed in other countries such as the UK and Denmark.

It has been noted earlier that small markets are particularly impacted by these major changes in the market. Foreign companies in the form of broadcasters and the major technology companies therefore have an additional (the Google Facebook Internet advertising duopoly) impacting on the media economies of small markets. The Danish, the Norwegians and the Canadians have declared

the existence of a crisis in relation to their markets and in particular the future of their news markets. Therefore, it is recommended that the viability of the national media market and the viability of the production of news and quality journalism should be central to an Irish media plurality policy.

At the same time, Irish news consumers express a higher than average perception of the diversity and independence of the media sector. Although perceptions of independence are split down the middle, Irish news consumers have relatively high levels of trust in the media. The traditional media brands still play a significant role in the provision of news, including online. British news sources are also an important part of the Irish news market. Irish people are more likely to use public service media as a news source than the average across a range of countries, and slightly less likely to turn to a local or regional paper or to commercial television for news.

As in most countries, young people are much more likely to access news online than older people, while all age groups appear to use social media as either complementary to other news sources or as the main source of news (ages 18-34). This confirms the fact that the online news markets and the new players in the delivery of news need to somehow be taken into account in the assessment of plurality of the media.

Chapter 8: The BAI plurality policy – comments and suggestions

The following chapter places the Irish legislation, regulation and policy in the context of the previous chapters – reviews of a range of jurisdictions and summary of debates and recommendations on protecting pluralism and diversity of the media.

The BAI role in the promotion of plurality is also examined with reference to other policies and activities of the BAI which could be included in the description of an overall policy for the promotion and protection of plurality.

8.1 Current status of the BAI role in the promotion of plurality

The following is the BAI description of its current role in the promotion of plurality, as taken from the specifications for this report. It seems like a useful starting point for this chapter.

Table 8.1 BAI's current role in the promotion of pluralism

The Legislative framing provisions for the BAI's regulatory role in the ownership and control as well as plurality of the media are set out in Section 25 of the Broadcasting Act 2009 ("the 2009 Act") which provides that the Authority shall endeavour to, inter alia:

- *Ensure that the democratic values enshrined in the Constitution, especially those relating to the rightful liberty of expression are upheld;*
- *Ensure the provision of open and pluralistic broadcasting services;*
- *Promote diversity in control of the more influential commercial and community broadcasting services;*
- *Provide a regulatory environment that will sustain independent and impartial journalism.*
-

There are also specific provisions in Part 6 of the 2009 Act which require the Contracts Awards Committee to have regard to the ownership and control of applicants when determining the most suitable applicant for the award of broadcasting contracts. In this context, the BAI has developed an Ownership and Control Policy which gives practical effect to these statutory provisions. The BAI applies the provisions of the policy in assessing ownership and control elements of applications for broadcasting, content provision and multiplex contracts and to assess relevant requests for variations or compliance issues that may arise subsequently in respect of such contracts.

The competition and Consumer Protection Act, 2014 ("2014 Act) expanded the BAI's plurality related role and introduces new definitions. The 2014 Act provides a definition of plurality of media which encompasses Diversity of Ownership and Diversity of Content as follows:

'Diversity of Content' means the extent to which the broad diversity of views (including diversity on news and current affairs) and diversity of cultural interests prevalent in Irish society is reflected through the activities of media businesses in the state including their editorial ethos, content and sources.

"Diversity of ownership" means the spread of ownership and control of media businesses in the State linked to the market share of those media businesses by listenership, readership, reach or other appropriate measures.

The 2014 Act imposes a number of new and additional functions and obligations on the BAI including, inter alia, the provisions of advice to the Minister for Communications, Climate Action and Environment on the impact of a proposed media merger on plurality in the state if requested; undertaking a retrospective review on the impact of ownership changes on plurality over a 3-year period and the provision of a report to the Minister; the commissioning of and/or carrying out plurality-related research activities; and participation in national and international plurality-related initiatives and fora.

Promoting diversity and plurality is a key theme in the current BAI Strategy Statement with four strategic objectives as follows:

- To facilitate a mix of voices, opinions and sources of news and current affairs in audio-visual media which enhances democratic debate and active citizenship in Ireland;
- To increase the production and availability of culturally relevant audio-visual content for Irish audiences;
- To foster and promote quality programming in the Irish language;
- To foster a media landscape that is representative of, and accessible to, the diversity of Irish society.

8.2 Legal basis for freedom of expression and pluralism

The Freedom of Expression is enshrined in the Constitution of the Republic of Ireland under Article 40, paragraph 6.1^o i which states:

"The right of the citizens to express freely their convictions and opinions. The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State. The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law".¹⁸⁶

The Broadcasting Act of 2009 is the principle legislative basis for the media in Ireland. References to media pluralism occur only in relation to the tasks of the Broadcasting Authority of Ireland (as outlined above), and regarding the remit of the public service broadcaster.

8.3 Definition of pluralism

As noted above, the Competition and Consumer Protection Act, 2014¹⁸⁷ provides a definition of plurality of media which encompasses diversity of ownership and diversity of content:

'Diversity of Content' means the extent to which the broad diversity of views (including diversity on news and current affairs) and diversity of cultural interests prevalent in Irish society is reflected through the activities of media businesses in the state including their editorial ethos, content and sources;

"Diversity of ownership" means the spread of ownership and control of media businesses in the State linked to the market share of those media businesses by listenership, readership, reach or other appropriate measures.

The Irish law is therefore concerned with external pluralism, and with internal pluralism with regard to both political pluralism and cultural pluralism. Diversity of views including news and current affairs is one aspect of diversity of content while the reflection of the diversity of cultural interests represents a second aspect of diversity of content that needs to be addressed in Irish media mergers. The table below compares this understanding with the definitions used in the other 6 countries reviewed for this study.

Table 8.2 Definitions of pluralism in seven countries

¹⁸⁶ The Constitution of Ireland: Retrieved from

http://www.oasis.gov.ie/government_in_ireland/the_constitution/

¹⁸⁷ Irish Competition and Consumer Protection Act 2014:

<http://www.irishstatutebook.ie/eli/2014/act/29/enacted/en/html>

	External pluralism of ownership	Internal Pluralism: Political	Internal Pluralism: Cultural
<i>Austria</i>	Variety of independent companies	Range of different opinions	
<i>Denmark</i>		For PSB: ensure that the general public has access to important information on society and debate. ... provide programmes that reflect the diversity of cultural interests in Danish society	
<i>France</i>		Provision of diversified information particularly during elections	
<i>Germany</i>	Opinion forming weight of media outlets and owners	Opinion forming weight	
<i>Ireland</i>	Spread of ownership and control of media businesses	Reflect broad diversity of views including in news and information	Reflect diversity of cultural interests in society
<i>Netherlands</i>	number of owners, media companies, independent editorial boards, channels, titles or programmes	how political diversity is reflected in media content	how social diversity is reflected in media content
<i>United Kingdom</i>	Preventing one media owner or voice from having too much influence	Diversity of viewpoints	

Two countries include issues of cultural pluralism directly in the working definitions of pluralism – Ireland and the Netherlands- (and Denmark where pluralism is only referenced with regard to public service media) where both information and cultural diversity are included. While cultural diversity is not included in the definitions of pluralism in the Austrian, French, German or British regulatory frameworks, this does not imply that the issue of cultural diversity is not addressed in practice elsewhere in programming obligations, or funding programmes for example.

8.3 Media ownership rules in Ireland

Unlike in many other states, there are limited media ownership rules in Ireland. The Broadcasting Authority of Ireland (BAI) pays attention to market structure and pluralism (regarding the issue of licensing). Hence the ownership and control of the media is mainly implemented via the licensing process, which will be dealt with below. There are no thresholds which could define or indicate a situation where the “*spread of ownership and control*” may not be as desired, or that the concept of “*allowing any person, or group of persons, to have control of, or substantial interests in, an undue amount of the communications media*” as used in the licensing process, does not include any indication of what this would be.

This contrasts with the situation in Austria, France, Germany and the UK. It should be noted (see also chapter six) that there are no media ownership limits in Denmark (similar to several other Nordic states), and there are no longer any media ownership limits in the Netherlands. In the report on Ireland for the Media Pluralism Monitor, Flynn (2017) notes that: *the indicator on Media ownership concentration scores a high risk (97%). This is largely accounted for by the absence of specific upper limits on media ownership. The 2014 Competition and Consumer Protection Act, section 4 of which is entirely devoted to media mergers, does not specify quantitative thresholds which would automatically prevent*

an increase in media ownership concentration. Section 25 of the Broadcasting Act 2009 requires the BAI to maintain open, pluralistic and diverse, but again does not specify limits on ownership thresholds.¹⁸⁸

Table 2 outlines the very different approaches to establishing dominance and/or limiting market power and/or limiting cross-media concentration in four countries.

Table 8.3 Ownership and market thresholds in four countries

	Austria	France	Germany	United Kingdom
Market dominance or significant market power defined	Potentially a coverage of 30% of any market		30% audience share. Reduced to 25% where company has interests in a media/related business	Potentially a 20% share of the newspaper market.
Limits of shareholdings	Dominant influence is reached with share-holding of 25%	8% audience share limits share-holding to 49%		
Concentration limited	Digital TV licences Not more than three coverage areas should overlap	8% audience share limits new TV licences. Limits on DTT licences except where services edited by different companies	30% precludes the granting of any new licences. leads to remedies to ensure plurality of opinion.	
Cross media ownership limited	30% market share of newspaper, magazine or radio market prohibits TV ownership			20% + newspaper circulation prohibits stake of 20%+ in a Channel 3

The Media Pluralism Monitor report also refers to the rationale behind the lack of ownership or market thresholds in Ireland:

In its 2012 Ownership and Control Document the BAI argues that, since there is no obvious practical matrix for determining what constitutes a reasonable share of media markets, media acquisitions and mergers should be assessed on a case-by-case basis. Despite this, the high-risk figure perhaps overstates the extent of concentration in Ireland where, in any case, some cognizance of the impact of small market size should be acknowledged. Although the 84% C4 score (measuring the market share of the top four players) for the newspaper sector is considered as high, the figures for radio (67%) and television (51%) would be regarded as constituting medium levels of concentration.

8.4 The licensing process

The media ownership and control of media businesses are regulated in the licensing process where applications must be considered with regard to: *the desirability of allowing any person, or group of persons, to have control of, or substantial interests in, an undue amount of the communications media*

¹⁸⁸ Flynn, R. (2017): [Media Pluralism Monitor 2016 Monitoring Risks for Media Pluralism in the EU and Beyond. Country report: Ireland.](#) Centre for Media Pluralism and Media Freedom.

in the area specified in the notice. As noted above, there are no definitions of “an undue amount of communications media” but this is dealt with on a case by case basis.

Transparency of ownership in licensing process

In the application for any class of broadcasting contract, the documentation that must be provided includes: A Secretary’s Certificate or Equivalent, which includes company details such as the name and address of each person who is the legal, and/or, beneficial owner of shares in the Contractor, which together confer on their holder the right to cast votes at a general meeting of the Contractor which represents 10%, or more, of the votes that may be cast at such a meeting.

This practice of requiring detailed information on ownership and share-holders from licence applicants is also carried out in Austria, France, Germany and the United Kingdom.

8.5 Competition policy and media mergers

As outlined by the BAI (above), the 2014 Act imposes a number of new and additional functions and obligations on the BAI including, *inter alia*, the provisions of advice to the Minister for Communications, Climate Action and Environment on the impact of a proposed media merger on plurality in the state if requested.

There is no obligation to involve the regulatory authority in the decision-making process unless the Minister believes that a deeper examination of the market is needed. This is similar to the situation in the UK where the Secretary of State for Business, Innovation and Skills can ask Ofcom to report on the public interest concerns. The Ofcom has developed a framework for measuring media plurality, the purpose of which is to support the assessments of media mergers and the potential impact on plurality. The details regarding the framework have been outlined in previous chapters.

In Germany, the regulator with specific competence in the area of media concentration– the KEK– has the power to block media mergers, rather than just provide an opinion or just assist in the analysis of a merger on the market. The French regulator, the CSA, also plays a role in the assessments of media mergers, and may also be called upon by the competition authority to advise on a range of issues including anti-competitive behaviour.

The Irish government published Media Merger Guidelines in 2015, and these have introduced the concept of significant interest in a media undertaking:

A holding or voting strength of between 10% and 19% (directly or indirectly) may constitute a significant interest.

A holding or voting strength of more than 20% or more of the voting power (directly or indirectly) will generally constitute a significant interest.

In practice, following a request for advice from the Minister regarding a media merger, the BAI has opened public consultations and also prepared reports on the possible impact of the media merger. This reflects also the work of the Ofcom, and the provision of impact analysis reports by the French CSA. The process is very new and will develop only on the basis of requests from the ministry, and development of methodologies for impact assessments.

Reports on media ownership

The Competition and Consumer Protection Act 2014 also specifies that the BAI shall provide reports every three years reviewing the impact of ownership changes on plurality: describing the ownership

and control arrangements of media businesses; describing the changes to ownership; and analysing the effects of such changes on plurality of media in the state.¹⁸⁹

The first of these reports was published in 2015, with a second due in 2018. Produced by Communications Chambers, the report was informed by the methodology of the Ofcom approach to measurement of pluralism in the market.¹⁹⁰ The report itself and the corresponding database of ownership represent a first step in improving the transparency of the media sector (see more below). Three year reports on the state of market concentration and the operation of media ownership rules are also part of the remit of the Ofcom. In the case of Germany, as a dedicated commission focusing on concentration, the KEK is required to produce such reports every year.

8.6 Transparency of media ownership

As has been noted on numerous occasions in this report, the transparency of media ownership – and in particular, the transparency of media ownership for the public is considered crucial to the promotion of media pluralism.

For example, the Council of Europe Recommendation of 2018 also stresses the importance of transparency of media ownership: “... *legislation should also provide for the independent national media regulatory authority or other designated body to ensure that the public has easy, swift and effective access to data about media ownership and control arrangements in the State, including disaggregated data about different types of media (markets/sectors) and regional and/or local levels, as relevant. These data should be kept up to date on a rolling basis; made available to the public free of charge and without delay, and their availability publicised. Ideally they should be accessible and searchable, for example in the form of online databases; their contents should be made available in open formats and there should be no restrictions on their re-use.*”¹⁹¹

The strongest examples of the provision of transparency of ownership in media markets by media regulators- were identified in Germany, Norway and the Netherlands, and also in the work of the Belgian CSA with its pluralism website. Several media transparency tools also deal with the press sectors: specifically in the Netherlands and Belgium. The website of the KEK provides in depth profiles of media companies including details on other media interests, subsidiaries and cross media ownership. For many countries, the regulator may only have access to data on the media companies that they licence and regulate.

A BAI media plurality policy should include an approach to enhancing media transparency. In comparison to many European countries, very little information is supplied regarding the ownership of licensed services. This has also been emphasised in the Media Pluralism Monitor. The ownership and control reports are a first step towards achieving this but a regular update of markets that the BAI does not regulate (namely the press) might be difficult to achieve. This could also be carried out by another organisation, academic or consultant. The viability of the project would depend on whether the BAI can share the information which has been supplied by operators and published in the ownership and control reports.

¹⁸⁹ the Competition and Consumer Protection Act 2014.

<http://www.irishstatutebook.ie/eli/2014/act/29/enacted/en/print#sec74>

¹⁹⁰ Broadcasting Authority of Ireland – BAI (2016): *Report on Ownership and Control of Media Businesses in Ireland 2012–2014*. Prepared by Communications Chambers.

¹⁹¹ Council of Europe, Committee of Ministers (2018): *Recommendation CM/Rec(2018)1[1] of the Committee of Ministers to member States on media pluralism and transparency of media ownership*

Another way in which transparency of the media market can be enhanced is via research and reports. The involvement of the BAI in the Reuters News study provides an extremely useful tool for the development of policy and the assessment of pluralism.

There is however, a lack of a regular report on the Irish market which could be produced on an annual basis. In this context, it is important to note the significance of market intelligence for the development of regulatory policies and strategies, in particular of an annual report providing an overview of industry trends across the media and telecommunications sectors in Ireland and placing the trends in the context of European and other overseas developments. The drafting of such a report could be carried out by another institution, academic or consultant. Having such reports on hand will facilitate other research and ad hoc requests from Ministry for advice on various aspects of the market.

Examples from other countries include the Communications Market Reports of the Ofcom, published annually which cover market revenues, services and media use, and also data on broadband, telecommunications and post markets. Since 2014, the Danish Agency for Culture and Palaces has been publishing reports on media development in Denmark.¹⁹² These reports cover a range of issues such as media use, economic market data in particular relating to the advertising, and the reports also provide summaries of "special reports" that have been carried out during the year on the market.

Another small regulator, the Austrian regulator produces an annual "*Kommunikationsbericht*" (Communications Report) which alongside detailing the year's activities of the regulator on the market, also provides an overview of trends in the media market: advertising shares, audience shares, and development in consumption of media.¹⁹³

8.7 Other policies that promote plurality of the audiovisual sector

Media literacy

As outlined in previous chapters, the most recent policy recommendations of European and International organisations,¹⁹⁴ and a range of experts have highlighted the important role that media literacy, media education and digital empowerment can play in the promotion of pluralism: "as a way for citizens to develop critical thinking, which is especially important in the new converged media environment where the shaping of ideas increasingly happens online,"¹⁹⁵ while "States are encouraged to include in their national media literacy programmes focuses on media pluralism and transparency of media ownership in order to help citizens to make an informed and critical evaluation of the information and ideas propagated via the media."¹⁹⁶

In this regard, the BAI media literacy policy of 2016¹⁹⁷ should also be considered a tool in the promotion and protection of media plurality. One of the key competencies of the policy is described

¹⁹² An English summary of the latest report: [Media Development in Denmark 2016](#)

¹⁹³ https://www.rtr.at/de/inf/KBericht2016/K-Bericht_2016.pdf

¹⁹⁴ European Commission High Level Group on Media Freedom and Pluralism (2013), Recommendation of the Committee of Ministers of the Council of Europe (2018), report for the Council of Europe on Information Disorder (2017), Report of the independent European Commission High level Group on fake news and online disinformation (2018).

¹⁹⁵ European Commission (2016): Annual Colloquium on Fundamental Rights 2016. "[Media pluralism and democracy](#)". [Public Consultation Summary Report](#)

¹⁹⁶ Council of Europe, Committee of Ministers (2018): [Recommendation CM/Rec\(2018\)1\[1\] of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

¹⁹⁷ BAI Media Literacy Policy 2016: <http://www.bai.ie/en/bai-launches-media-literacy-policy/>

as to: *Understand and critically evaluate broadcast, digital and other media content and services, in order to make informed choices and best manage media use.*

The BAI has set up an Irish Media Literacy Network which could also be used to promote specific approaches to enhancing understanding and critical evaluation of media content. Via the Sound & Vision programming support scheme, there is funding for the improvement of media literacy.

Funding for the production of content

A range of **aims of the BAI** were outlined above (section 8.1) in relation to media ownership and control and plurality of the media. The additional **endeavour of the BAI** to: "*stimulate the provision of high quality, diverse and innovative programming by commercial, community and public service broadcasters and independent producers*" (25, (2) (a)) could also be considered as an element of the BAI plurality policy.

In particular, this relates to ensuring the promotion of pluralism in the sense of ensuring that a "*diversity of cultural interests prevalent in Irish society is reflected through the activities of media businesses in the state including their editorial ethos, content and sources*"

These issues are addressed via the Sound & Vision programming support scheme¹⁹⁸ which aims to:

- *Develop high quality programmes based on Irish culture, heritage and experience;*
- *Develop these programmes in the Irish language;*
- *Increase the availability of programmes referred to above to audiences in the State;*
- *Represent the diversity of Irish culture and heritage;*
- *Record oral Irish heritage and aspects of Irish heritage which are disappearing, under threat, or have not been previously recorded, and;*
- *Develop local and community broadcasting.*

In the course of this review, numerous funding schemes were identified that promoted a plurality of content – in terms of cultural diversity. These included the Austrian television funds, whose aim is to increase the quality of TV production, to support the capacity of the film industry, strengthen Austria as a media location, and ensure a diverse cultural landscape, and other broadcasting funds that aim to support broadcasters in providing a high-quality and diverse range of programmes. Cultural diversity and support of the audiovisual production sector is the main focus of the many funds distributed to the French media sector via CNC (*Centre national du cinéma et de l'image animée*). Included in this are specific funds to promote diversity – to encourage audiovisual content that represents the diverse society in France.

Funding to support the development and viability of news production

The Austrian press funds are focused on the development of journalism, and currently directed at daily and weekly periodicals with funds for: the education of young journalists; the costs for foreign correspondents; and refunds for delivery of free newspapers to schools. Other organisations and initiatives that qualify for funds are associations that promote reading of the press, associations of journalism education, press clubs, and other relevant research projects.

In Denmark, production aid is granted to news media production of editorial content. Innovation aid is granted for projects or feasibility studies concerning the establishment of new or development of

¹⁹⁸ Objectives of the Sound and Vision Support Scheme: <http://www.bai.ie/en/broadcasting/funding-development-3/sound-vision-3/>

existing media. Since 2013, it has a “platform neutrality: element in that subsidies are not just for newspapers but for all organisations conducting journalism activities and the money is dedicated according to the number of ‘journalistic full-time equivalents’ employed.

In both the UK and the Netherlands specific funds have been developed because of fears that “more and more local and regional newspapers, magazines and broadcasters were disappearing or having to cut back, which was considered potentially harmful to democracy” (Netherlands), and “particular concern about the future of local news as newspapers scale back coverage of local democratic institutions such as councils and courts. Press groups were looking to deliver cost savings or selling smaller weekly papers” (UK)

In the Netherlands, the Dutch Government supports the media through the Journalism Promotion Fund: for newspapers and magazines but also journalistic websites with grants for innovative journalism and regional cooperation between journalists’ organisations. The reason for these grants was that more and more local and regional newspapers, magazines and broadcasters were disappearing or having to cut back, which was considered potentially harmful to democracy. Also, the CoBo Fund promotes the co-production of films and documentaries by public broadcasters, or public broadcasters and independent producers.

The Local News Partnership (LNP) is an agreement between the BBC and the regional news industry to provide a commitment to full and fair reporting of decisions taken by local authorities and other public bodies across the UK. Through a joint working agreement between the BBC and the News Media Association, the partnership will create 150 new journalism jobs, establish a shared data journalism unit and offer the regional media access to BBC news video and audio material. In addition to increased and improved reporting on decisions taken by public bodies, the LNP will ensure expertise is shared around the industry.¹⁹⁹

The BAI sound and Vision Scheme could also potentially incorporate funding for the promotion or development of journalism, or the support of community media.

Public service broadcasting

The public service media continue to be recognised as a core pillar of promoting pluralism in the media. The Broadcasting Authority of Ireland is also required to “facilitate public service broadcasters in the fulfilment of their public service objects”. Alongside monitoring of compliance with codes and rules, and via the complaints process, the role of the BAI is outlined thus:

the BAI also has three significant areas of regulatory responsibility for such broadcasters:

- *Annual Statement of Performance Commitments*
- *Annual Review of Public Funding*
- *Five Year Review of Public Broadcasters*
- *Sectoral Impact Assessments*

In their work the BAI can continue to support the insurance of financing required to meet the public service remits, which ultimately contribute to both political and cultural pluralism.

Codes supporting journalistic standards

The Broadcasting Authority of Ireland’s of fairness, objectivity and impartiality in news and current affairs is a further example of a BAI tool that contributes to the promotion of plurality. The voluntary

¹⁹⁹ BBC Corporate pages: [Local News Partnership](#)

adherence of the new digital news players to all codes that regulate or self-regulate journalism would be a useful step in securing quality journalism.

Must-carry and findability of content

As in most other countries, there exist must-carry / must offer rules and regulation of EPGs in Ireland. These rules are developed specifically to ensure the distribution and findability of content of public interest. In Germany, debates are continuing regarding the need to also have rules for APPs and other gateways that allow access to content.

Conclusions

The ownership and control policy of the BAI as applied to the licensing system is the main tool for influencing market pluralism (external). It lacks any definition of what an undue number of communications media would represent. However, the BAI claims that all licensing applications are reviewed on a case by case basis. This is the central policy action to; *ensure the provision of open and pluralistic broadcasting services; and promote diversity in control of the more influential commercial and community broadcasting services*. The approach to transparency of ownership in the licensing process is similar to that of the other countries reviewed here. Regarding competition policy, the Governments Media Merger Guidelines have introduced definitions of “significant interest” in a media undertaking, which represents a first example of an ownership threshold.

The review of the main elements of the BAI media plurality policy – the media ownership and control policy, the broadcast licensing system, and the role in assessment of media mergers – shows that excepting the lack of a definition of a dominant market position, these policies and approaches are in line with those of other European countries.

It can also be stressed that having reviewed an extensive range of policy documents and debates, that there are additional elements of the BAI work which already do, or could in the future form part of a plurality policy. These include the code of fairness, objectivity and impartiality in news and current affairs, the BAI Media Literacy Policy, the Sound and Vision Funding Scheme, and the general research policies.

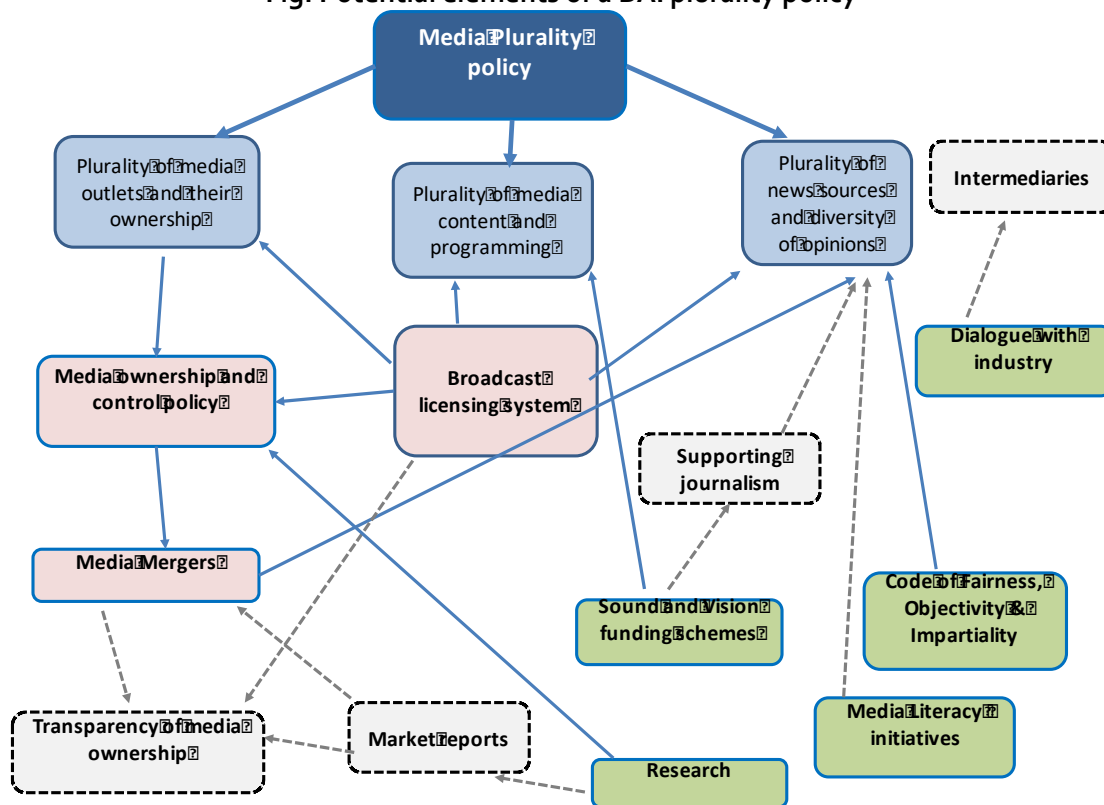
There are also several elements present in the policies and practices of other jurisdictions, and also central to policy recommendations and guidelines which do not yet exist in the BAI approach. These could be considered as potential new approaches to promoting media plurality.

These include the issue of transparency of media ownership, which can be achieved via the creation of a dedicated database or website and also in the publication of reports. Regular market reports that include economic data and trends and place Ireland in the European context regarding market developments are necessary to support impact analysis and other advisory roles of the BAI.

As noted in the last chapter, the development of a dialogue with industry may be a crucial element in the future protection of pluralism. Dialogue with industry is already a policy tool of the BAI and perhaps it is possible to facilitate such a dialogue with the significant intermediaries, many of whom are established in Ireland.

The final figure overleaf provides a graphic overview of these conclusions.

Fig. Potential elements of a BAI plurality policy



This schematic provides a potential BAI media plurality policy.

The **blue elements**: the **main aims of the policy**:

- Plurality of media outlets and their ownership
- Plurality of media content and programming, cultural diversity, support of national culture, Irish language programming and content
- Plurality of news sources and diversity of opinions

The **pink elements**: the **policies identified by the BAI as being central to the media plurality policy**:

- Media ownership and control policy
- Broadcast licensing system
- Media mergers

The **green elements**: the **other existing policies and tools of the BAI which should be included in the overall media plurality policy, particularly in light of the findings of this report**:

- Code of fairness, objectivity and impartiality in news and current affairs
- Media Literacy initiatives
- Sound and Vision Funding Scheme
- Research policies
- Dialogue

The **grey elements**: the **potential new approaches to promoting media plurality**

- Transparency of media ownership – via database or reports
- Regular market reports (including economic data) to support impact analysis
- Funding support for the development of journalism / or local content to ensure viability
- Engaging in dialogue with intermediaries

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