

EUROPEAN RESPONSES TO MEDIA OWNERSHIP AND PLURALISM

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INTRODUCTION

An intense degree of strategic activity among and between corporations in the media-and-communications-related sectors can be perceived in Europe. This is partly in response to the impact and the opportunities of converging technologies on markets and services, and partly as a result of the liberalization of such markets. Those involved are propelled by the desire and anxiety not to "miss the boat." This has led to restructuring and consolidation within and between industries and to re-engineering in order to take advantage of the opportunities provided by both the new technologies themselves and the convergence of previously discreet media.

These new relationships result in fewer—yet even more powerful—corporate entities which are able to assume dominant positions within specific media markets. This raises important questions about the impact such restructuring has on pluralism in society, given the role of the media as source of information. Faced with this growth of inter-corporate relationships, vertically and horizontally, European Member States have been and are continuing to analyze their policy and regulatory approaches to media concentration and ownership. This compilation of Articles examines how European Member States have re-examined their regulatory framework based on the public policy objective of safeguarding the diversity of views and ensuring pluralism.

However, as concentration of media is increasingly a trans-frontier phenomenon, it is also crucial to investigate whether national attempts to control ownership are still feasible or even useful. This compilation, therefore, examines the appropriateness of a national versus regional regulation within Europe, and considers the attempts and problems faced by the European Commission to harmonize national regulations of media ownership and control.

In February 1998, a front-page article was published in the European Voice stating that "controversial proposals for tough new rules to prevent individual media moguls dominating Europe's air-

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waves and newspapers have been quietly buried."¹ Despite the (unofficial) denial by the European Commission, it revealed that not everyone—in particular the media industry—considers a Commission proposal on media ownership as imminent.

Within that context, Alison Harcourt summarizes the history and problems behind the Commission's policies on media ownership and provides an overview of national regulations that could be either harmonized or liberalized by any future Commission Directive. Further considerations on the efforts to draft such a Directive are made by Gillian Doyle, who also assesses the conduct of recent media ownership rule changes in the U.K. and, as a result, attempts to answer the question of whether the problem of alignments between political and corporate media interests in individual European countries should be addressed through a shift in policy formulation from the national to the transnational level.

Special attention is given to the U.K. and Germany, two Member States that have been rather innovative in redefining their policies toward media ownership and dominance, which, consequently, are seen by the Commission and Member States as possible regulatory models. The difficulties of the traditional regulatory approach are compounded by both the difficulties in measuring ownership in the developing media. Both Germany and the U.K. have replaced the classic approach, which was mainly based on ownership restrictions, with one based on market shares. Assessments of this approach in the U.K. are made from different perspectives and with different concerns by Thomas Gibbons and Christopher Marsden. While Gibbons considers the constraints of public broadcasting values on the deregulation of British media ownership, Marsden takes a more general competition law approach. This provides a comprehensive overview of the debate currently taking place in the U.K.

The German response to media ownership and concentration is examined in detail by Peter Humphreys, who has studied the German media system and structure in depth, over a long period of time. By bringing together such specific analysis approaches in the U.K. and Germany, interesting new insights emerge concerning the success or failure of implementing their public policy objectives within the framework of regulation of media ownership.

Finally, this compilation addresses a new area of concern: the existence of "bottlenecks" within the developing communications

¹ Chris Johnstone, *Media Moguls Escape Harsh New Regulations*, EUROPEAN VOICE, Feb. 5, 1988, at 1.

environment, which threaten the continuance of pluralism. An analysis of the European response to the regulation and management of those bottlenecks in the digital pay-TV sector is made by Carles Llorens-Maluquer. In particular, he compares the U.K., Spain, and the European Union position relating to Conditional Access Systems, Subscribers Management Systems, and Electronic Program Guides. The problems of media concentrations and challenges to pluralism addressed in this issue are certainly not restricted to Europe. Every government and regional authority is faced with the difficult task of negotiating a balance between allowing the media market to grow and compete and safeguarding a pluralistic and independent media structure. By focusing on European approaches, we hope to give an overview of alternative approaches to regulating media ownership, which is, and will likely to continue to be, high on the political and public agenda.