



# Media Pluralism and Concentration

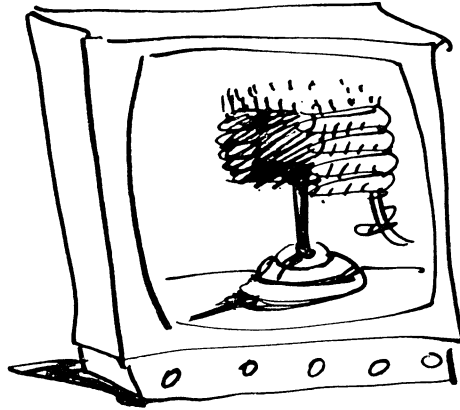
**The issue of pluralism and concentration in media ownership has been central to the media debate in Australia, most recently in the lead-up to new broadcasting legislation.**

The situation in Europe is the subject of a Green Paper released by the Commission of the European Communities last December. Some of the information in this paper is of potential interest in Australia, particularly a study prepared in connection with the paper, which shows in considerable detail the constitutional restraints and legislative measures in member States which affect or limit multiple ownership in one medium ('monomedia'), cross-media ownership and foreign ownership.

The study is based on measurement of the audience reached by those who control the media in member States, rather than on the number of media carriers. The latter is considered an unsatisfactory criterion for assessing the impact on pluralism: in the United Kingdom, for instance, the two largest newspaper publishers hold only 2 per cent of titles but account for 58 per cent of circulation (see chart p.9).

The paper points out that laws on media ownership are 'a fairly recent phenomenon, their adoption having coincided with the liberalisation of the audiovisual sector', and can be dated to the second half of the 1980s.

In Europe, the question of media pluralism and concentration is complicated by the possibility that the laws and regulations of individual countries which are intended to limit foreign ownership may be in breach of EEC law and principles like free trade and movement between member States. The situation bears comparison with Australia's problems in connection with the General Agreement on Tariffs and Trade (GATT) negotiations, where the US has contested the validity of Australian program content rules and other forms of assistance to local production.



## Pluralism and Diversity

Because it is considering the issue in the light of community objectives, and the safeguarding of media pluralism alone does not constitute such an objective, the Green Paper's emphasis is on structural matters rather than on any ideological rationale for ownership restrictions - such as the question of cultural incursion which has largely informed arguments about foreign ownership in Australia. The increasing encroachment across borders by satellite television services, while clearly crucial to consideration of the issues raised in the paper, is barely mentioned.

The paper does however refer to its communication on audiovisual policy, which spoke of 'the importance attached by the Community to the requirements of a democratic society, such as, notably, the respect for pluralism in the media and freedom of expression'.

Pursuing these issues, the Green Paper attempts to come to grips with the concept of pluralism and to offer a definition. It points out that outside the legal context, the concept is used in a broad, general sense: for example, to justify positive measures in support of freedom of expression and diversity of information sources.

The variety of expressions used containing the word 'pluralism' - pluralism in/of the media, of information, of the press, pluralism in expressing current thoughts and opinion - shows that there is no common understanding of the concept, the paper says.

However, two common features emerge from a legal analysis of the European Convention on Human Rights:

- the concept of pluralism serves to limit the scope of freedom of expression
- the purpose of such limitation is to guarantee diversity of information for the public.

Like certain obligations relating to editorial content (morality, taste and decency, impartiality etc) the function of the concept of pluralism is to limit, in certain cases, the application of the right of freedom of expression to a potential beneficiary - for example, by refusing a broadcasting licence or a newspaper takeover. The European Court of Human Rights takes the view that pluralism is an exception to the principle of freedom of expression, designed to protect the rights of others.

The limit placed on this principle is justified in order to ensure that the public has access to a diversity of information and, in certain cases, because

*Continued on page 9 ...*



... Continued from page 8

its application could prevent another beneficiary of that freedom from using it - for instance, where access to the means of broadcasting is limited.

The 'information' which constitutes diversity must be understood broadly, to encompass not just newspapers or news bulletins but all kinds of ideas, programs, communication and content.

The paper therefore opts to use the term 'pluralism' to mean the objective, that is 'diversity of information' in the broad sense.

## Conclusions

The Green Paper analyses the need for action and considers potential options,

but does not favour or recommend any course of action.

The Commission offers two other options (in addition to the option of doing nothing) which in summary are:

- proposing a recommendation to enhance transparency; and
- proposing the harmonisation of national restrictions on media ownership by a Council directive and/or a regulation, possibly with an independent committee.

'Harmonisation' would focus on national, media-specific anti-concentration rules and not on rules relating to program content. The latter, the paper says, 'do not restrict the taking-up of media activities and could therefore continue to apply in the various member States to broadcasters within their

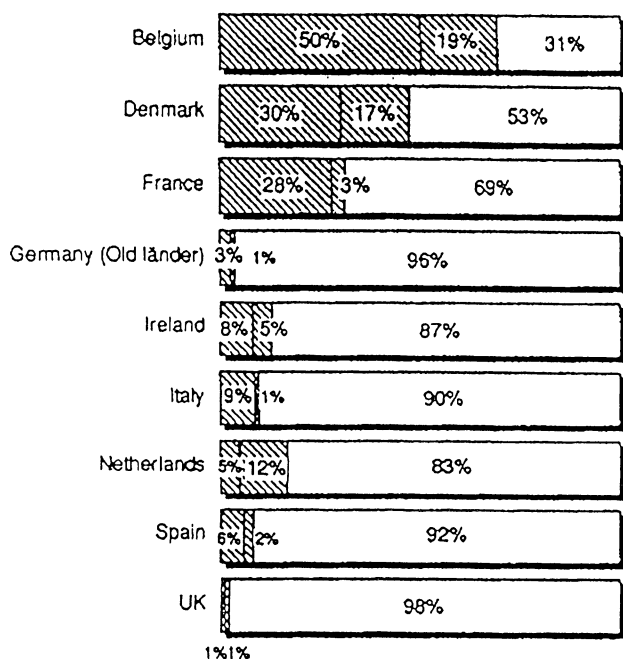
jurisdiction and provided that they were compatible with Community law'. Harmonisation would cover both public and private broadcasters.

The Commission is inviting all interested parties, as well as the European Parliament and national authorities, to respond to the paper.

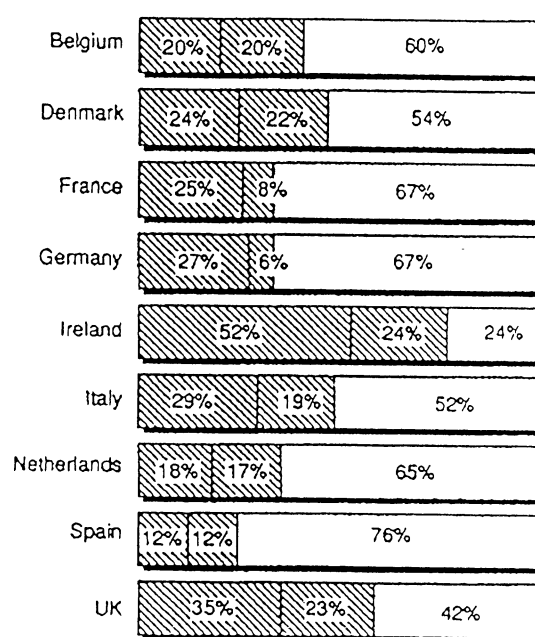
Commission of the European Communities, *Pluralism and Concentration in the Internal Market: an assessment of the need for community action*, Commission Green Paper, Office for Official Publications of the European Communities, L-2985 Luxembourg, December 1992, 131pp. □

## Concentration in Daily Newspapers in Example EC Countries

Share of Total Titles by Top 2 Publishers



Share of Total Circulations by Top 2 Publishers



Source: CARAT International 1990