



universität
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MAGISTERARBEIT

Titel der Magisterarbeit

„Concentration of Media Ownership in Europe“

Verfasserin ODER Verfasser

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angestrebter akademischer Grad

Magister ODER Magistra der Philosophie (Mag. phil.)

Wien, 2009

Studienkennzahl lt. Studienblatt:

A 066 841

Studienrichtung lt. Studienblatt:

Publizistik- und Kommunikationswissenschaft

Betreuerin / Betreuer:

Ao. Univ.-Prof. Dr. Hannes Haas

CONCENTRATION OF MEDIA OWNERSHIP IN EUROPE

Perspectives of legal regulations of media ownership and the
safeguarding of media pluralism in the European Union

based on case studies of Germany, United Kingdom and France

Is there a need to reconsider supranational measures?

Summary

In this paper I will show that a supranational approach based on harmonization of national restrictions of media ownership in order to safeguard media pluralism, as proposed by the EU Commission in its 1992 Green Book is still not applicable today, despite the fact that the media landscape is undergoing considerable structural changes. The reasons for this are of political, legal and practical nature. My analyses are based on an extensive evaluation of the economic conditions and the legal framework of European media, which I will apply to case studies of Germany, United Kingdom and France. Moreover I will consider the definition of media pluralism and the preconditions for the technological changes European media will be subjected to in the next couple of years. A new and revised European legal framework should allow these changes – to a certain extent – to happen instead of protecting outdated business models of “old media”.

Zusammenfassung

In dieser Arbeit zeige ich, dass ein auf supranationaler europäischer Rechtssetzung beruhender Ansatz der Harmonisierung von nationalen Regelungen zur Sicherung der Meinungsvielfalt in den Medien, wie er von der EU Kommission 1992 vorgeschlagen wurde, auch heute, in einer völlig veränderten europäischen Medienlandschaft nicht anwendbar ist. Politische, rechtliche und praktische Gründe sprechen dagegen. Meine Analyse beruht auf einer ausführlichen Evaluierung der ökonomischen und rechtlichen Rahmenbedingungen von europäischen Medien, die ich anhand von Fallstudien aus Deutschland, Großbritannien und Frankreich veranschauliche. Darüber hinaus werden auch die Bedingungen von Medienvielfalt sowie die Voraussetzungen für die strukturellen Veränderungen, denen europäische Medien aufgrund von technischen Entwicklungen in den kommenden Jahren unterworfen sein werden. Ein eventueller neuer europäischer Rechtsrahmen sollte diese Veränderungen bis zu einem gewissen Grad unterstützen, anstatt überholte Geschäftsmodelle von Medien der “alten Ordnung” zu schützen.

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ABBREVIATIONS

ABC	American Broadcasting Company / Audit Bureau of Circulation
AG	Aktiengesellschaft
AGOF	Arbeitsgemeinschaft Online-Forschung
ALM	Arbeitsgemeinschaft der Landesmedienanstalten
APA	American Psychological Association
APN	Appointed News Provider
ARD	Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht
BARB	Broadcasters' Audience Research Board
BBC	British Broadcasting Corporation
bn	billion
BSkyB	British Sky Broadcasting
BVerfGE	Bundesverfassungsgerichtshof
CC	Competition Commission
CEO	Chief Executive Officer
CLT-UFA	Compagnie Luxembourgeoise de Télédiffusion – Universum Film
CME	Central European Media Enterprises
CNN	Cable News Network
CSA	Conseil Supérieur de l'Audivisuel
DSPS	Digital Sound Programme Services
EBRA	Est Bourgogne Rhône Alpes
ECHR	European Convention on Human Rights
EIAA	European Interactive Advertising Association
EU	European Union
ISP	Internet Service Provider
ITV	Independent Television Commission
KDG	Kabel Deutschland Gesellschaft
KEK	Kommission zur Ermittlung der Konzentration im Medienbereich
KG	Kommanditgesellschaft
KiKa	KinderKanal

KKR	Kohlberg Kravis Roberts & Co
LLC	loi de la liberté de communication
m	million
NRCO	Nouvelle Republique de Centre Ouest
NRE	nouvelles régulations économiques
Ofcom	Office of Communications
OFT	Office of Fair Trade
OJD	Office de Justification de la Diffusion
PBS	Public Broadcasting Stations
RTL	Radio Television Luxembourg
SBS	Scandinavian Broadcasting System
SCP	Structure-Conduct-Performance
TIME	Telecommunication/Information/Media/Entertainment
TNT	Télévision Numérique Terrestre
UNESCO	United Nations Educational, Scientific and Cultural Organization
WAZ	Westdeutsche Allgemeine Zeitung
XML	eXtensive Markup Language
ZDF	Zweites Deutsches Fernsehen

Preface

“I have yet to see any problem, however complicated, which, when looked at in the right way did not become still more complicated.”

(Poul Anderson)

The work described in this thesis was carried out between January 2008 and July 2009 at the University of Vienna under the supervision and guidance of Dr. Hannes Haas. As described in the summary, this paper analyses the economic and legal environment of European media companies in order to evaluate potential supranational models of regulatory measures. The introduction provides much of the general background.

Since the economic analysis is a core part of this paper, I would like to point out that I adopt a political economy point of view, particularly when assessing the functioning of markets and the way they influence society and law. Therefore I will build my analysis on the neoclassical theory of the firm, which centres round the principle of profit maximization and the notion of perfect competition. I am aware that other concepts, which challenge the simplifications of the neoclassical assumptions, have been introduced. There are many alternative and much more complex theories of the market and the way it works, for example the Structure Performance Conduct (SCP) model. Despite the fact that I will provide brief explanations of these alternative theories I will not go into detail on this matter because it would go far beyond the scope of this paper, which generally focuses on regulatory measures from a media and communication sciences perspective. Besides, the way markets and capitalism in general are analysed does sometimes have more to do with philosophy than economics. Whenever humans are the key players, any assumptions of linearity are to be questioned carefully, especially with theories of decision-making.

Moreover I adopt the APA-style of citation developed by the American Psychological Association (Harvey, 2008). I thoroughly comply with the rules of integrating sources outlined by Harvey to avoid any form of plagiarism or other misuse of sources. I have tried to get the permissions of all rights holder of images and illustrations used in this paper. However, in case any infringement of copyrights is noticed I ask the reader to contact me.

Furthermore I comply with the UNESCO guidelines on gender-neutral language as outlined by Pavlic (Pavlic, 1999). If, however I still use an ambiguous or stereotyping term I ask the reader to consider that no discrimination whatsoever is intended.

I would like to thank Harald Fidler for initially sparking my interest on the problems of media ownership and my parents, my sisters and my girlfriend for their love and support during the process of writing this paper.

1 Introduction

In the last couple of years the media landscape not only in the European Union, but in the whole world has been dramatically transformed. The evolution of digital technologies has led to a vast expansion of online media, which marks the advent of a new paradigm of media production that is no longer tied to nation states.

However, some of the new digital players have been incorporated into media conglomerates of the “old world” in order to exploit synergies of convergence¹. For similar reasons competitors, suppliers and partners of newspaper and television companies have been subject to ongoing consolidation. Media companies in Europe, the United States and elsewhere are keen to take part in the changes and, if possible, attempt to emerge at the forefront of an increasingly transnational and competitive global communications marketplace. The challenge for regulators in the wake of a reshaping industry, which is about to become more and more global, is to allow structural changes to happen without protecting outdated business models of the past, while at the same time ensuring that during the process of transformation media pluralism is guaranteed. The EU and its Member States, while committing to safeguarding media pluralism on the one hand, are very keen to position some of their players in the global marketplace on the other hand, which is why they have retained a strictly economic approach to regulating media ownership. Moreover the competence for dealing with the issue of media pluralism traditionally lies with the Member States.

Citizens today are more than ever immersed in a media saturated world (Croteau & Hoynes, 2006). Due to the sheer volume of media output it can be difficult to keep track of recent developments in media markets, which have become very complex and less transparent as companies attempt to circumvent national restrictions and more channels and outlets are being controlled by fewer companies (Curran, 2002,

¹ The acquisition of Myspace by Rupert Murdoch’s News Corporation in 2005 or the acquisition of the German social network studivz by Holtzbrinck publishers in 2007 are well known examples.

p. 8). This might, in part, provide an explanation for the lack of broad public discussion on issues of concentration of media. In fact public media governance has been rather focused on content than on ownership.

My aim in this paper is to assess the regulations of media ownership and other legal instruments that serve to safeguard media pluralism in Germany, United Kingdom and France and to evaluate the necessity of new regulatory models and frameworks, which could be applied to all EU Member States on a supranational level in order to acknowledge the changes of the media landscape. My research question is whether any supranational measures, be it a harmonization of legal instruments or any other action in support of pluralism across the EU would be feasible, effective and expedient.

In 1992 the European Commission had already proposed an approach based on harmonization in its Green Paper “Pluralism and media concentration on the internal market” (European Commission, 1992; European Commission, 2007; European Federation of Journalists, 2005; The Guardian, 2008). The actions suggested in this report, however were neither considered appropriate, nor attainable in the broad consultation process ensuing the publication of the paper, which to large parts was due to the Commission’s approach to ensure a functioning internal market rather than to guarantee pluralism and diversity of opinions in the EU. More than 15 years later, the conditions have changed: There has been intense reorganisation and deregulation of the European media market which has led to an increasing international and global scope of media companies. Moreover we have witnessed the formation of multimedia conglomerates and the evolution of online-media. Due to these and other framework conditions that have changed since the publication of the Green Paper, I shall re-evaluate whether a supranational approach would still prove impracticable. I chose to analyse Germany, United Kingdom and France, not only because they are the three biggest EU Member States, but also because they regularly convene tripartite meetings of officials from their regulatory bodies to discuss issues surrounding media and pluralism.

In order to evaluate this research question I will firstly provide an overview about the concepts of media concentration and pluralism, including an assessment of the

current situation of the media sectors in the tripartite countries as well as in the European Union as a whole. The media conglomerates of today offer a very diversified portfolio of media products and are often involved in a wide range of non-media businesses. This development can be explained by analysing the economics of the media industry and the underlying conditions of the status quo. I will go very much into details in this segment since it is essential to understand the specific economic conditions relevant to media companies before any regulatory measures can be taken. Moreover, my analysis will show that the market itself is responsible for many problems relating to media pluralism.

Secondly I will analyze the current regulations of media ownership in the tripartite countries and the EU utilizing a comparative law approach, which, in combination with the aforementioned country level evidence, should allow a basic assertion, which regulations work for which market structures. The huge variety of regulatory measures throughout the EU has contributed to the perceived need of supranational measures in order to better address transnational media concentration.

Finally, drawing from my assessment which regulations are in place for which kinds of market structures, I will evaluate whether a set of regulations, or any other measure which could suit the whole European media market would be attainable and which conditions need to be met in order to guarantee successful implementation. I will scrutinize the feasibility of these measures by means of opinions gathered from discussions with European decision makers.

It is important to note that after the proposals of the Green Paper had been rejected by the Member States, the European Commission has turned its back on a harmonisation-based approach. However, addressing threats to the diversity of opinions in the EU beyond ensuring the functioning of the internal market have been declared official policy Commissioners Viviane Reding and Margot Wallström. In 2007 a study was launched to find out about indicators of pluralism in all EU Member States. Preliminary results have been published in June 2009. The full report is due at the end of summer 2009. The results of this study will be a decisive factor for the decision which approach the next Commission to be elected in autumn 2009 will take regarding media pluralism. At this point I want to stress that due to the

temporal proximity, even upon availability of any results I could not incorporate the outcome of this study in my thesis.

2 The functions of mass media

In the context of communication science, function refers to a certain standard of performance and merits, which a given society requires media to provide (Burkart, Kommunikationswissenschaft, 2002, p. 379). The principal function of media from a system theory perspective (Wallner, 2007, p. 57) is publicity. In academic literature (Burkart, Kommunikationswissenschaft, 2002; Ronneberger, 1978; Münch, 1991), a set of (sub-)functions of media has been identified. They are divided in three categories: social, political and economical.

FUNCTIONS OF MASS MEDIA		
social	political	economical
Information		
Socialisation	Enabling public discourse	Circulation (knowledge transfer, social therapy, validation)
Orientation	Articulation	
Recreation/ Entertainment	Political socialisation/education	Regeneration
Integration	Criticism & control	Domination/manipulation
SOCIETY		

Figure 2-1 The functions of mass media, Source: Burkhard, 2002, p. 382

The quality and the degree of fulfilment of these functions differs according to what Burkart defines as the “frame of reference” (Burkart, Kommunikationswissenschaft, 2002, p. 382) to a given environment or society. This frame, which mirrors the expectations and requirements of the members of a given society, determines, which functions are necessary, required, acknowledged or tolerated. Therefore the analysis of the functions of media has to be closely linked to the audience and (social) environment the media content is aimed at.

2.1 Social functions

Socialisation is widely seen as one of the main merits of mass media, particularly in industrialized societies. Due to the complexity of organisation on societal level, many people, especially children, are unable to acquire from first hand experience all the knowledge and intellectual skills necessary to fill the roles that they are supposed to fill. Media can basically provide the additional knowledge needed and communicate values and cultural standards as well as patterns of thought and conduct. However, Burkart, following Ronneberger, points out that the latter requires intellectual reflection and cannot be obtained directly from the media (Burkart, p. 385).

Some scientists argue that the importance of media socialisation has been overstated. Hurrelmann (1980) states that there is little empirical proof of the influence of media. In his view, media socialisation is, unlike family socialisation, easier to reverse since individuals usually take a more active role to their own media socialisation (Hurrelmann & Ulich, 1980, p. 603). Hurrelmann, therefore, sees the role of media as an amplifier of values absorbed from other agencies of socialisation (ie. parents, school). „*The defining question [...] is not, what is shown on TV how often, but in which context and under which circumstances it is received,*“ (Hurrelmann & Ulich, 1980, p. 610).

Closely linked with the theory of socialisation is the notion of orientation. In addition to rising complexity of societal organisation, trends of individualisation and a flood of data available to everyone in information societies have sparked a need for guidance and togetherness. Media assist in filtering and sorting the information thrust upon the audience (gatekeeping theory). At the same time they balance the lack of social encounters by providing common experiences everyone can relate to and they communicate patterns of thought different to the ones which are encountered conventionally in everyday life. In conjunction with integration, the former is often referred to as „the water-cooler effect“ (see also chapter 4.1.2.4).

Moreover media provide a means of recreation and entertainment. Recipients are offered a possibility of escaping the worries of everyday life if they need some distraction.

Finally, media are supposed to provide integration. Akin to orientation, this function takes the sense of togetherness one step further and aims at manufacturing the glue that holds society together. The more specialized and individualized society becomes, the less we are able to relate to each other and the more need there is for the various units (sociological groups within society) of the system to work together in order to prevent the whole system from imploding. For Burkart, this task can only be fulfilled with the help of mass media (Burkart, 2002, p. 387) since people depend on their ability to communicate common values and patterns of behaviour within a society. However, if the mass media's effort to provide integration is dysfunctional disintegration or overintegration may occur. Burkart mentions disintegration particularly in connection with digital divide and knowledge gap issues which benefit the formation of (media) elites and broadens the gap between the sociological units. Overintegration may occur when pluralism declines and opinions/values outside the mainstream tend to be ignored or suppressed. A classic example of overintegration is propaganda during the second world war.

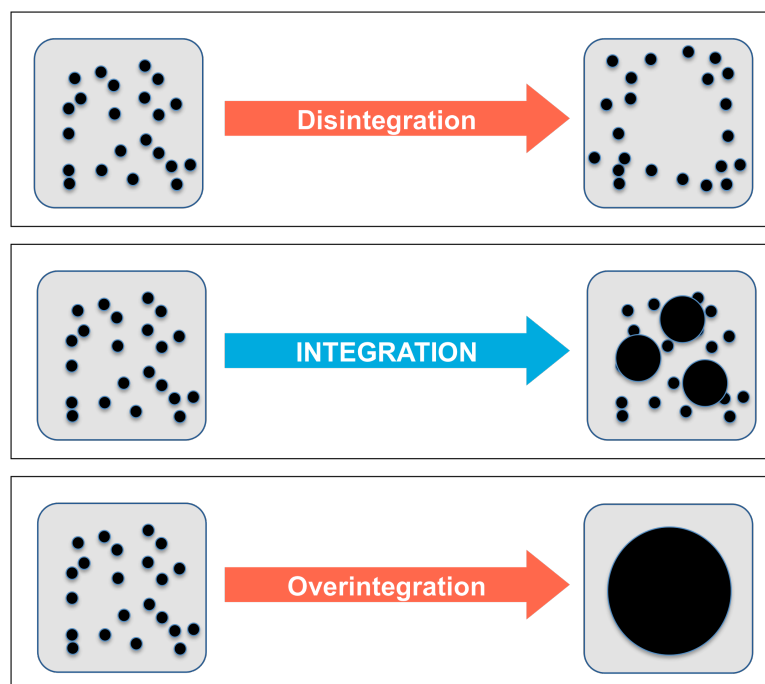


Figure 2-2 Integration through media, Source: own illustration

Both dysfunctional manifestations of integration are associated with scenarios of commercialized and concentrated media sectors (see chapters 4.1.2.2 and 4.1.2.3) whereas successful integration is among the typical merits of public (broadcast) media. However, Burkart stresses, that a media market economy does not necessarily exclude the social function of integration and that there is no evidence media have abandoned integration for the sake of profit and shareholder value (Burkart, 2002 p. 389).

2.2 Political functions

The political functions defined here refer to the functions of media in a democracy they are the core of the concept of pluralism outlined in chapter 3. Firstly media serve to generate publicity for political discussion. They provide a (virtual) public space for declaration, clarification, elaboration and controversy, which is crucial to the democratic process of decision-making. In order to allow as many people as possible to follow and/or join the discussion, mass media need to establish an applicable platform². Several critics claim that media have become merely a platform for political debate but a platform for theatrical staging of political processes. Münch (1991) argues that politics is determined by dramaturgy of public representation (Münch, 1991, p. 95). Successful political measures are determined by the way they are discussed rather than their underlying idea. For Münch, this defies the concept of political discussion since it is charming representations instead of compelling arguments that increasingly shape the face of politics – a process, which is very much facilitated and determined by mass media (see chapter 3 on Habermas).

Nevertheless, the media have the power to make voices heard, which constitutes the function of articulation. Articulation requires media that act as a mouthpiece in order to echo the pluralism of political opinions within a society. This is a prerequisite for public discourse in the first place.

² Wallner adds, that political functions of European media also need to be viewed in a European context and cannot be analysed in their national environment only since, due to political and economic integration, nations have lost their status as principal political benchmark (Wallner, 2002, p. 45).

The function of political socialisation and education is a blend between the general function of socialisation discussed above and the function of information. Naturally media are supposed to inform about the political system and report on the various forms of political participation.

Finally media are meant to criticize and examine the political process. Criticism and examination can at times be very similar to articulation, since at times they give a voice to and express the position of those who do not have an institutionalized representation unit such as citizens' groups and initiatives, small trade unions, commercial interest and pressure groups, etc. (Ronneberger, 1978, p. 229).

The combination of political functions of mass media can be seen here:

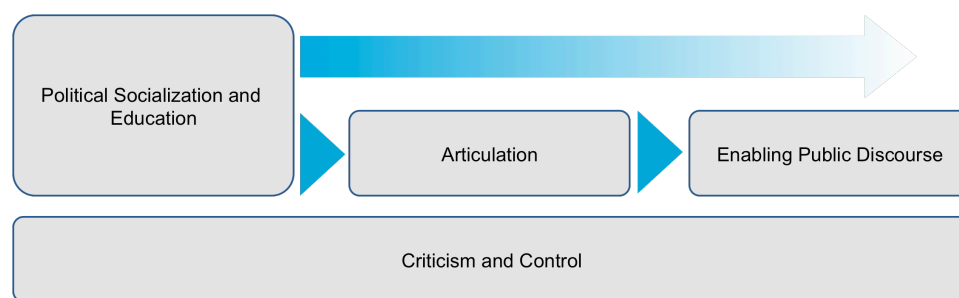


Figure 2-3 Political functions of mass media, Source: own illustration

2.3 Economic functions

The economic functions refer to the benefits mass media contribute to the market economy. Firstly there are direct options of investment, since most media companies are economic entities which can be bought or which need to buy supplies. Secondly, and much more importantly media provide indirect options of investment through advertisement. They serve to stimulate industrial production by boosting demand for consumer goods and services and allow suppliers to sell some of their products at a premium. This constitutes the function of circulation. Apart from stimulating demand, media also serve as a means to strengthen market economy ideas and capitalist ideologies in society and stabilize the economic system (Burkart, 2002, p. 399). Knowledge transfer aims at preparing people for economic changes and

informs them about possibilities (i.e. of consumption) they have, social therapy helps them cope with inequalities, deficiencies and other unpleasant effects of a market economy, and validation serves to legitimize and analyse their personal situation. At the end of the day it all serves the purpose of strengthening existing patterns of resource allocation (Burkart, 2002, p. 401).

This function is intertwined with the idea of domination and manipulation in capitalist societies, which had been introduced more than 150 years ago by Karl Marx and Friedrich Engels. Marx states that capitalism creates ideologies, which serve to cover up contradictions between what people are promised and what they actually get, between subjective and objective needs. Assuming that the base of society is economic production and distribution, Marx identified a hierarchical social system of base and superstructure. Those who own production capacities (base) are members of the ruling class and therefore shape and determine society's ideas, meaning language, arts, religion and rituals (superstructure)

"The class which has the means of material production at its disposal, has control at the same time over the means of mental production, so that thereby, generally speaking, the ideas of those who lack the means of mental production are subject to it." (Marx & Engels, 1995)

In the mid nineteenth century when Marx and Engels expressed these ideas in "The German Ideology", economic production was mainly based on material goods since the industrial sector was about to replace the agrarian sector as the most important factor of production and therefore source of wealth and growth. Nowadays the most important economic good is information, as the information economy forms the most important factor of production within the service sector – the constitutive element of the information society. Due to the crucial position media hold in the process of allocation of information, whoever influences and/or controls media may exert the same or greater power as the owners of resources of production Marx and Engels had in mind (see also chapter 4.1.1.1). Based on this analogy media is sometimes regarded as the capitalism's most powerful tool of "manufacturing consent", an expression established by Noam Chomsky.

Following the idea of domination in a Marxian (class structure) understanding, it could be furthermore seen as obvious trend that recreation in the social meaning changes to regeneration in the economic area. The effects may be the same, but the goal is different. While recreation intends to provide entertainment and quality of private life, regeneration aims at maintaining the morale of the workforce.

3 Media pluralism and the public sphere

Media pluralism refers to the quality of media services to the public. The term embodies the provision of a broad range of well-balanced opinions reported in full in order to guarantee individual freedom of information and adequate articulation of minorities in the public sphere. Habermas traces the development of the public sphere back to the 18th and 19th centuries when the middle class (bourgeoisie) started to cultivate reasoned argument in order to form a “*zone of mediation between state and private individuals*” (Crossley & Robert, 2004, p. 2). Individualization and differentiation of society, as well as separation of church and state and centralization of state power with respect to individual citizen’s everyday routine had lead to a collective demand of accountability and thereby contributed heavily to the evolution of the public sphere and the principle of rational public debate. Access to the public sphere should in principle be open to all citizens (Habermas, 2000, p. 92) since it serves to shape public consensus. Critics have suggested that Habermas underestimated personal economic and social constraints limiting the participation in this historic public sphere.

However, assessing the condition of the public sphere in a contemporary environment, Habermas identifies other factors responsible for the fact that the current reality of political and public discourse is merely a pale imitation of the ideals that surrounded the historical zone of mediation. He attributes the deterioration to three elements. Firstly, the constitution of modern European welfare states, which has raised mutual dependency of state and individuals and has lead to a transformation of citizens to consumers. Secondly, according to the proposition of the new political economy members of government, parties and bureaucracies as well as representatives first and foremost pursue individual goals which means that politicians do not seek to engage in political arguments for the benefit of democratic decision making but rather, attempt to maximize votes, in a very similar way to entrepreneurs maximizing profits (Bender et. al., 2007, p. 300). Since views of party-

based organizations tend to be stuck to in the long run, in order to win less organized or less informed voters, political debates shift to “tricks and treats” and become more and more staged (Crossley & Robert, 2004, p. 5) (see also chapter 2.2). Thirdly and most importantly in the context of this paper, Habermas holds the media responsible for a decline of the quality of arguments in the public sphere. In his view, allowing public communication to be moderated by demands of business, leads to most of the content being played to “*the lowest possible denominator*” (Crossley & Robert, 2004, p. 7). Subsequently the historical purpose of the public sphere, to level up the quality of arguments, is reversed.

Critics of media regulation and pluralism watchdogs sometimes argue that, it is not profit maximization that leads to a decline of the amount of public value programmes but a simple lack of demand to which media companies respond. When concurrent, the mass of people will choose Big Brother over a political debate, or The Sun over the Guardian. The question is whether less education of lower classes can explain the unpopularity of public value programmes. The public choice theory provides an answer to this dilemma. This model assumes that people have a multi-level set of goals and preferences which stands in contrasts to the single sided homo oeconomicus concept traditionally favoured by neoclassical economics (see chapter 4.1). The goals change according to the role the person takes at a given moment. This explains why a person, as a citizen, some may value philosophical discussions on BBC very high, while as a consumer, may prefer to watch Big Brother. This mirrors a conflict of interest. Democracy serves everyone, even those who do not want to participate in political will formation or elections. This raises the incentive of being a “freerider” on political information – the value of these programmes is commonly acknowledged for society, however, the consumers sets aside participation and pursues other goals such as entertainment and recreation (Lange, 2008, p. 172).

Habermas’ assessment of the public sphere needs to be viewed in close connection with his theory of coercion-free discourse. When applied to a public setting, this theory stipulates two prerequisites for an ideal, non-coercive discourse. Firstly, general access to information and opinions has to be ensured, which, due to practical impossibility, Burkart sees as an accentuation of the duties of journalism to

provide transparent and balanced reporting (Burkart, 2002, p. 518). The second stipulation is the principle of rational discussion based exclusively on the power of a superior argument.

In order to retain a zone of mediation in a shape³ that meets contemporary technological and social challenges these stipulations need not to be entirely fulfilled but a clear effort to come close to their fulfilment has to be made. Media pluralism is crucial to this effort as it is very closely connected to the democratic values underlying Habermas' conception of the public sphere and coercion-free discourse.

Generally, pluralism refers to the acceptance of diversity in a given society, which permits the harmonious coexistence of different ideologies, schools of thought and ideas. Pluralism is linked with the democratic principles of equality and freedom of expression. For Rager and Weber (1992) a thoroughly pluralist society means that no ultimate judgement on what to think of any given matter shall ever be accepted since the democratic majority only has the power to decide on a political course of action rather than about what is right or wrong (Rager & Weber, 1992, p. 8). Media pluralism in this understanding is a reflection of diversity on societal level and first and foremost aids and facilitates the process of democratic will formation. Baker (2007) holds a similar position and argues that *"a normative conception of democracy requires that the structure itself embody or at least be consistent with respect for citizens equal claim to be recognized as part of the self determination process"* (Baker, 2007, p. 6). Since Baker sees media as the *"most crucial institutional structure of the public sphere"*, the appliance of the egalitarian principle on media requires them to provide capacities for people to express a broad range of opinions and ultimately influence public will formation. For this reason, Baker concludes, *"a country is democratic only to the extent that the media [...] are structurally egalitarian and salient"* (Baker, 2007, p. 7).

Legally, the call for media pluralism is rooted in the right to free speech and freedom of expression, which in turn is shaped by the aforementioned argument for

³ Whether the evolution of online-media facilitate the process of moving towards public discourse of a Habermasian conception shall be discussed in chapter 3.1.

participation in a democracy. Fenwick & Phillipson (2006) call this argument one of the most influential theories of free speech (Fenwick & Phillipson, 2006, p. 14). Uninhibited public criticism, which encompasses also the function of exposing abuses of power, has a “special protected status in most Western democracies” (Fenwick & Phillipson, 2006, p. 16). They also acknowledge that free speech claims of (mass) media are often indistinguishable from those of individual speakers, which is why press or media freedom is protected distinctively to free speech protection. Although press freedom is not mentioned in the text of Article 10 ECHR which provides that *“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”*, the Strasbourg Court has de facto assigned priority to media speech in comparison to the expression of individuals (Fenwick & Phillipson, 2006, p. 25). Fenwick & Phillipson perceive the danger that the possibilities created by media ownership may be in tension with general guarantees of free speech since the proprietor of a media outlet could exploit the right of determining its content and thereby damage the consumer’s interest in pluralism of information which they refer to as a value underlying freedom of speech. From a legal point of view, they conclude that media should not be allowed any blanket special privileges in comparison with individual speakers. Rather, any claim has to be thoroughly scrutinized and assessed against the basic principles and values of free speech. Alternatively special anti-privileges or burdens such as must carry obligations to provide a plurality of cultural and political material could be introduced (Fenwick & Phillipson, 2006, p. 28).⁴ They go on to state that an infringement into editorial freedom should be weighed off against the aim of enhancing the benefit to the audience since there are several examples that unrestrained free speech in the press will not consistently promote the values underlying freedom of speech itself (see chapter 4.2.2.3). Therefore they argue that content-based controls are in accord with free speech rationales since they enhance media speech in comparison with that of individual speakers.

⁴ So far the Strasbourg Court has only found right to reply provisions to be in alignment with article 10 (Fenwick & Phillipson, 2006 p. 28)

Lange (2008) differs between functional pluralism, formal pluralism and pluralism of content. Functional pluralism means the range of media functions covered by any media outlet (Information, Education, Entertainment, Socialisation, see chapter 2). Formal pluralism means the range of journalistic styles and display formats which is supplemented by the pluralism of sources of information. Pluralism of content means the range of issues, opinions and stakeholders (Lange, 2008, p. 187). The more diverse this range is, the more likely pluralism is realized. This form is the main type of pluralism referred to in academic and political discussion.

There are two concepts of how to attain the desired outcome, firstly by diversifying the economic entities of content production in order to achieve a pluralism of providers or external pluralism, secondly by implementing certain standards of content production so as to broaden the range of opinions within any economic entity of content production, referred to as internal pluralism.

There is dissent whether the notion of an independent provider of information corresponds with the concept of a self-determining economic entity. For Lange (2008) the number of independent providers does not sufficiently determine pluralism but it is a necessary precondition (Lange, 2008, p. 188). Lang disagrees and argues that independent media companies do not guarantee media pluralism. On the contrary, Lang has found that on markets, which to some extent rely on advertising, "strategic clustering of content" will take place, which does not represent the outcome desired from a social point of view (Lang, 2004, p. 111).

The current regulations in place to safeguard media pluralism mostly aim at a pluralism of providers. One of the most important expected outcomes of the Indicators Study by the European Commission will be a more sophisticated approach to the definition of media pluralism, which permits the introduction of new methods of regulation. However, Never (2002) has claimed that any attempts to quantify or validate media pluralism are destined to fail since media content before any claims regarding diversity and balance can be made will always be subject to consumer demand and taste. The element of subjective judgement impedes the accuracy of any objective definition (Never, 2002, p. 167). While that may apply strongly to

entertaining content (Never gives the example of TV feature films) it remains doubtful whether taste plays a considerable role in other forms of content.

3.1 Democratisation of media – the online revolution?

The evolution of the Web 2.0, a term invented by Tim O'Reilly, marked the advent of a new framework for online media. From an initially static concept, the World Wide Web gradually transformed itself into a dynamic, social tool for “harnessing collective intelligence” (O'Reilly, 2005). The user generated online encyclopedia Wikipedia, personal weblogs, and social networking websites such as Facebook or Twitter are well known examples of this development. Web 2.0 not only changed the way people communicate on the Internet, moving public discourse closer to the ideal outlined by Habermas, it also served to introduce the concept of collaboration as a new paradigm for media, business, government, politics, science and the generation of ideas in general⁵. In the context of media pluralism the promotion of citizen journalism⁶, which was strongly facilitated by Web 2.0 is particularly interesting. In the late 1920's Bertold Brecht laid the theoretical foundations of citizen journalism, asking authorities to make newly developed radio “truly democratic” (Haas & Langenbucher, 2002, p. 2) and allow audience participation in order to expand its intended purpose from mere distribution to communication. Unlike free radio or open television channels, which started to emerge in the 1950's and the 1960's respectively, there are practically no barriers of entry for online media, the costs associated with setting up a Weblog, Vlog (Video Blog) or a Twitter account for example are very low.

Bowman & Willis list a range of changes triggered by online citizen journalism, particularly changes in the degree of trust extended by the audience to traditional media and changes in the organizational culture of media (journalists write blogs,

⁵ In his book *The Wisdom of Crowds*, James Surowiecki provides many examples that groups of people are significantly better at decision making than individuals, regardless of their expertise (Surowiecki, 2004)

⁶ There is some disagreement whether citizen journalism is qualified to be referred to as a viable form of journalism. For Neuberger, a lack of professional research and methods of quality assurance stand against it (Neuberger, 2009). However, Davies argues that due to the constraints of commercialization traditional journalism has become increasingly unprofessional itself (Davies, 2008).

the audience is asked to participate in online discussions)⁷ (Bowman & Willis, 2003). While Bowman & Willis do not suggest that citizen journalism may eliminate or replace traditional media, they note that the “notion of the institutional press as the exclusive, privileged, trusted, informed gatekeeper and intermediary of the news” is more and more challenged. Web communities and search engines are becoming valued outlets of news, which guide and direct their readers to information of interest. The role these sites play as filters, simplifiers, clarifiers or amplifiers of news is adding a new intermediary layer (Bowman & Willis, 2003). Axel Bruns develops a similar argument and states that citizen journalism is positioned as an alternative and a corrective to the mainstream tier of news media and plays a valid role in public debate.⁸ Instead of simply standing in opposition, it engages the perspectives of mainstream media and “debunks them as the views of individual political or lobby groups rather than as representative for a more diverse range of societal values” (Boler, 2008, p. 40). Moreover, citizen journalists play a considerable role in creating hype and thereby weaken the ability of mainstream media to set agendas (Boler, 2008, p. 177).⁹ On one hand, citizen journalism may serve as a source of inspiration for professional journalists, on the other hand it filters their very output.

⁷ This change in the organisational culture is the main reason why it is sometimes difficult to distinguish between traditional journalism and citizen journalism – i.e. professional journalists write a weblog for their employer and one for private purposes.

⁸ In US news media this tier is commonly referred to as “blogosphere”

⁹ Susann D. Moeller refers to this as the “tickle up effect” (Boler, 2008 p. 177)

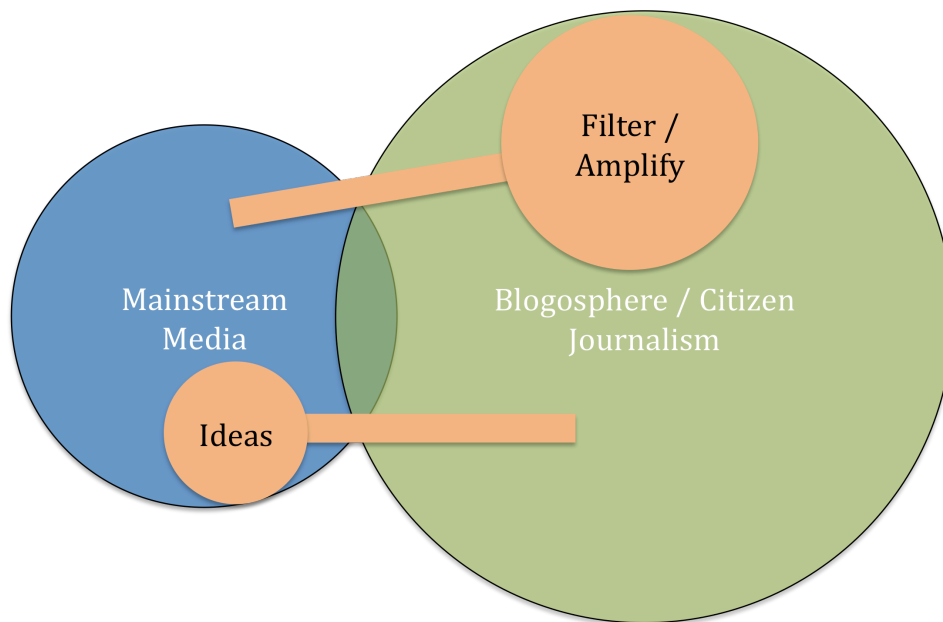


Figure 3-1 The relation between mainstream media and citizen journalism, Source: own Illustration

Wegner argues that filtering and amplifying of information increases the need and demand for quality journalism. He observes that many citizen journalists / bloggers base their argument on reports published and broadcast by traditional, often prestigious media sources they trust. Instead of mutual exclusivity he predicts a peaceful coexistence of cheap micromedia and expensively produced content (Wegner, 2005, p. 3).

Online media provide a valuable means on participation in content production, however the democratic value of this participation has to be analysed in connection with economic and social constraints (similar to the criticism of Habermas' historic concept of the public sphere, see also chapter 3). Even in modern western societies, digital divide and a lack of media literacy have so far permitted only a relatively small portion of the population to participate in challenging the stronghold of traditional media. Moreover the outreach of online citizen media is very limited. As Jenkins and Thorburn acknowledge, "the ability of mainstream media to speak to a vast public is immensely greater than the diffused reach of the new media through which many messages can be circulated but few can ensure a hearing" (Jenkins & Thorburn, 2003, p. 11). Despite this fact they are optimistic, that "the new cyberculture" would be a bulwark against the concentration of commercial media, ensuring access to

alternative perspectives. (Jenkins & Thorburn, 2003, p. 12). Moeller concludes in a similar way: "The proliferation of new voices on the Web [...] means that the opportunity exists for democracy-building, even if that opportunity is only fitfully seized" (Boler, 2008, p. 185).

4 Concentration of media ownership

This chapter is divided in three parts. Firstly, I will show, that once media companies adhere to the imperatives of the market and profit maximization, they have no alternative but to aim at concentration and cooperation in order to sustain profitability. The reasons for this are plentiful and include the structure of the market they are in, their position in this market, their specific cost structure and external influences such as deregulation, privatisation and the evolution of new technologies. Secondly I will assess the consequences that media concentration has or can have on society, politics and the public in general. Finally I will outline the level of concentration already established in the tripartite countries and the whole EU and provide an overview of the current situation in the aforementioned regions.

4.1 Economic environment

4.1.1 *Competition in a market model economy*

Any economy has to solve the three basic problems of which and how many goods and services are to be produced, how they are produced and who is to receive them (Hoskins, McFadyen, & Finn, 2006). The dominating idea of how to solve these problems is the market model economy. This refers to a system of exchange based on supply and demand. In this concept, price serves as a means of coordination in order to achieve an equilibrium situation where supply meets demand. It is assumed that each participant aims at maximizing utility for himself¹⁰. This assumption is crucial to the neoclassical theory of the firm, which has gained widespread approbation and which implies that *“the desire to maximize profits is assumed to motivate all decision taken within a firm”* (Lipsey & Chrystal, 1995, p. 183). The Chicago School economist Milton Friedman puts it more boldly: *“In a free economy,*

¹⁰ This concept is commonly referred to as “homo oeconomicus”.

participants have the sole responsibility of allocating disposable resources as efficiently as possible and, under this imperative, make firms as profitable as possible" (Friedman, 2002). This idea is rooted in the market determination thesis (Baker, 2007, p. 90) which constitutes that a competitive market structure forces participants to generate enough revenue to cover their costs. Therefore the participants have to find cheap ways of satisfying money backed consumer demand, thereby denying the enterprise any freedom except trying to be as profitable and responsive to consumer demand as possible.

While this is the dominant purpose of many companies today¹¹, some few have started to include other, non-monetary goals in their business plans. The concept of Corporate Social Responsibility (CSR), for example, provides a framework for companies willing to consider the impact of their business on society (more on criticism and the limits of profit maximization in chapter 4.1.1.1).

The neoclassical theory of the firm makes economic actions highly predictable, as it is assumed that when presented with a choice of multiple alternatives, companies will select whatever alternative produces the largest profits. This assumption, however, is very self-centred and may lead to unfair and ruthless business practices. In order to prevent stronger economic entities from subduing weaker entities based on power instead of performance, markets therefore depend on a sufficient level of competition.

The notion of beneficial competition is approximately 250 years old and was introduced by Adam Smith. He stated that competition does not only ensure a certain degree of fairness it also provides a range of other desired outcomes for consumers and society, the most important being low price. *"The natural price, or the price of free competition is the lowest which the sellers can commonly afford to take, and at the same time continue their business."* (Smith, 1986) Low prices increase the consumer's surplus while product differentiation strategies, adopted by

¹¹ Doyle notes that "very many" media companies comply with the classical theory of the firm, meaning they are primarily geared towards maximizing profits and satisfying shareholders.

companies in order to gain market share, allow consumers to choose between several levels of product quality.

Apart from low prices, Croteau and Hoynes name the promotion of efficiency, responsiveness, flexibility and innovation as crucial benefits deriving from competitive market-based economies (Croteau & Hoynes, 2006). In order to stay competitive and successful, all companies have to take these dimensions into account and are required to be vigilant of their competitors' actions, a feature which serves as a control function of the market system.

Generally, there is broad consensus among economists that competition ensures that consumer demand is met and that resources are allocated economically during the process of production (Hanusch & Kuhn, 1994), (Woll, 1996, p. 135). These tasks are performed at best when the level of competition is at maximum. This ideal level, also referred to as perfect competition, is in reality, apart from few exceptions¹², not feasible. The theory of perfect competition builds on five assumptions (Woll, 1996)

- Many buyers and many vendors
- A homogeneous product
- Perfect market transparency (information on products)
- No significant barriers of entry (anyone could become a producer/vendor)
- Firms want to maximize profits (as opposed to quality, image or market share, etc.)

The implication of the assumptions is that each firm has zero market power (Doyle, Understanding media economics, 2002). This is the direct opposite of a monopoly where just one seller is able to operate without any competition whatsoever and is able to create high barriers of entry. Since it is very unlikely that all of the conditions of perfect competition are perfectly met in one scenario, the aim is generally to attempt to come as close as possible.

¹² Lipsey and Chrystal give the example of wheat farmers, who operate in a perfectly competitive market because neither of them can change the market price of wheat by altering his own behaviour. Each farmer is just one of many producers who all grow the same product. Therefore, variations in the output of one farmer have no significant effect on the overall price of wheat.

In reaction to the unrealistic assumptions of perfect competition the concept of workable competition was developed, which assesses competition in relation to market structure and firm behaviour. The SCP (Structure Conduct Performance) paradigm implies that the amount of competition, required to make the market work at its most efficient level cannot be analysed separately from the market structure and the decisions taken by rival companies. Under this assumption, markets with only three companies but low barriers of entry and inhomogeneous products may be more competitive than markets with six companies but high barriers of entry and homogeneous products (Bender et. al., 2007, p. 379). The SCP model acts on a multi-goal approach and assumes, that firms not only seek to maximize profits but also want to increase their market share, stimulate innovation, etc. Empirically, the interrelation between market structure and market performance has been difficult to prove. Several independent studies have yielded contradicting results (Bender et. al., 2007, p. 380). Despite the fact that SCP has been declared suitable for media market analysis (Heinrich, 2001), (Wallner, 2007), it cannot be analysed in depth in this paper.

Among economists, there is dissent whether government intervention and regulation is required in order to ensure a sufficient level of competition and a functioning market.

Liberal and neoclassic advocates of a free market model in the tradition of Adam Smith (i.e. Milton Friedman and Friedrich Hayek) claim that competition derives from the free play of forces on the market and that the market of its own volition guided by an “the invisible hand” tends to produce an optimum equilibrium state. They favour a laissez-faire approach and call for the least possible amount of intervention. Others, following the tradition of John Maynard Keynes (i.e. Paul Krugman, Joseph Stiglitz) reject the notions of the invisible hand and the quasi-automatic market equilibrium. Instead, they emphasize the risk of market failure (i.e. depression in the

market cycle or the establishment of monopolies) and advocate government intervention to ensure competition¹³ and stability.

The question of how to make sure there is a sufficient level of competition arises, because from a company's point of view competition equals risk. The reason, they want to avoid competition is the structure of the markets they compete in. In most cases few considerably large media companies rival for the attention of many customers. This form of competition is referred to as oligopoly and it is the dominant market structure for consumer goods and in particular media services (Lipsey & Chrystal, 1995)¹⁴. A distinct feature of an oligopoly market is the interdependence among decision-makers and the cross-price elasticity of demand. For example, if one media company significantly lowers the price of its product in order to gain market share, the three main competitors are forced to engage in competitive action and, most likely, will decrease their price too (Hoskins, McFadyen, & Finn, 2006). However, in an oligopoly, profit maximization and the extension of market share are compatible only to a very limited extent. At least in the short run, the decrease in prices that may lead to higher market share will result in substantial foregone profits (Henrichsmeyer, Gans, & Evers, 1983).

Due to this high level of interdependence, competitors have to act strategically which means they have to attempt to foresee their competitors' actions. The game theory, a widely used approach to decision making in economics and social sciences based on the study of efficient allocation by Vilfredo Pareto provides further explanation on the notion of strategic acting in terms of whether to cooperate or compete (i.e. out-price) with competitors (Hanusch & Kuhn, 1994), (Woll, 1996).

Lipsey and Chrystal list several types of cooperative and competitive behaviour in oligopoly markets. Firms can either make an explicit collusion or a tacit agreement not to engage in competition. On the other hand they might agree on a price or agree to maximize profits jointly but compete for market shares through other forms

¹³ The ongoing debate about government regulation and intervention, not only in terms of competition, has rapidly gained significance in the aftermath of the global financial crisis, which evoked in the end of 2008. The French newspaper *Le Figaro* went as far as proclaiming Keynes to be the "man of the year 2009" (Robin, 2009).

¹⁴ Lipsey and Chrystal argue that because, media are able to exploit cost advantages of size (economies of scale) the industry is dictated to become an oligopoly.

of competition such as advertising and superior product quality or offering secret discounts. The most obvious form of competitive behaviour is lowering prices (Lipsey & Chrystal, 1995).

If a company chooses to act competitively, or is forced to do so, its profitability is seriously threatened. The necessity to foresee strategic moves of competitors and to remain flexible reduces predictability and the accuracy of long term planning.

Although a necessary condition for a functioning market, competition, for companies, means economic instability. Therefore, as McAllister notes, businesses strive to eliminate competition through integration (or cooperation) in order to control large sectors of the market, if not the entire market (McAllister, 1996).

Whenever possible they avoid competition in order to reduce risk and ensure profitability.

If companies do not want to engage in competition and do not opt for cooperation there are three forms of growing at the expense of rival companies (Lipsey & Chrystal, 1995). Firstly takeovers (acquisitions), which occur when a company buys another company, secondly mergers, which occur when two companies join forces, and thirdly driving rivals into bankruptcy through predatory practices (Hanusch & Kuhn, 1994). In order to benefit from the effects of reduced competition, the remaining firms need to establish barriers of entry to the market. In the case of media companies, as will be outlined in the next chapter, high set up costs for the production of content work in favour of firms attempting to prevent new competitors from entering the market.

4.1.1.1 Criticism of the market model

Undisputably the media hold a unique position in modern societies. As Croteau and Hoynes note, media inform, entertain, influence how we understand ourselves and our world and provide a means of spending leisure time (Croteau & Hoynes, 2006). In democratic societies media serve as a vehicle of reflecting the diversity of culture and ideas and they provide independent information whereas in totalitarian systems media are a mouthpiece of the views of those in power.

Because the media holds such great political and cultural power their right to freedom of expression is protected by Article 10 of the ECHR, signed by the Council of Europe (Council of Europe, 1950), which serves to guarantee freedom of expression. This idea is legally stipulated in the constitutions of most European Member States (see chapters 3 and 5).

But what if there is a restriction of freedom of expression and it is not caused by a totalitarian government but by an opaque system of market and profit orientation, where media companies themselves prevent any reporting that could be negative or merely critical about their owners, their business partners or their advertisers? What if some subjects are not deemed worth reporting about because they will not attract a big enough audience? Can the public sphere ever be weighed off against the requirements of the market?

These questions have quite a long tradition. In the mid 19th century Marx and Engels suggested that the first and foremost freedom of the press is not to be a business (Trappel, Meier, Schrape, & Wölk, 2002). "Being a business" in this context means complying to the idea of profit maximization stipulated by the neoclassical model of the firm.

From an economist point of view there are two points of criticism of this model. Firstly the motivation of the firm, secondly the organizational structure (Lipsey & Chrystal, 1995, p. 184). The first argument is that profit maximization is not the only motivation for businesses, since some owners may pursue political power, others may be influenced by rather philanthropic urges such as the concept of CSR. A CSR-framework allows businesses to monitor and ensure their adherence to ethical standards and enables them to embrace responsibility for the impact of their activities on the environment and the public sphere. Lipsey & Christal note that the assumption of a multi-goal approach does not prove the neoclassical theory entirely wrong since profit maximization with all likelihood remains an important consideration for most business owners - important enough, that the predictions derived from the neoclassical model of the firm are substantially correct.

The second argument is that the organizational structure cannot be completely neglected. The neoclassical theory does not differentiate between a huge

multinational corporation and a single proprietor business. Due to the common diversification of ownership among many shareholders, decision making is far more complex for large companies than for small businesses. For example shareholders may order managers not to maximize profits but shareholder value or the value of the company's brand, which leads us back to the first argument.

Despite the limits of the profit maximization model and despite the nature of media and the value of its goods for the public sphere, media companies are predominantly viewed as profit maximizing entities. This leads to a strong conflict of interest. In 1947 Adorno and Horkheimer, following the tradition of Marx and Engels developed the rather pessimistic theory of the cultural industry in order to expose how the business centered view of media production has set off a regression from enlightenment to ideology. Turning to the examples of TV and radio they argue that:

"Here enlightenment consists of the calculation of effectiveness and of the techniques of production and distribution; in accordance with its content, ideology expends itself in the idolization of given existence and of the power which controls technology."

(Adorno & Horkheimer, 1979).

Adorno and Horkheimer insinuate that rather than profit maximization the underlying problem of media companies is that they are bound to operate in a market environment. Arguing that diversity and substance are more important than profitability is pointless once you are forced to adhere to the logic of the market in the first place.

The market model economy has been subject to a lot of criticism, particularly from the political left, yet there is broad consensus that there is no applicable alternative. The most common points of criticism are:

- Markets are undemocratic - Those who have the most resources are the most successful, therefore the system tends to be highly reproductive
- Markets are amoral - Günther Dux suggests, that people have become so interdependent through their various relations on the market, – the consumer market to obtain goods and the factor market to be able to pay for them – that they do not meet as people but as legal entities (Dux, 2005,

p.56). Therefore, apart from basic moral prerequisites that touch criminal law (i.e. prohibition of fraud), all moral commitments only serve the purpose of the contracts they enter with each other. Dux concludes that participants in a market based economy only care about each other to the extent of their own economic interest (*homo oeconomicus*). Under this premise it is pointless to address issues of morale or public value in a market economy and the Pareto Optimum (a situation of perfectly beneficial allocation of goods) can never be achieved. Dux rejects the idea of the market solving the problems it helped create in the first place.

- Markets do not value social needs - Public broadcasting programmes for minorities are typical examples of services provided outside the marketplace because the market is unable or unwilling to meet the demands (others are public health care, pensions, state supported education). On the other hand, even public broadcasting companies need to comply with the rule of the market (i.e. BBC). This dilemma makes the assessment of the changing business of media and its significance for democratic societies very difficult (Croteau & Hoynes, 2006). Can both missions be simultaneously accomplished or are they mutually exclusive goals?

At the moment media companies have no choice but to comply with the requirements of the market. Particularly newspapers, some of which are struggling to survive due to declining numbers of readers and increased competition from online sources have been subjected to an ongoing discussion whether alternative business models for newspapers can be established. Setting up non-profit holding organizations or foundations were some of the ideas so far. It remains to be seen, whether any real alternative to the logic of profit maximization proves to be viable in the media marketplace.

4.1.2 Characteristics of media economics

4.1.2.1 Interrelated markets – the role of advertisement

Media companies generally operate in two markets, the recipient market and the advertisement market. They rival attention of recipients on one, and rival advertisements on the other. The deciding feature is the interrelation and interdependency of those two markets. Dewenter uses econometrical analysis to show that *“an increment of the demand [of media products] results in an increasing demand for advertising”* (Dewenter, 2004, p. 1). While Dewenter denies the symmetry of the reverse relation¹⁵, Heinrich maintains that success on one of the markets usually triggers success on the other one. He points out that companies benefiting from the effects of increased demand are able to reinvest their increased profits into their product in order to attract even more recipients, further propelling their market position. He refers to this model as the spiral effect of advertising and circulation (Heinrich, 2001). From this point of view, media companies may succeed at simultaneously achieving both profit maximization and an increase of market share, thus confuting the economic theory that this is not possible on a long-term basis in an oligopoly market. However, this model still requires competition to be reduced to a minimum in order to unfold a maximum of benefiting effects for the company.

¹⁵ In case there are negative valuations of the amount or the shape of advertisement there are asymmetric relations. Moreover, the consumers of media content and advertisement are not completely identical (Dewenter, 2004, p. 1)

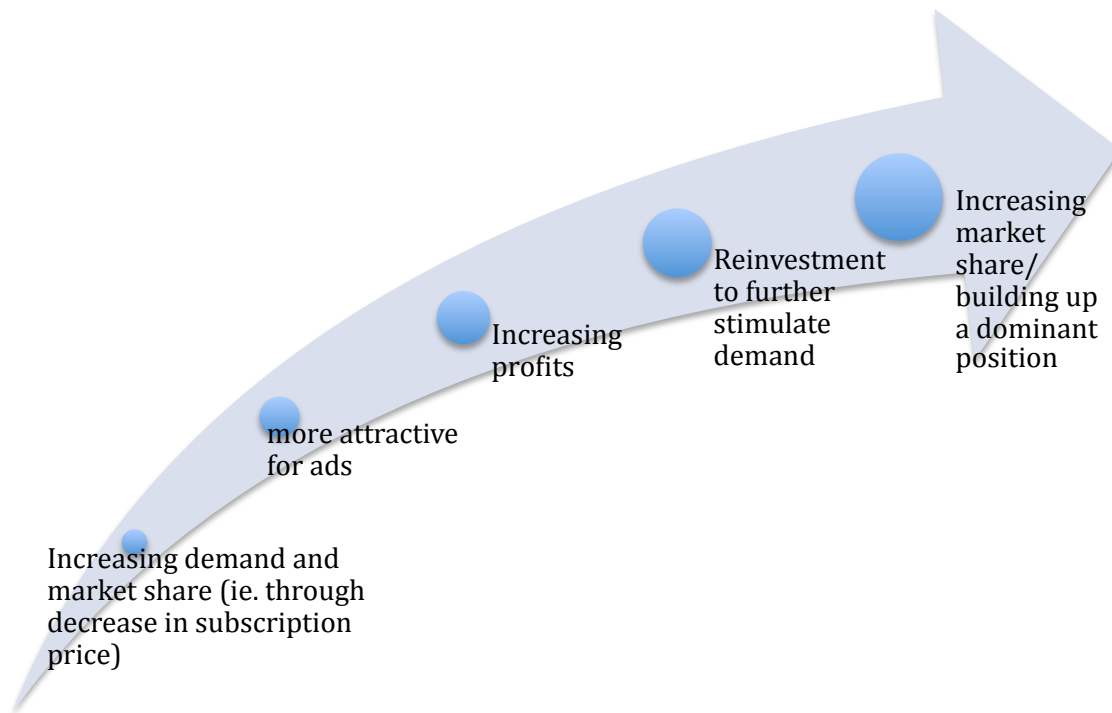


Figure 4-1: The expansion of market power stimulated by advertisement, Source: own illustration

The viability of this model is proven especially by the example of new media companies or free daily newspapers, which rely on advertising as a sole source of funding. Their profits rise in proportion to the number of unique users or circulation per day¹⁶.

Wallner notes that this model shows that economic considerations may influence content in order to increase profitability and market share (Wallner, 2007) as traditional media companies seek to attract those consumers, which are most attractive for heavy spending advertisers. This is because the sheer size of the audience is not the only determinant of the value of space or time to advertisers. The price advertisers are willing to pay also depends on the consumers' demographic characteristics (Hoskins, McFadyen, & Finn, 2006). Generally advertisements are

¹⁶ For Gustafsson (2006) this confirms that there is an increasing role of advertising in media development. Many recent media creations have used advertising from their very beginning (television in the US, or free daily newspapers), a fact that, in a historical context, appears to be the exception. Gustafsson suggests that in the ongoing process of media expansion, more emphasis should be laid on alternative sources of funding, such as on-demand fees.

aimed at those demographic groups, which command the highest disposable income (age group between 14 and 49 years) and have a strong interest in high-end leisure activities. This explains trends towards uniformity of content because all mainstream media companies rival the attention of these groups¹⁷.

Curran (2002), as well as Baker (1994) elaborate on this relation, arguing that advertisement distorts media production because advertisers are only interested in how *many* consumers are attracted by content, not how *much* the consumers enjoy it. This generates substantial pressure on media companies to supply content with wide appeal to as many consumers as possible. Content, which provides in depth insights and generates intense interest among minorities, however, is diminished which leads to “advertiser-induced bias in favour of corporate products and values [...] to stimulate buying moods rather than critical thought” (Baker, 1994, p. 76). In addition to that, new content may be created in close alignment with advertiser’s commercial message, which bears the risk of undermining the integrity of the editorial product (Hoskins, McFadyen, & Finn, 2006, p. 257).

On the other hand, one could argue that advertisement has a range of positive effects on media too. Firstly, its financial support has enabled the provision of content to people who would not have access to certain content otherwise because they could not afford paying for it. For example, Baker (1994) notes that the price of newspapers without advertising would be as much as five times the current price and concludes that “advertising has paid a large portion of the costs of supplying the public with newspapers” (Baker, 1994, p. 8). The concept of advertising as an indirect subsidy for poor consumers, however, contradicts with the advertisement industry’s goal to aim primarily at those demographic groups, which are valuable to them (generally rather wealthier consumers). Baker acknowledges that if any media product attracts a large enough portion of consumers from the desired demographic groups (i.e. middle to upper middle class) it may gain sufficient strength to

¹⁷ Hoskins, McFadyen and Finn name computing and technology, travel and health & fitness as ranging among the most lucrative areas of interest in terms of the CPM (cost per thousand) price for advertisers in the United States.

subsequently attempt to drive out competition (Baker, 1994, p. 26). This again leads to the spiral-effect outlined above.

Secondly one could mention advertisement's role in the provision of niche content to a highly segmented consumer environment. The media landscape has long been claimed to gradually change from a mass media-oligopoly some-to-many-structure into a diverse niche-based provision of content, resembling the many-to-many-model of perfect competition markets¹⁸ (Burkart & Hömberg, 2004). Pay-TV and online media are well known examples of this approach¹⁹. Here, advertisers are already presented to the consumers they seek to address, because the range of editorial topics is limited according to special interest or target group. Online media hand advertisers even more precise methods of reaching exactly the consumers they want. Google's "AdWords" and "AdSense" marked the beginning of highly content specific and content sensitive advertising. Furthermore, the evolution of social network sites has lead to a shift from contextual to personal advertising designed to match not only current but also previous patterns (revealed preferences) of media consumption (i.e. "things you may like" recommendations based on previous purchases). While micro advertising, as this phenomenon is generally referred to, raises serious issues of privacy protection, Doyle (2002) expresses doubts about its overall efficiency because "the cost of attracting large audiences via tailored one-to-one-marketing is significantly higher than via a campaign conveyed across conventional mass media" (Doyle, 2002, p. 55). However, advocates of micro advertising argue that it is less wasteful²⁰ and the capital invested yields more return. Furthermore, the EIAA projects growth rates range between 15% and 20% in the online advertisement expenditure in Europe from 2008 to 2010 (European Interactive Advertising Association, 2008). The question therefore is not whether

¹⁸ Only in the sense of the structure of content provision, not in terms of ownership

¹⁹ In this understanding, the consumer is supposed to take a more active role and is not just subject to the content he is served but interacting with the media (ie. choosing individual camera angels). This, however, raises the question whether consumers can ever be truthfully empowered if, following Gustafsson's (2006) implications, utility maximizing advertisers have played a crucial part in setting up the new media outlets in the first place.

²⁰ on a cost per capita basis

micro advertising is efficient or not but whether it will be incremental to or a substitute for traditional mass-market advertising (Doyle, p. 55).

For Doyle the answer lies in the creation of brand loyalty. Personalized advertisements for fragmented groups of media recipients are not an efficient means of creating strong brands whose power derives from broad recognition (Atkin, 2004). The erosion of mass media and mass audiences in favour of special interest niches as described by Burkart & Hömberg (2004) makes consumers more difficult to reach. For some industries, for example beverage manufacturers, this might hinder the creation of brand loyalty.

It is still unclear which direction advertisement will head to. For the moment online advertising enjoys heavy growth rates.

4.1.2.2 *Economies of scale*

The theorem of decreasing marginal costs applies with strong evidence to most media products. Growing volume of output permits a reduction of costs per unit of output if the fixed costs remain constant or grow much slower than the output. This neoclassical theorem is generally referred to as economies of scale.

Media products can be reproduced innumerable times without being used up or losing quality. In most cases, huge first copy costs are followed by a steady decline of average costs because the marginal cost of providing content to one additional user is negligible. Newspaper companies for example have to pay their employees, offices, etc (which equals their fixed production costs) regardless if one or 100,000 newspapers copies are printed and distributed. The costs of printing the second copy are dramatically lower than the cost of making the first copy. The decline of average costs per copy in this case depends on the circulation. An even more compelling argument can be made for broadcast media. The incremental cost of rerunning or trading an additional copy of a television program is extremely low in proportion to production costs (Hoskins, McFadyen, & Finn, 2006). Even online media can benefit from economies of scale, as they are able to split run their established platforms in other countries. The costs of setting up google.co.uk for example were significantly

lower than the development costs of the original google.com platform and algorithm in the first place. The prospect of returns to scale is an important motive for many mergers and acquisitions involving firms producing the same class of products (Hoskins, McFadyen, & Finn, 2006).

Economies of scale: spreading of fixed costs:

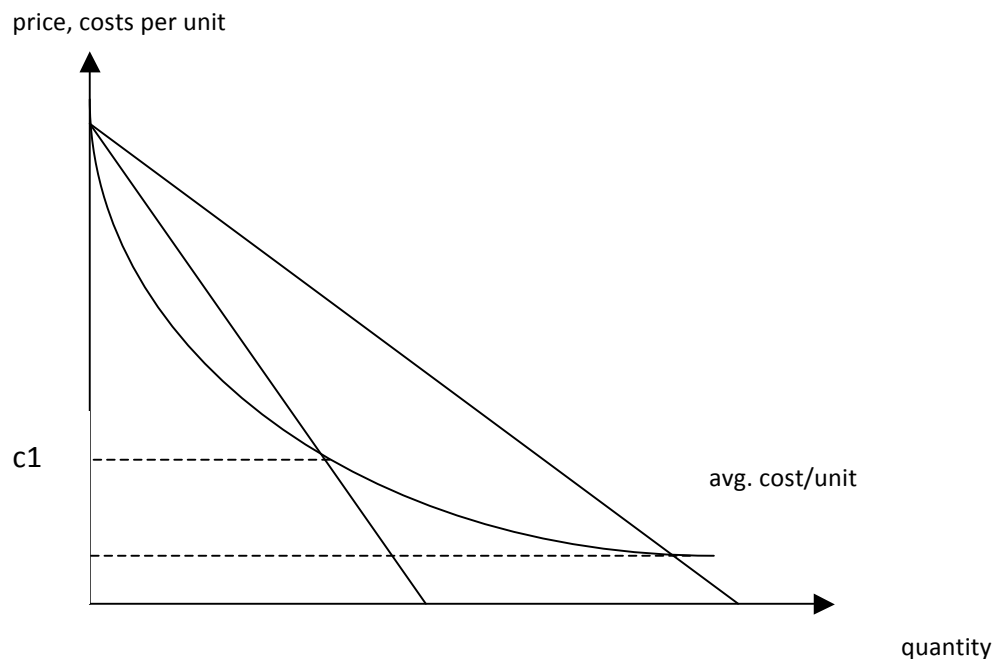


Figure 4-2 Economies of scale, Source: own illustration adapted from Heinrich, 1994

The fixed costs of production are averaged on the number of copies produced causing the total costs of each unit to decline in proportion to the increase in production. Therefore a monopolist is able to produce cheapest. As Heinrich exemplifies, the cost per unit of a monopolist is at level c_0 whereas in a duopoly, two producers of equal size have to face a cost per unit of c_1 . This shows that efficiency of production for many media companies does not only depend on scale but on their market position²¹. This situation promotes consolidation and concentration as firms seek to reduce competition as much as possible (Heinrich, 1994).

Moreover, another feature of having to face significant first copy costs, further adds to the promotion of concentration: the risk of bearing sunk costs, which cannot be

²¹ See remarks about the SCP-model in chapter 4.1.1

recovered once they incurred. Sunk costs describe expenses that have been invested in a project in the past, which did not turn out to meet (corporate) expectations (ie. the investment in the pilot episode of a television series that turned out to be a flop). The bigger a company, the less severe are the consequences of investing in a project without generating an ensuing revenue stream.

4.1.2.3 Economies of scope

I'm optimistic that one and one adds up to four

Michael Eisner, Disney's CEO shortly after Disney took over ABC

The concept of economies of scale describes the advantages of size when it comes to a single, homogenous product. In reality, large media companies not only specialize on one product, rather they offer a wide range of diversified forms of content.

Moreover they are dependent on external input from suppliers and partners. Thus they are able to exploit another source of size-dependent efficiency. By definition, "economies of scope exist if the total cost of producing two or more products within the same company is less than producing them separately" (Hoskins, McFadyen, & Finn, 2006, p. 100).

The degree of company-internal value-add describes to what extent a firm relies on internal resources and to what extent it employs external contractors and suppliers. In academic literature this is referred to as "real net output ratio" of a company (Karmasin & Winter, 2006, p. 95), (Heinrich, 1994, p. 27)²². If the real net output ratio increases in the course of a merger or acquisition, then the company in question is likely to benefit from economies of scope. In order to do this, media companies have to develop their business either vertically (within their own supply chain) or diagonally (outside their supply chain).

²² For example, a 60% real net output ratio means that 60% of the value of the product was generated by the company itself, whereas 40% were created by external suppliers and partners.

One of the main advantages deriving from vertical integration is a reduction of transaction costs. Initially identified by Ronald Coase, transaction costs are defined as “the costs of using the price mechanism” (Coase, 1937, p. 390). These costs include costs of information, insurance and coordination and arise as soon as the conditions of perfect competition are not entirely met. Through vertical integration transaction costs can be lowered significantly.²³

The advantage of diagonal integration can, similar to the phenomenon of economies of scale, be explained by the very nature of media output. Content will not be used up, no matter how often it is reproduced and the same content may also be reused in other forms (i.e. a newspaper article will be turned into a radio broadcast) at a cheaper cost than producing two separate media products with the same content independently. Once the core work of research and creation is done, content is simply reformatted according to the firm’s portfolio. Doyle defines economies of scope therefore as the savings that may arise “if specialist inputs gathered for one product can be reused in another” (Doyle, Understanding media economics, 2002, p. 14). In other words: “Maximizing synergy [...] is taking advantage of multiple media holdings to develop or promote a single project with many facets” (Croteau & Hoynes, 2006, p. 116). For example if a television reporter working for a large, integrated media company is granted an exclusive interview, it may be used in the company’s TV-news, newspapers, radio stations and online website all at once, at a much cheaper price than having four editorial teams devoting their time to the same outcome independently. It is no coincidence that many of the most successful online media websites are operated by traditional media players such as CNN, BBC and the New York Times. The more revenue streams a company is able to generate from a single input, the more it is likely to benefit from economies of scope. Therefore large multi-media conglomerates are able to exploit economies of scope on a very high level. In this regard, Karmasin & Winter (2006) refer to the convergence of the TIME industries, meaning Telecommunication, Information, Media and Entertainment, which have successfully substituted important features of their own management,

²³ Vertically integrated companies may also benefit from advantages in taxation because market prices can be substituted with internal prices (Karmasin & Winter, 2006, p.97).

innovation and development with “inhomogeneous integration” of various aspects of value chains from other industries (Karmasin & Winter, 2006, p. 23)²⁴. With respect to media this means that content becomes more and more hybrid, often simply being reduced to a brand (Donald Duck or Star Wars) in order to be marketed in as many forms as possible by collaborative divisions of single corporate conglomerates. For example a book or a TV series may be turned into a movie (or the other way round) which then would be promoted by the conglomerate’s news media section. Later on, action figures, ringtones, soundtracks, DVD and video games all build on the same idea.

Digitalisation and technological developments have facilitated the exploitation of economies of scope dramatically. “New media technologies have enabled the same content to flow through many different channels and assume many different forms at the point of reception”(Jenkins, 2006, p. 11). Trappel (2002) sees digitalisation as the main driver of convergence of what once used to be completely separated markets of information, communication and media (Trappel, Meier, Schrape, & Wölk, 2002, p. 94). The TIME convergence significantly changes the conditions of competition, development and management for all the industries involved. New forms of competition and cooperation and co-opetition evolve from this development as the number of available partners is increased. Innovation no longer stems from internal development, rather the meaning of the term in a media related context has been transformed to “taking whatever may suit our business purpose from other industries”. In consequence, managers act according to network logic instead of basing their decision on internal resources.

²⁴ An example for the result of TIME convergence is the XML programming language which is a universal code for data description (Karmasin & Winter, 2006), (Zerdick, Picot, Schrape, Burgelmann, & Silverstone, 2005)

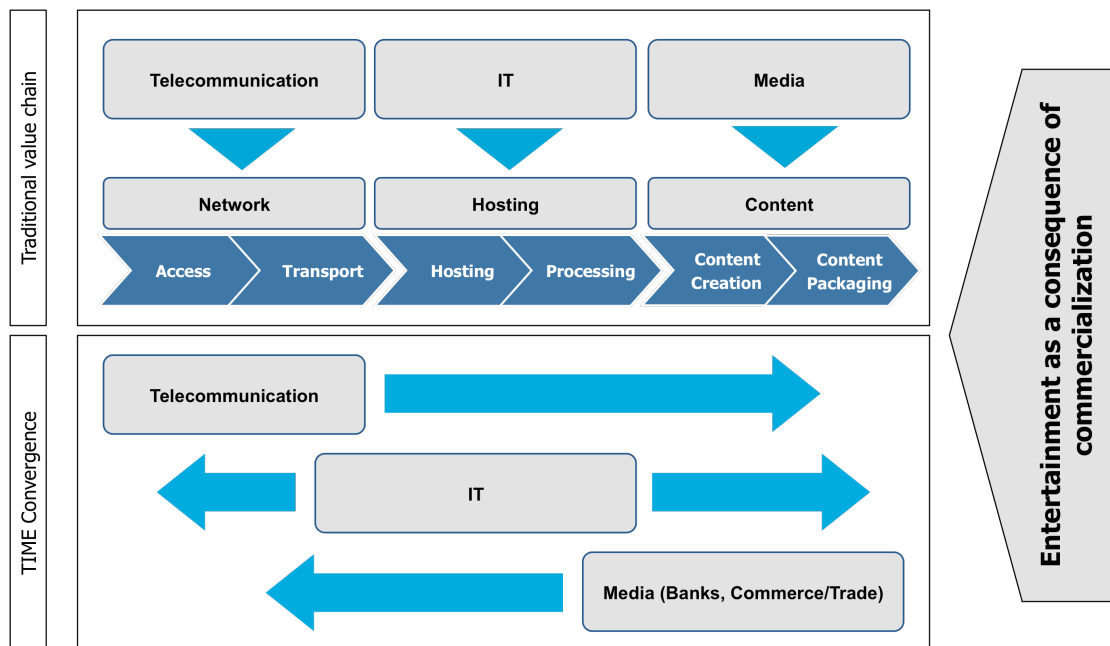


Figure 4-3): TIME Convergence, Source: own illustration (inspired by Freienstein, 2002, p.123)

TIME-convergence has to be understood as a temporary, project-based network system. Instead of a singular process, the inhomogeneous integration Karmasin and Winter refer to, is thus an accumulation of multiple processes who redefine the boundaries between branches and industries (Karmasin & Winter, 2006, p. 23).

Economies of scope, as a benefit resulting from TIME convergence therefore have to be considered as one of the main motivations for mergers, acquisitions and cooperations that reduce the level of competition. From a company's point of view, economies of scope, apart from to improving overall efficiency, and helping to streamline departments, generally serve to reduce risk. Croteau and Hoynes (2006) base their approach on the formation of conglomerates and co-operations on the reduction of risk and attribute the ongoing consolidation of media companies to an industry whose former business models are no longer adequate.

"The concentration of media ownership [...] is the natural byproduct of a maturing industry, as young startups and older, underperforming firms are consolidated into the business plans of mature but innovative firms" (Croteau & Hoynes, 2006, p. 111).

In the process of economic growth and innovation it is inherent that some industries decline while others grow. If a firm operates within a framework of an industry in decline, there is little it can do to stem its own downfall, no matter how progressive

its management is (Lipsey & Chrystal, 1995). If a company, however, manages to combine several businesses in several industries and form a conglomerate, it is able to spread the risk among them. The same way mergers and acquisitions as well as co-operations achieve sharing or spreading enterprise the risk.

4.1.2.4 Habits and network effect

Dewenter (2004) also mentions habits of consumption and the existence of a network effect as special features of media companies and media production. Under the conditions outlined below they may be another source of scale-related advantages.

He detects evidence of the “*habit effect*” in the “*relatively rare switching of [consumers] to substitutional products in spite of relative low switching costs*” (Dewenter, 2004, p. 46). For example newspaper readers may be reluctant to switch to another paper once they have grown accustomed to one newspaper’s format and recurring themes and topics. Companies on the other hand, strive to transform simple habits of consuming certain media into customer loyalty (Atkin, 2004). They want consumers buying their products not because they are used to it, but rather because they are committed to them. Commitment yields a range of positive effects for the company, for example word of mouth advocacy or the creation of further barriers of entry for new competitors²⁵.

A possible explanation for the formation of consumer habits, which later on may be fostered to become commitment, is the existence of a network effect. The network effect refers to the impact one additional user of a product or service has on the value of the product for another user. The more interesting people one can possibly interact with on a particular network, the more valuable the membership is in that network will be you. For example, after News Corporation had acquired the social networking website MySpace, there were controversies surrounding allegations of

²⁵ If the commitment, however, is not matched by an equivalent reward (ie. network benefits), including the feeling, that leadership is as committed then the results can be disastrous as “commitment may be fierce but not blind (Atkin, 2004, p. 121)

corporate censorship (Whitehead, 2006). Still, very few people left MySpace after the takeover because the social costs of losing the benefits of the MySpace network proved to be high for most users.

However, Dewenter (2004) touches upon the network effect not exclusively in reference to the obvious case of online media but also with broadcast and print media. From a consumer's point of view, the value of consuming a specific media product increases to a certain extent in proportion with output because the number of like-minded consumers increases as well, which raises the chances of sharing common ground with other people. Conversely, a product which is already consumed by a high number of people from the social environment of a potential consumer, appears more attractive to him/her than others. This theory builds on the concept of social identity, which "places a person in relation to other individuals who share [similar] attributes (Giddens, 2001, p. 29). In an age where symbols related to consumption play a great role in the construction of (social) identity (Giddens, 2001, p. 296), media consumption has to be considered an important factor in splitting or uniting people. For many years, the Saturday night prime time show "Wetten, dass?" in Germany used to be a perfect example. It was a show most people could talk about with their co-workers and friends because nearly everyone had seen it. Colloquially referred to as the "water-cooler effect", some media products may attain a high level of significance when it comes to setting agendas (mostly within certain demographic or social groups). Used the right way, this feature may permit media companies to successfully create barriers of market entry according to the editorial scope of their product²⁶ (see also chapter 2.1 on social orientation).

4.1.2.5 Deregulation and privatization

In the 1980s nearly all industrialized nations started to reduce government control over industry. State owned activities throughout the world were transferred to

²⁶ Although modern western consumer societies tend to be mass societies where differences of social classes are overridden to a certain extent, class differences may also become intensified through variations in taste and consumption (Giddens, 2001, p. 296). See also 4.1.2.1 on niche communication.

private ownership (privatization) and government restrictions on business practices were gradually reduced (deregulation). One of the main causes for this situation identified by Lipsey and Chrystal (1995) was the fading belief that industries under government control would outperform privately held companies in terms of efficiency, productivity and growth. In other words, the prevailing view was that private enterprises are more efficient, more responsive and less costly than public bureaucracies and that these private agencies would perform best when confronted with only a minimum of government restrictions. Furthermore, privatization and deregulation were also preferred because the (free) market system was trusted to foster freedom and self-reliance (Curran, 2002). This ideological shift cannot solely be attributed to the political agendas of conservative and neo-liberal governments in power at that period (i.e. Margret Thatcher in the United Kingdom, Helmut Kohl in Germany, Jacques Chirac in France and Ronald Reagan in the United States) since governments of widely differing ideologies have continued most of these policies (ie. Tony Blair in the United Kingdom, Gerhard Schröder in Germany and Bill Clinton in the United States)²⁷. Moreover, the European Union has pushed repeatedly for international deregulation in order to enable the free flow of goods and services on the common market (Albarran & Chan-Olmsted, 1998, p. 100).

Generally, the 80's gave rise to a strong movement advocating a reduction of government interference leading to the privatisation of former nationalized industries and the deregulation of private sector businesses (Lipsey & Chrystal, 1995). These policies had considerable effects on media.

The example of broadcast media perfectly illustrates how deregulation influenced and changed a whole sector of media production. Before 1980, no significant radio or television service in Europe was funded by private capital or operated primarily for profit, only 13% of European TV Channels reaching more than 50% of households (in their domestic market) were held privately. 17 years later, the situation had dramatically changed. From 13% two decades before, the number of commercial

²⁷ Curran points out that the ideological shift did not reflect the attitudes of the public but of a political elite.

channels went up to 55%, with Satellite-, Cable-, and Pay-TV as well as commercial regional channels not included (McQuail & Siune, 1998, p. 26).

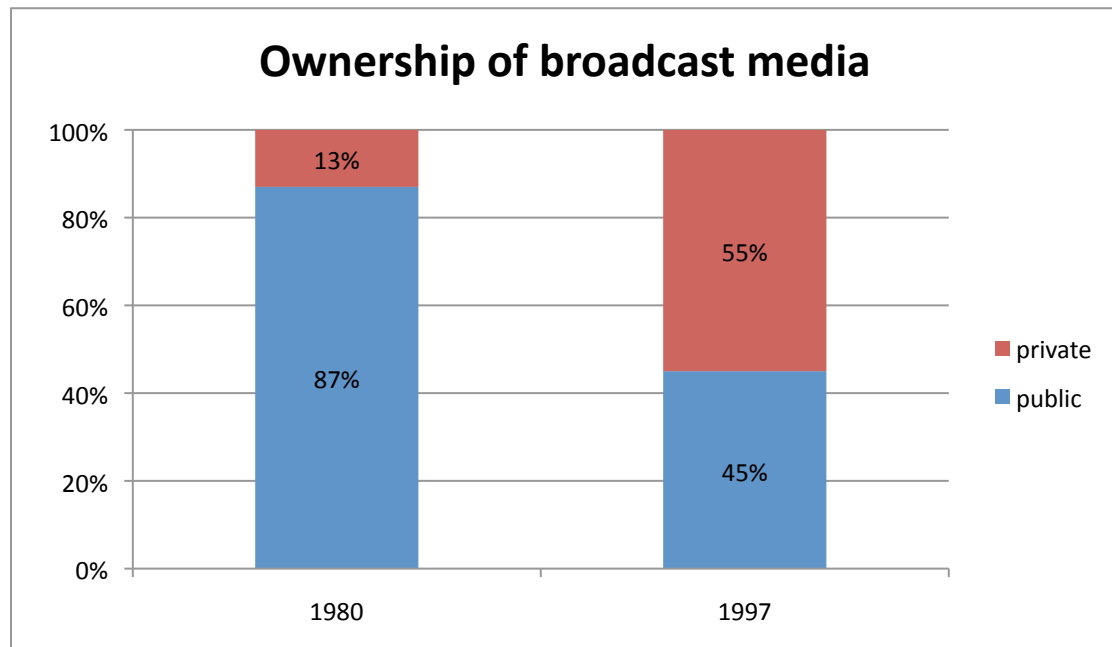


Figure 4-4: Ownership of broadcast media, Source: adapted from McQuail and Siune, Table 3.1, 1998

This situation has increased competition the remaining public channels are facing from foreign competitors and sparked a decline in viewers. Furthermore it has lead to a certain degree of imitation of commercial television by public broadcasters, with cultural programmes being more and more pushed outside prime time in favour of light entertainment (McQuail & Siune, 1998, p. 29).

Among policy makers at that time, however, commercialization and ensuing concentration or consolidation processes were not considered a threat but rather an opportunity for domestic media companies. In part, this can be explained by referring to the beginning of globalization trends in the world economy. Although competition on domestic markets could suffer in the long run, regulatory authorities chose to remain reluctant on regulation in order to allow their domestic players to position themselves favourably in the global market. Their aim was to grant economic opportunities for players ahead of international rivals. "An apparent monopoly in the United Kingdom may well be operating highly competitive in a

market that includes German, French and even Japanese firms,” (Lipsey & Chrystal, 1995). However, Doyle (2002) argues, that the idea of forsaking competition on the home-market to a certain degree in order to allow domestic players to grow into global players works better in airlines and telecom industries where regulations have fallen in other countries as well and where companies are faced with a real global market with a global customer base and real international transactions. For TV and newspapers this is not the case Doyle argues and points out that both television and newspapers are strongly rooted in their local environment (Doyle, *Media Ownership: The Economics and Politics of Convergence and Concentration in the UK and the European Media*, 2002). Still, she acknowledges that liberalization and deregulation could indirectly have an impact on the expansion of firms in overseas markets in the field of newly emerging communication infrastructure such as Internet, and mobile communication markets.

Albarran, on the other hand does not see the media industry differ significantly from industrial production in terms of globalization. “The media are no exception to this trend”, which he sees reflected by the “expansion of conglomerates” (Albarran & Chan-Olmsted, 1998, p. 3). As outlined in 4.1.2.3 media companies have dramatically increased corporate activities outside their domestic markets as well as outside their core businesses. So while it’s true that only a small portion of media products²⁸ are distributed globally, media conglomerates may still operate on a global scale. The question to what extent they influence content will be considered in 4.2.

Another cause for deregulation is the relationship between policy makers and the industry itself. As mentioned in chapter 3 their interest is to maximize electoral votes. Therefore, they seek to hold friendly relationships with media, who play an important part in shaping and influencing public opinion. Doyle also notes, that policy makers tend to perceive what is of economic interest as of what corporations say is in their interest. In most cases corporate aspirations, however do not conform with wider economic objectives of society (Doyle, 2002, p. 11).

²⁸ It is mainly Hollywood movies and television productions which come close to a global distribution network, see also (Miller, Govil, McMurria & Maxwell, 2001)

McQuail and Siune (1998) give two examples from the newspaper industry. In the UK, which has to be considered a leader of worldwide deregulation and privatization (Albarran & Chan-Olmsted, 1998, p. 100)²⁹, Rupert Murdoch, whose News Corporation ranks among the five biggest media conglomerates in the world was supported by Margret Thatcher's conservative government and allowed to take over The Times, The Sunday Times and Today in addition to market leaders News of the World and The Sun which he already owned (McQuail & Siune, 1998, p. 12). Thereby Murdoch was able to accumulate a joint share of currently 35% of the British newspaper market (The Guardian, 2008; Miller, Govil, McMurria, & Maxwell, 2001), see also 4.3.2.3. In France on the other hand, Robert Hersant was backed by Jacques Chirac to enlarge his group's share of French newspaper circulation to 30% coming close to being subject to the legal restrictions of French media law (see chapter 5.1.3.2.).

4.1.2.6 Commercialization of media

As profit is the sole reason for investing private capital In market model economies profits are the driving force of most entrepreneurial actions. The goal of profit maximisation has to be considered the be all and end all of the marketplace with little disagreement. While there are tendencies to promote the importance of non-corporate goals (see chapter 4.1.1.1), economist Milton Friedman sums up the dominating idea of capitalist societies:

"There are few tendencies, which undermine the fundamentals of free economies as radically as the assumption of any other social responsibility than a corporations' purpose of maximizing returns for its shareholders." (Friedman, 2002)

This exclusive orientation on profits generally fades, as soon as the traditional economic realm is left, note Meier & Jarren (2001). That is supposed to be the case for media companies which are meant to provide publicly valued merit goods and

²⁹ Between 1979 and 1984 more than £7bn were raised by transferring government run businesses in oil, aerospace, transportation, shipping, automobile and telecommunications to private ownership.

are therefore not only corporations from an economic point of view but social institutions. This notion, however, appears to have changed (Meier & Jarren, 2001).

It is important to note that in contemporary media studies the commercialization of the process of media production is seen as a natural condition of operating in a market driven environment. According to Kiefer acting under economic principles is a matter of course in order to stay in business (Kiefer, 2001). Historically, as McQuail and Siune (1998) point out, market freedom in the first era of the printing press even had a positive connotation, as it was closely linked to freedom of expression at a time when state power sought to maintain existing political control (McQuail & Siune, 1998). What raises plurality concerns, however, is the priority assigned to profit maximization and economic criteria of production over media-specific goals such as providing unbiased information and stimulating public discussion. The pursuit of profits is above all else as the focus of a public utility providing information shifts from the public sector to business entities of media companies and their owners. In this understanding Heinrich defines commercialization as the extension of monetary and egoistic motives in the utility function of media corporations, which goes along with an increase in the level of determination to maximize this function (Heinrich, *Ökonomisierung aus wirtschaftswissenschaftlicher Perspektive*, 2001). In other words, commercialisation refers to the chastening of publicly valued, merit output in favour of marketable, profit-inducing output (Kiefer, 2001).

Indicators and causes of commercialization include (Heinrich, *Ökonomisierung aus wirtschaftswissenschaftlicher Perspektive*, 2001), (Meier & Jarren, 2001), (McQuail & Siune, 1998), (Trappel, Meier, Schrape, & Wölk, 2002):

on a macroeconomic level

- the advent of the information age where information and knowledge have become the most valuable resources, and factors of production
- government deregulation
- (global) markets being the primary institution of coordination and control

on a societal level

- a loss of content diversity among market leaders and an increase in specialized production of niche content among smaller companies
- marginalization of less popular cultural and informational content
- an increase in the number of media outlets
- imitation of successful strategies instead of innovation

on a microeconomic level

- measuring success in terms of shareholder value
- an approximation of cost prices
- a decrease of cross-subsidisation of underperforming media products
- an increasing consideration of recipient preferences
- core media competences transforming from research/reporting to marketing/sales

In fact, commercial logic is now the norm, rather than the exception for European media, states McQuail and draws on evidence from the European broadcast sector where the success of the first commercial operators who appeared in the 1980s has largely transformed the shape of the media landscape (McQuail & Siune, 1998).

Commercialization, however, is not a recent phenomenon. Already in the 1930s, Max Horkheimer and Theodor Adorno, both core to the Frankfurt School of social thought expressed deep concerns over what they called “the culture industry”. Media and the entertainment industry, they argue, promote a capitalist ideology which undermines the capacity of individuals for critical and independent thought and ensures obedience to market interests (Horkheimer & Adorno, 2001).

4.2 Impact

4.2.1 Evaluation

Media concentration does not necessarily have to cause a decline in pluralism, in some cases there may be no impact at all. The concepts of pluralism/public value and media economics discussed above may imply an incompatible pair of mutually exclusive opposites - public benefit versus economic logic. However, sometimes profit orientation and concentration of ownership contribute positively to media companies' goals to fulfil public service and sometimes public service media programmes yield high economic rewards. Knoche (1996) draws from empirical evidence to back this view and states that concentration of media ownership and pluralism are neither identical nor linked in a linear proportion. Although many theories suggest (see chapter 4.3, and Lange, 2008, p. 188) some form of reciprocal influence, there are cases where a fruitful balance between public sphere and economic reasoning can be found.

Based on this idea, Heinrich (1994) classified three types of media concentration (Heinrich, 1994, p. 49):

- Positive concentration – competition is improved and market powers become more balanced, for example, many small firms join forces in order to compete against a very big rival.
- Concentration without any impact – competition is not affected, for example, number seven and number eight on the market merge.
- Negative concentration – competition decreases, barriers of entry for new competitors are created, for example, the market leader takes over the third-ranked competitor

Thus economic concentration and pluralism have to be evaluated separately, since prior to any inquiry into the regulation of any given action of concentration of media ownership, it has to be considered which of the types applies to the case.

There are two methods of measuring the economic impact of concentration on competition (Trappel, Meier, Schrape, & Wölk, 2002, p. 56), see also (Robinson, 1996).

- The Concentration Ratio (CR) is a calculation of the combined relative market shares of the leading four (CR4) or five (CR5) companies. A CR4 above 50% is already considered a concentrated market
- The Herfindahl-Hirschmann index (HHI) involves calculating the sum of the squared relative market shares of all market participants. The result has to be multiplied by 10,000. The resulting number is analysed in relation to the boundaries 0 (perfect competition) and 10,000 (monopoly).

In this paper, only the CR will be applied to measure economic concentration.

Crucial to both methods is a diligent definition of the relevant market (Kiefer, 2001, p. 87), (Knoche, 1996, p. 109). The definition of the market strongly influences the outcome of any evaluation of concentration. An inaccurate definition therefore bears the risk of over- or underestimating actual concentration ratios.³⁰ For media markets, no standard of market definition has been established due to huge differences between national media landscapes. Heinrich considers the definition of the relevant media market “*one of the most complicated problems of competition policy*” (Heinrich, 2001, p. 55), which is also due to the interrelation of audience and advertising market. In addition to that the variety of methods of measuring audiences/consumers used in market research enhanced the complexity of the task of determining the actual concentration and its impact³¹. Generally media markets can be defined by

- type of product (i.e. radio, television),
- type of content or range of topics (i.e. quality vs. tabloid or special interest vs. general or prime time vs. morning show),
- region or other geographical indicators,

³⁰ For example Baker (2007) clearly rejects Compaine’s defining of the relevant market as the media as a whole, for the segments of this broad market are incoherent and lack interchangeability. Baker likens this approach to defining the car manufacturing market with inclusion of car dealerships and steel companies (Baker, 2007, p. 60)

³¹ Siegert elaborated on this problem in Altmeyden & Karmasin, 2003, p. 103

- type of audience (i.e. men vs. women, buyers vs. readers or age groups)
- time (i.e. months)

Wallner (2007) has proposed the application of the SCP model of market analysis (see chapter 4.1.1), which evaluates market actions not solely in terms of profit maximization but takes CSR factors and public benefit into account as well (Wallner, 2007, p. 210). This approach appears to be particularly suitable for media markets where public value requirements are closely linked with economic reasoning.

In this paper only the audience/viewer market will be considered, defined by total buyers/consumers of a certain media product, despite a different approach by the European Commission (see chapter 5.2.1).

Regardless of the method of market definition, the economic impact of concentration of ownership is only one side of the problem. Due to the nature of media goods, issues of media pluralism and diversity have to be taken into account as well. However, prior to any new regulative approach, there have to be clear definitions of public benefit against which market developments can be measured. Unfortunately, no convincing model/theory of evaluating pluralism or defining quantifiable socio-political concerns relevant to this matter has been introduced yet - a fact that has been criticised heavily by (Knoche, 1996, p. 113) and (Just & Latzer, 2001, p. 13) and which has led the EU Commission to conduct the aforementioned study on indicators of pluralism. For Knoche, the shortcoming of most approaches to measuring pluralism is the misuse of parameters and indicators for example circulation, which may serve as an indicator for both concentration of ownership (market share) and pluralism (number of media products with a certain content). He finds that the poor selection of indicators influences the evaluation very negatively and ultimately plays down the real extent of the effects of concentration of media ownership, the latter generally tend to be "*systematically underestimated*" in public discussion (Knoche, 1996, p. 116). Another point of criticism is the exclusive focus on measurement of pluralism of providers instead of opinions (see chapter 3.) In order to overcome this divergence he, as well as Just & Latzer (2001), proposes an approach based on comparative content analyses.

For Lange (2008) the operative point to this problem is the definition of media power. Traditionally media power is realized when the media acts according to the agenda setting theory³². Attempts of putting forward a more sophisticated definition have included the measurement of substantial influence on consumer opinions on different media markets, which had been ranked according to their persuasive power (Lange, 2008, p. 188). Other methods also included factors such as suggestive power, mass appeal and actuality and relevancy of media content. In order to draft efficient legislation, a European consensus on indicators of pluralism has to be reached as soon as possible. Whether the study by the EU Commission is more than just a first step towards this goal remains to be seen.

4.2.2 Effects

Suprisingly little empirical research has been conducted on the actual effects of accomplished media concentration, aggravating the difficulties of predicting future outcomes outlined above. Many descriptions of the outcome of media concentration are largely based on theories and models. This may be due to the fact that the subject is of very complex and dynamic nature and changes very quickly according to consumer demand and technological development. Josef Trappel, along with Werner A. Meier is one of the few leading researchers on the impact of media concentration. I will adopt his categorization of effects of concentration of ownership. (Trappel, Meier, Schrape, & Wölk, 2002, p. 112).

4.2.2.1 Media

Obviously media are the first institution to be affected by media concentration. Usually after a merger or takeover took place, reorganization of the corporate structure and repositioning on the market will ensue (Carpenter & Sanders, 2009, p. 330)

³² see Burkart, R. (2002) for further elaboration on this theory

Regardless of the type of media, Heinrich defined several aspects of this process, which are very similar to the effects of media commercialization outlined in chapter 4.1.2.6. (Heinrich, 2001, p. 210)

- The possibility of subsidizing and strengthening certain opinions within the company rises as the power of the owners is increased while reporting on some topics is discouraged (i.e. unethical business practices of parent/sister companies within the conglomerate). Trappel (2002) perceives the danger, that journalists may follow these rules even if they have not been outspoken by management in order to retain their chances of succeeding in a environment where employers become more and more limited (Trappel, Meier, Schrape, & Wölk, 2002, p. 114).
- Reuse of content is facilitated (economies of scope)
- Barriers of entry are created and power on the supply market (i.e. news agencies) is increased
- Competition and control by market forces decline
- Catering to advertisement partners becomes more important
- Content becomes homogenized and uniform. In the example of a merger of two newspapers, exchange on editorial matters will increase even if two separate editorial teams are maintained (i.e. through integrated archives). While enhanced cooperation may serve to increase editorial output of both teams, it is more likely that there will be “more of the same”. However Trappel acknowledges, that, in an attempt to separate the market the company may also seek to diversify their portfolio and have the newspapers run on opposite positions, catering to different audiences. Apart from causing poor credibility this position only holds as long as both papers are profitable. In the event of one falling behind, the creation of synergies may be advisable from an economic point of view, which effectively will require the papers to move closer in terms of content (Trappel, Meier, Schrape, & Wölk, 2002, p. 115).

4.2.2.2 Economy

From an economic point of view, concentration of media ownership is expected to deteriorate market conditions and competition in most cases. However, as mentioned above, no direct correlation can be assumed. Heinrich defines the economic impact of concentration of ownership similar to the effects of reduced competition (Heinrich, 1994, p. 124):

- Slowdown in price competition
- Declining innovation
- Reduced adaptation to market conditions in favour of attempting to dictate favourable conditions
- Barriers of entry for competitors
- Aiming at monopolistic market

Trappel also mentions external effects on supply markets and advertising markets where a decreasing choice of business partners may lead to higher (unhealthy) competition and lower profits. The same applies to the labour market where journalists have to compete for fewer job opportunities (Trappel, Meier, Schrape, & Wölk, 2002, p. 117). This is particularly true for cases of cross media concentration where economies of scope allow media companies to realize staff savings.

4.2.2.3 Politics and Law

Baker, referring to the political functions of media claims that, media constitute a “*crucial sluice*” between public opinion formation and political will formation under democratic principles (Baker, 2007, p. 7). Since the core principle of democracy is the egalitarian distribution of control, Baker adopts the view, that, when applied to media ownership this democratic principle can only be interpreted as requiring a “maximum dispersal of media “ownership”. Concentration of privately held media, therefore puts the democratic principle in danger and threatens democratic diversity.

- One effect of concentration of media ownership may be in fact that particular interests of media owners and/or elites associated with them are easier to

give publicity to (Trappel, Meier, Schrape, & Wölk, 2002, p. 119). For Baker, this creates the possibility of “an individual decision maker exercising enormous, unequal [...], largely unchecked, potentially irresponsible power” (Baker, 2007, p. 16).

- Greater power of enforcing opinions and campaigns – In order to influence public opinion big, integrated media companies are able to launch and sustain huge campaigns, i.e. The Sun’s campaign against the EU treaty.

Figure
Sun’s



4-5 The

campaign against the EU Constitution, Source: The Sun 24th September, 2007

- Decrease of options to stimulate public discourse, which, in turn, is more and more impoverished.
- Less importance is assigned to news and political information
- Blocking media policy measures – Larger companies are more successful in pushing for favourable legislation, subsidies and state investments in media infrastructure, since politicians need their support to stay in power

4.3 Manifestation

In this segment I will provide an overview of the media markets in Germany, UK and France. Following the legislative principles in Germany and the UK and for reasons of simplification I adopt the share of the audience/circulation as the relevant market only. As outlined above, due to the interrelation of media markets, a concise evaluation of media markets needs to consider the share of the advertising as well. However, my analyses focus on the potential influence on opinion, which is why the advertising market will not be considered in the following segment. The numbers for magazines are estimates due to differing publishing cycle of weekly bi weekly or monthly publications.

4.3.1 Germany

Germany, the most populous and strongest economy in the EU is ranked as one of Europe's most powerful media markets (Albarran & Chan-Olmsted, 1998, p. 119), which is characterised by a strong regionalism of all media sectors. Bertelsmann the biggest media company in Europe, is of German origin.

4.3.1.1 Television

The German television market is the biggest in Europe, consisting of more than 140 television stations (which are predominately commercial). In terms of advertisement revenue, TV still trails the written press by two percent. In 2007, 45% of advertisement spending in Germany went to TV, which equals a sum of slightly less than €10bn (Arbeitsgemeinschaft Fernsehforschung, 2008). Germany has two main public service television broadcasters, ARD and ZDF. ARD is a nationwide channel operated by a consortium of all regional public service channels. The joint market share of these regional operators is commonly referred to as ARD3 (third channels). Apart from that there are four minor public service channels for special interest, the children's channel KiKa, the cultural programme (in cooperation with the France) Arte, the political information broadcaster Phoenix and the culture/politics channel 3sat. For historical reasons, the German broadcasting regulation falls under the authority of the federal states (Bundesländer). Therefore, changes in public broadcasting have to be negotiated through interstate treaties (Albarran & Chan-Olmsted, 1998, p. 123). The revenues of ARD, ARD3 and ZDF consist of license fees and advertisements. There are, however, strict regulations on the number of minutes, time of day and timing during a programme when commercials may be shown (Albarran & Chan-Olmsted, 1998, p. 130). In 2008, the public broadcasters controlled 43,6% of the television market (Arbeitsgemeinschaft Fernsehforschung,

2008). This represents a stark decline from the 47.5%, measured by the European Audiovisual Yearbook four years earlier in 2004 (European Commission, 2007, p. 47)³³.

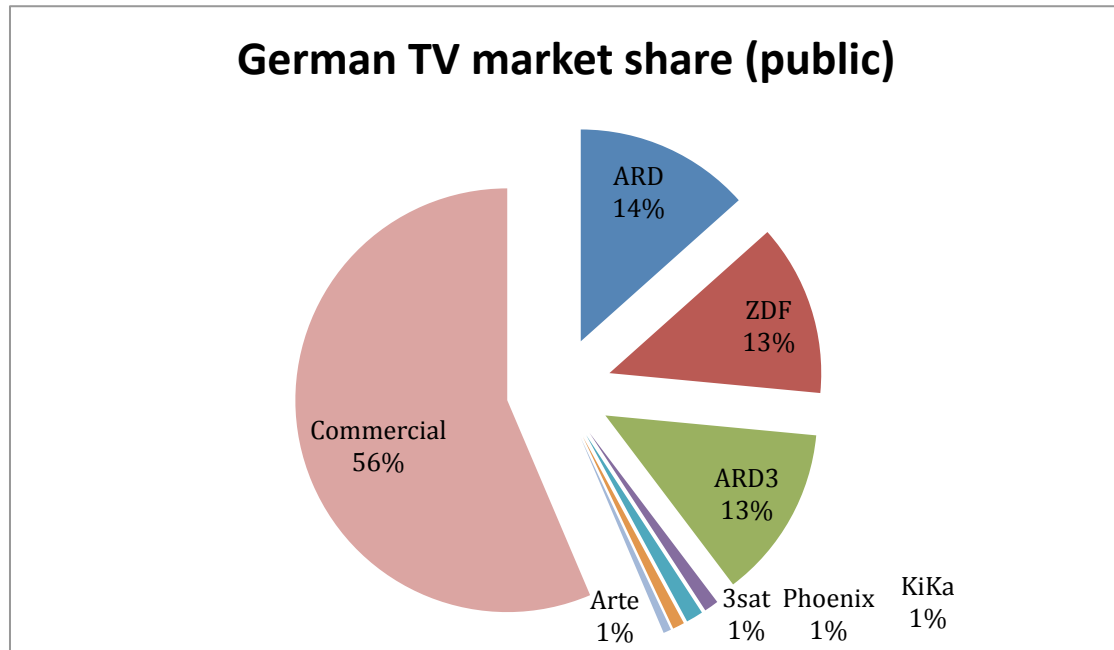


Figure 4-6 – German TV market share (public), Source: AGF/GfK Fernsehforschung 2008

The vast majority of German television channels are commercially operated. Private television was introduced in 1984. By 1996 there were already ten established channels in fierce competition for market shares (Albarran & Chan-Olmsted, 1998, p. 130). Today two major groups dominate the commercial market: the RTL Group (24.1%) and the ProsiebenSat.1 Media AG (21.6%). A whole range of small channels competes for the remaining 10.3% of the audience.

³³ The contrast may also be explained by a differing method of calculating daily shares of audience since another source, the European Federation of Journalists, assumed much lower numbers for 2004 and named a joint share of 40.9% (European Federation of Journalists, 2005, p. 61). They, however, may have only included the three main operators.

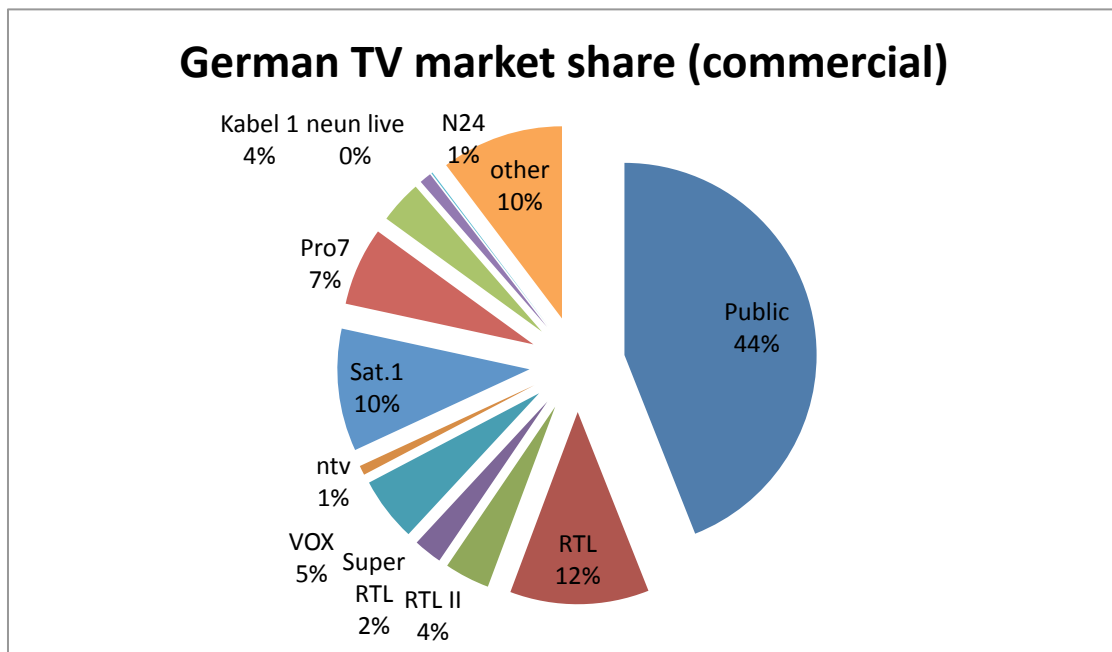


Figure 4-7 – German TV market share (commercial), Source: AFG/GfK Fernsehforschung 2008

The ProsiebenSat.1 Media AG is currently co-owned by Permira and KKR, two international private equity firms. Media investor Haim Saban, who had acquired the group after a takeover deal by Kirch Media had collapsed, sold Permira and KKR 50,5% of the shares, which allowed them to seize control of ProsiebenSat.1 Media AG and merge it with SBS, a broadcasting group from Luxembourg (Kurp, 2006). Permira and KKR had been able to buy ProsiebenSat.1 because a takeover by publishing group Axel Springer had not been granted permission by the German regulatory authority KEK (see also chapter 5.1.1.)

The RTL Group is owned by Bertelsmann. The group holds several investments in TV channels all over Europe (particularly in the Netherlands, Belgium, France and UK) and is Europe's biggest operator of commercial television. In Germany it has reached its most dominant national market position. The RTL Group emerged from a merger of Luxembourg-based CLT-UFA and the British Pearson Group in 2000.

44.6% of German households receive analogue TV through cable, 23.5% use satellite broadcasting, and 3.9% receive it through terrestrial transmission. The majority of households with digital TV used satellite transmission (19.5%), (KEK, 2006).

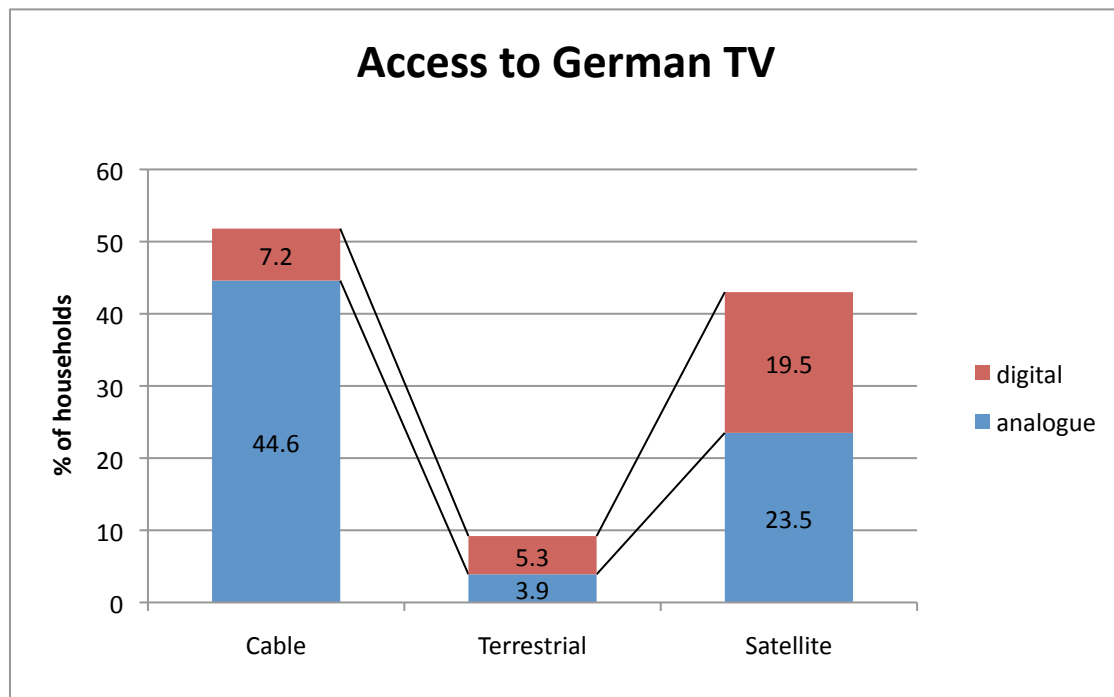


Figure 4-8 Access to German TV, Source: KEK 2006

Cable is the most important form of television transmission in Germany with a joint market share of 51.8% (analogue and digital combined). The largest cable network operator is KDG (owned by Providence equity partner Inc.), which holds a market share of 42% of cable households. KDG, together with its main competitor Unity Media GmbH (majority of shares owned by BC Partners based in UK and Apollo Management LP based in the US) controls 66% of the market (KEK, 2006). Both have been repeatedly criticised by the ALM for hesitating to migrate to digital TV (Gemeinsame Stelle Digitaler Zugang, 2007, p. 27). KDG operates several special interest channels such as Bibel-TV, Games-TV and Wein-TV. The KEK has repeatedly issued concern that vertical Integration of cable operators with broadcasting stations could lead to considerable barriers of entry for new competitors.

The figure also shows, that 35% (14.8m) of German TV households are equipped to receive digital television. The AGF panel found that in the first quarter of 2009 the actual use of digital TV is significantly lower, at 27% of the television market.

However these numbers rise steadily as the government plans to make broadcasting exclusively digital by 2010. This could prove to be a boost for Premiere, the biggest digital subscription/pay per view-based broadcaster in Germany. 3.5m households (23.6%) of overall 14.8m digital TV households subscribe to Premiere. In those

households, Premiere holds a 23.7% market share of TV consumption. That makes a share of roughly 1.5% of the overall television market share. However if only Pay-TV subscribers are considered only (5.23m households), Premiere holds a 66% market share. In late 2008, the News Corporation, which currently holds a 29% stake in Premiere (KEK, 2006), asked the German financial regulatory authority BaFin for permission to be freed from a compulsory public offer to other Premiere shareholders in order to further raise its Premiere stake beyond 30% (Wiesmann, 2008). As of 2009 the permission was granted and News Corp is expected to launch a take over bid and subsequently turn Premiere into SkyDeutschland. Premiere's main competitors are channels operated by cable network operators KDG and Unity Media.

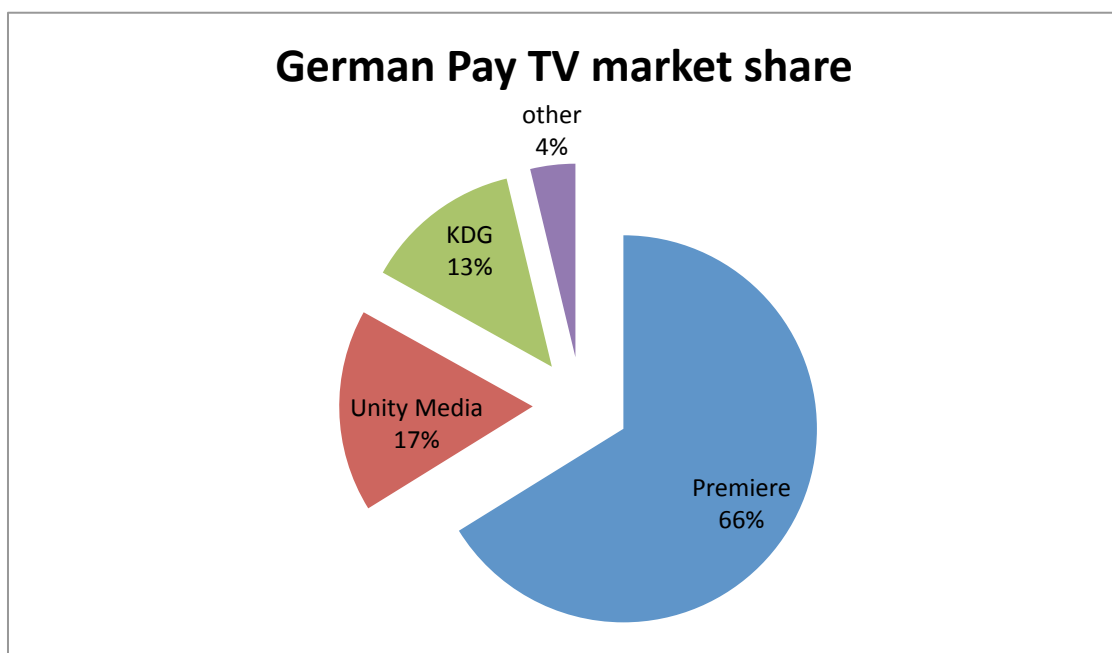


Figure 4-9 German Pay TV market share, Source: GSDZ 2007, p. 57

4.3.1.2 Radio

The German radio market entirely mirrors the federal structure and the regional organisation of German broadcast media. There are only few national broadcast programmes since most radio stations operate regionally or locally. Due to this situation, no commercial broadcasting group has been able to attain a dominant market position. The public ARD broadcasters account for 65 regional programmes

and two national programmes, accumulating a joint market share of 27.5% of the national radio audience (European Federation of Journalists, 2005, p. 64). Commercial operators account for 24 national programmes, 56 regional programmes and 140 local programmes (Arbeitsgemeinschaft der Landesmedienanstalten, 2008, p. 199), of which the regional programmes are the most profitable. The biggest commercial radio broadcasters are the RTL Group (6.6%), Axel Springer AG (~1%), Hubert Burda Media Holding GmbH & Co. KG (~13.6%), Madsack GmbH & Co. KG (~6.7%)³⁴, (KEK, 2005)

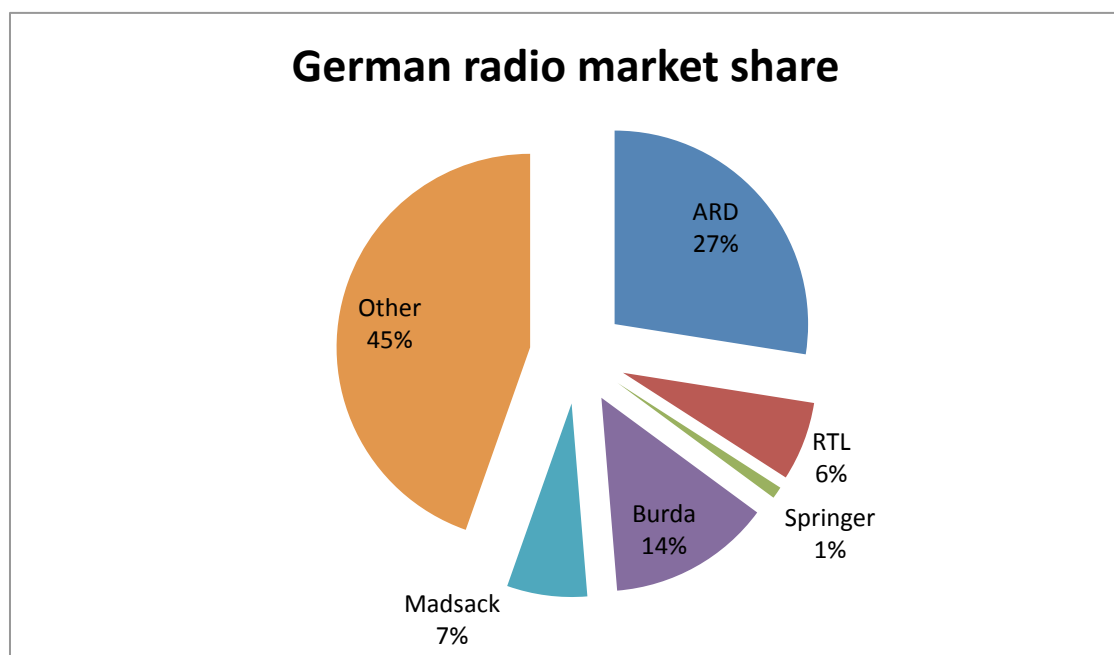


Figure 4-10 German radio market share, Source: KEK 2005 / EFJ 2005

4.3.1.3 Written press

The German newspaper and magazine industry still commands the largest segment of the German media market with 49% of advertisement spending which equals just above €10bn from advertisement alone (Arbeitsgemeinschaft Fernsehforschung,

³⁴ Springer, Burda and Madsack hold mostly minority stakes below 25% in various radio broadcasters, therefore overall numbers of market share are estimations and may vary greatly according to the method of calculation.

2008). There are 377 daily newspapers with a combined circulation of 27.2m, 27 weekly newspapers with a circulation of 2m, 900 magazines, which distribute 115m copies (number of actually purchased magazines is not available) and 1,159 special interest periodicals, which distribute 13.9m copies (Informationsgesellschaft zur Feststellung der Verbreitung von Werbeträgern, 2009).

In 2005 the top ten German newspapers were (regional newspapers shaded grey):

Title	Publisher	Circulation (in 1,000)
BILD	Axel Springer	3,867
Westdeutsche Allgemeine Zeitung	WAZ Mediengruppe	1,001
Zeitungsgruppe Köln	DuMont Schauberg	628
Süddeutsche Zeitung	Süddeutsche Zeitung Verlag	442
Rheinische Post	Rheinisch-Bergische Druckerei und Verlagsgesellschaft	405
Zeitungsgruppe Thüringen	Zeitungsgruppe Thüringen	398
Frankfurter Allgemeine Zeitung	Frankfurter Allgemeine Zeitung Verlag	380
Freie Presse	Freie Presse Chemnitzer Verlag	358
Augsburger Allgemeine / Allgäuer Zeitung	Presse-Druck und Verlagshaus	353
Nürnberger Nachrichten	Mitteldeutsches Verlagshaus	310

Figure 4-11 Top Ten German newspapers, Source: European Commission, 2007 p 43

The newspaper market is rather diverse. The top five publishers account for 44.8% of the market share, the top ten groups account for 58.5% (Röper, 2008, p. 420). Axel Springer, who publishes the market leader *BILD*, controls nearly one quarter of the market.

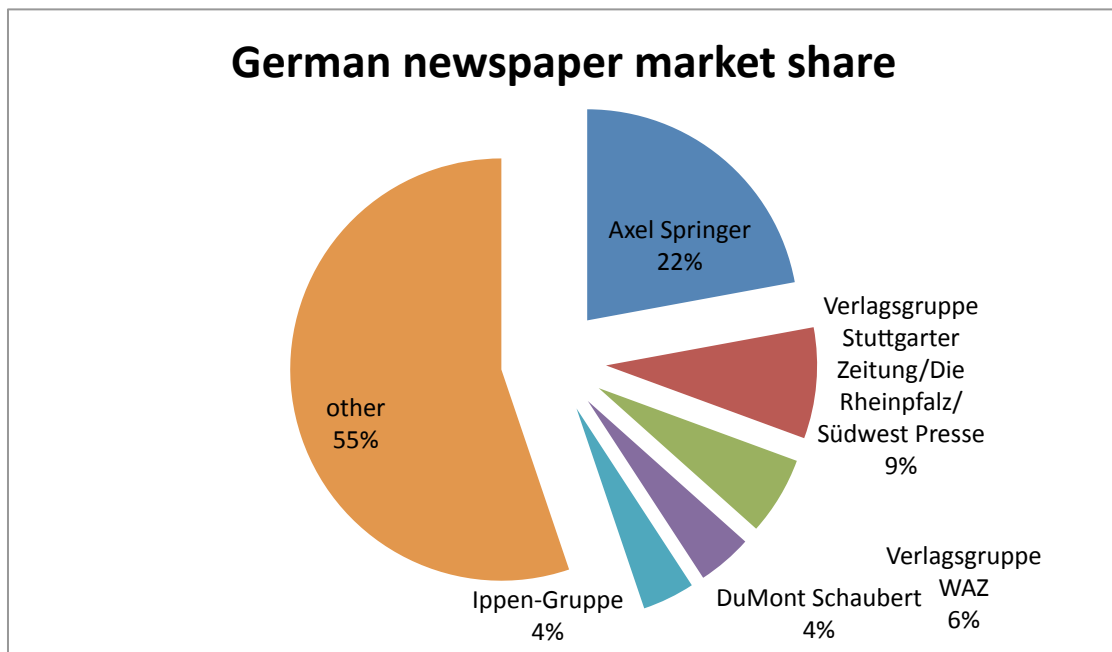


Figure 4-12 German newspaper market share, Source: Röper, 2008 p. 420

Röper (2008) divides the newspaper market into quality papers (subscription based) and tabloid papers (based on street selling) the latter showing an apparent domination of the big five publishers: 96.1% of the tabloid market share is controlled by the top five publishers, 79.3% by Springer alone (Röper, 2008, p. 421). Springer's domination in this segment was one of the main reasons for the rejection of the group's bid to take over ProSiebenSat.1 Media in 2006.

The German magazine market is also fairly concentrated. The top five publishers control more than two thirds, 68.5%, of the market:

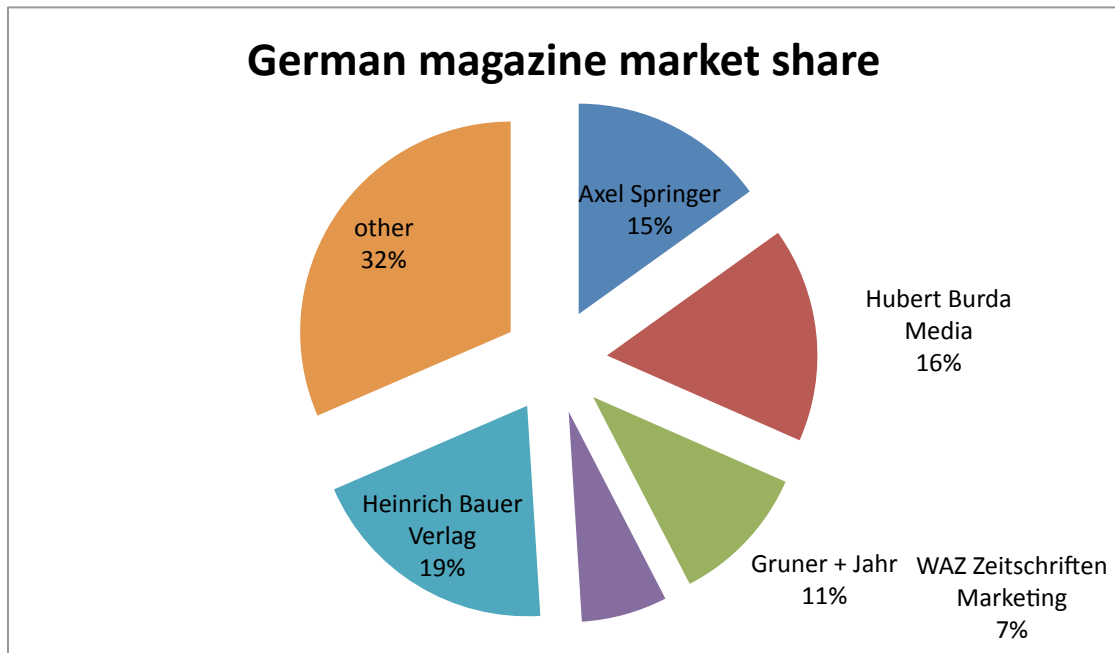


Figure 4-13 German magazine market share, Source: Vogel, 2008 p. 468

Vogel goes on to divide the magazine market in a comparable way to Röper. He distinguishes between magazines published weekly or every biweekly, and magazines published at longer intervals. In the weekly to biweekly segment, the big five have a market share of 87.3 %, Bauer and Springer alone control 53.2% (Vogel, 2008, p. 468).

4.3.1.4 Online

In 2008 the top ten German-based websites were:

Website	Marketer/Provider	Unique Clients per month (average in millions)
T-Online	InteractiveMedia CCSP GmbH	14.39
Web.de	United Internet	12.80
Yahoo! Deutschland	Yahoo! Deutschland GmbH	11.13
MSN.de	Microsoft Advertising	10.75
GMX	United Internet	8.7

MyVideo	SevenOneInteractive GmbH (Prosiebensat.1 Media)	7.35
RTL.de	IP Deutschland GmbH (Bertelsmann)	6.62
studivZ	Holtzbrinck Networks GmbH	5.41
SPIEGEL ONLINE	SPIEGELnet GmbH	5.26
CHIP online	Hubert Burda Media	5.26

Figure 4-14 Top Ten German based websites, Source: AGOF 2008 / Company profiles

In this ranking the AGOF (Arbeitsgemeinschaft Onlineforschung) considered websites operated by German based marketers/providers only. Nielsen Online provides data for international providers in February 2009 (German based marketers/providers shaded grey):

Property name	Unique clients per month	Reach/market coverage in %
Google	30,009	83.21
Microsoft	23,894	66.25
Ebay	20,319	56.34
Deutsche Telekom	16,181	44.87
United Internet	15,484	42.93
Bertelsmann	13,866	38.45
AOL	13,137	36.43
Wikimedia	12,892	35.75
Holtzbrinck Networks GmbH	12,262	34
Prosiebensat.1	11,995	33.26

Figure 4-15 Top Ten international based websites, Source: Nielsen Online 2009

A look at the ranking of domestic Internet marketers/providers shows a rather competitive market. Calculations by Nielsen and AGOF differ slightly due to dissimilar calculations of the universal set. The top German Internet providers/marketers enjoy market coverage ratios of around 40% per month (41m Germans are online on a regular basis). However, there are 15 companies that cover at least 25% of the market and the AGOF lists 61 marketers/providers that reach more than 500.000 people.

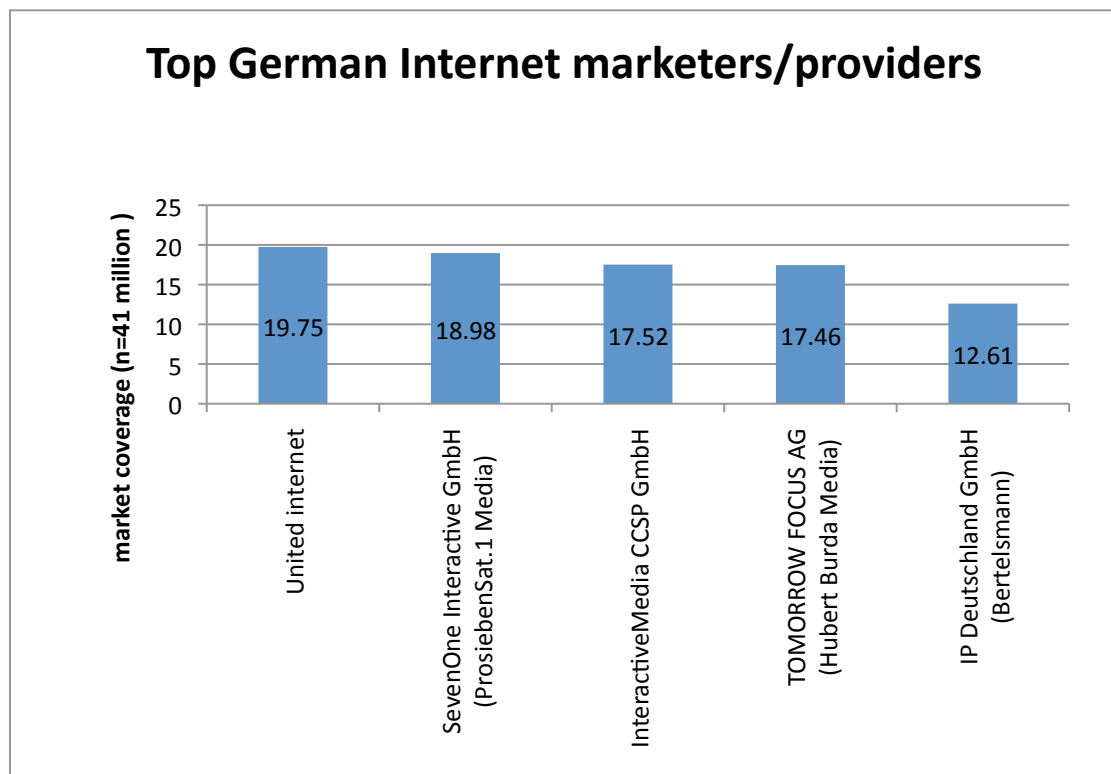


Figure 4-16 Top German internet marketers and providers, Source: AGOF 2008, company profiles

In case cross-media ownership is taken into account, it shows, that three of the five biggest Internet marketers/providers are “old media” giants that have successfully managed to broaden the scope of their operations. The other two players are ISPs.

4.3.2 United Kingdom

UK has mature national and regional newspaper markets, which have been subject to substantial consolidation in recent years. The broadcast media sector is dominated by the BBC, which remains a key player in the British TV and radio markets (Ward, 2004, p. 197).

4.3.2.1 Television

Television in the United Kingdom is a £11.2bn (€12.1bn) industry (Ofcom, 2008, p. 147). 26.8% of advertising expenditure is allocated to television, which makes up about one third of TV's overall revenue – public funds (23%) and subscriptions (38%) provide the greater part of other sources of revenue. At the moment there are 470 channels broadcasting in the UK, however, only five channels are available nationally on terrestrial and digital television, all of them have public service duties. Due to the high level of digitalised TV homes of 87.3%, nearly all UK channels are digital. Moreover, the UK has the largest Pay-TV market in Europe. Unlike in Germany, market shares of UK channels vary greatly depending on which platform of transmission is taken into account.

The five national channels, BBC1 and BBC2, ITV (Channel 3), Channel 4 and Five are commonly referred to as PBS – Public Broadcasting Stations. Together they control 60% of the overall television market. BBC1 and BBC2 are financed by license fees and are not allowed to broadcast advertisements at all. The remaining three PBS channels are commercially funded (with the exception of Channel 4), however programming minimums are specified for news, current affairs and educational programmes (Albarran & Chan-Olmsted, 1998, p. 103). ITV, a British version of the ARD3 concept in Germany, is a conglomerate of 15 operators, which are licensed to provide regional programmes, although eleven of them are owned by the parent company ITV plc. ITV plc has been subject to takeover rumours by Pay-TV market leader BSkyB, cable operator NTL and RTL/Bertelsmann (Oatts, 2006). In late 2008 BSkyB was ordered to reduce its 17.9% stake in ITV plc due to competition concerns. The Competition Commission reported that four other shareholders hold more than

3% in ITV. Channel 4 on the other hand is publicly owned while Five belongs to the Bertelsmann group. Both are national single services.

As of February 2009, the BBC channels accounted for 28.8% of the overall TV market share, while the other three operators add up to 30.9% (Broadcasters' Audience Research Board Ltd., 2009).

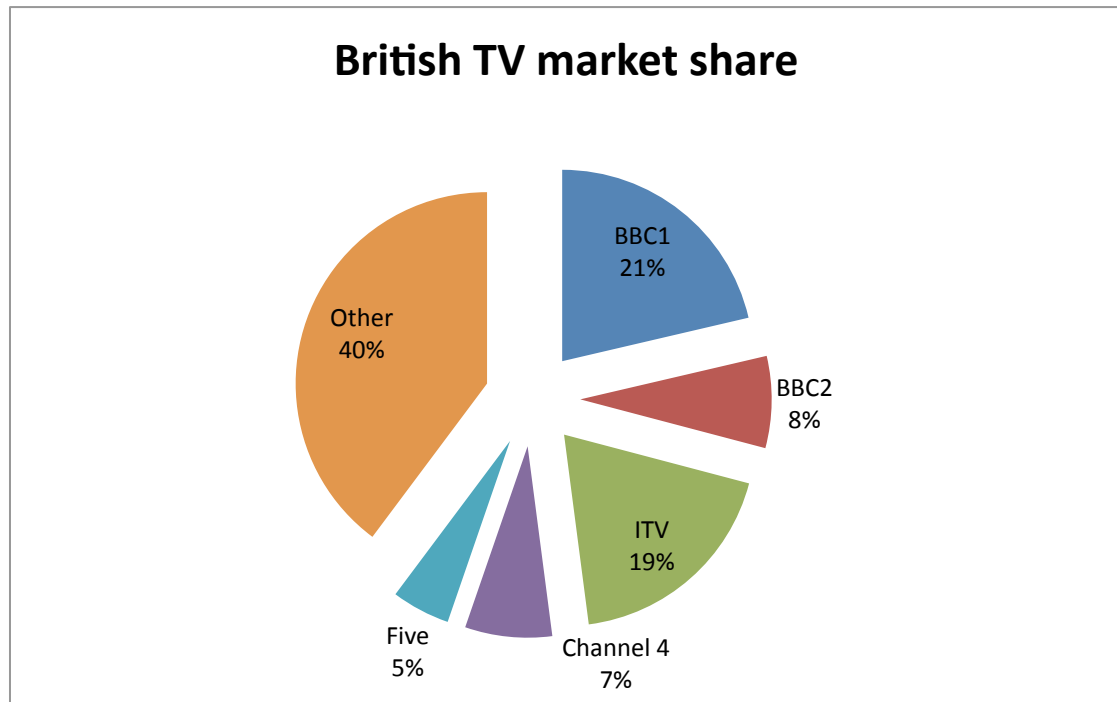


Figure 4-17 British TV market share, Source: BARB 2009

At the moment, only 13% of TV households use terrestrial analogue TV, where the PBS broadcasters have a joint market share of 100% due to lack of competition. The majority of British TV households use digital terrestrial television (DTT) (38%) and Digital Satellite TV (34%), which is dominated by Pay-TV.

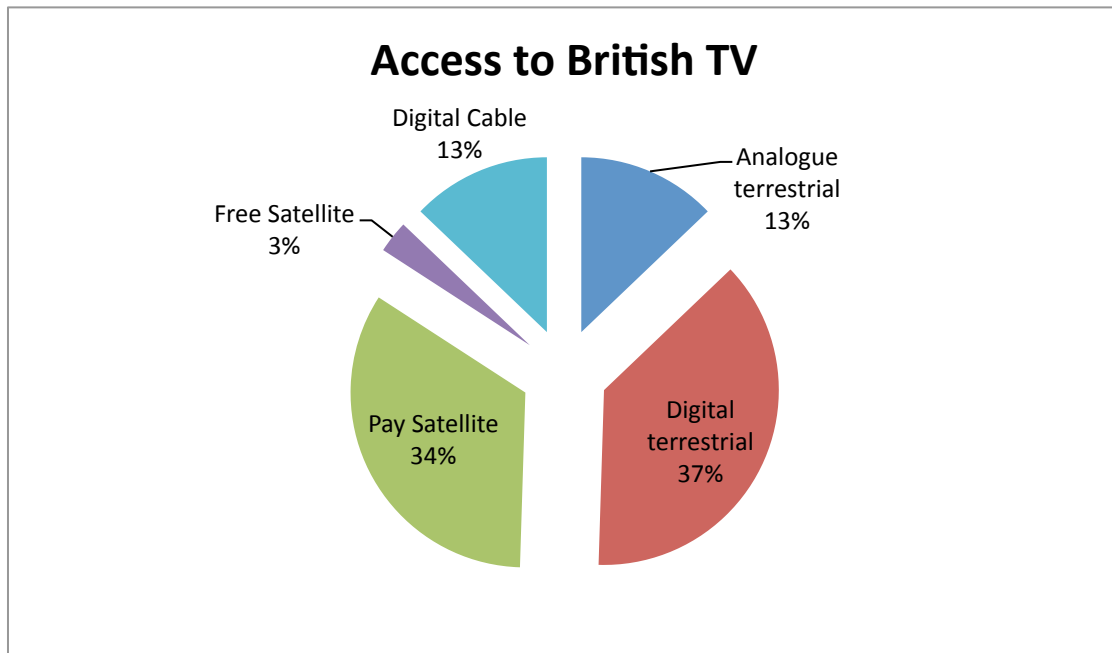


Figure 4-18 Access to British TV, Source: Ofcom Communications report 2008, p. 211

It is important to note, that these numbers refer to the main TV in a household.

Among all TV sets in the UK, the use of satellite TV is about 10% lower while analogue terrestrial transmission is up 10%.

With 87% of TV households equipped to receive digital television, PBS broadcasters are steadily losing ground in multichannel homes. As pointed out above, they control 100% of the analogue terrestrial market and 60% of the overall market. In satellite and cable homes however, PBS programmes account for 47% of the market. Their strongest competitor is BSkyB. Its portfolio already outperforms Five at 7.6% market share in multichannel homes (Ofcom, 2008, p. 222).

The dominating platform of transmission on DTT is Freeview. Apart from the PBS channels and some special interest channels associated with them, Freeview broadcasts entertainment, news and children's channels, as well as interactive channels and radio stations free of charge. Freeview is run by DTV Services Ltd., which is owned by five shareholders: BBC, BSkyB, ITV, Channel4 and National Grid Wireless/Arqiva (formerly known as NTL broadcast it belongs to a consortium led by Australian investment bank Macquarie). Freeview has no direct rivals on the DTT market since Top Up TV and Setanta offer Pay TV services only (Ofcom, 2007, p. 2).

BSkyB is the main player on the satellite market. BSkyB offers a wide range of Pay-TV Services (ie. Sky Sports, Sky Movies) and some free to air (FTA) programmes. BSkyB has 9m subscribers, which represents one third of total UK TV homes (26m). Sky's extraordinary performance was a crucial factor in making subscription the most important source of revenue (38% of total revenues) for television in the UK, even surpassing advertisement (32% of total revenues). Some of Sky's channels are also included in the Virgin Media cable TV portfolio. News Corp. currently owns 39% of BSkyB (Ofcom, 2007, p. 29)

Digital cable TV in the UK is provided by regional pay TV retailers. Virgin Media is the largest provider of cable TV serving about 47% of cable homes, with Smallworld and Wightcable the most important competitors (Ofcom, 2007, p. 2). Virgin Media emerged from a merger of ntl:Telewest with Virgin Mobile. Shortly after former rivals NTL and Telewest had joined forces to become the dominant player in cable TV, Virgin Mobile stepped in and an even bigger company was formed. This allowed Virgin Mobile to offer "quadruple" services (TV, Internet, fixed and mobile telephony), provided by one single vertically integrated company (Ofcom, 2007, p. 42). Virgin Media TV services can only be subscribed in package with a broadband or landline telephony service too. Virgin Media is owned by a variety of investors, the three biggest being Fidelity Management and Research LLC, a US based investment group (13.4%), Virgin Entertainment Investment Holdings Ltd. (10.4%) and Franklin Mutual Advisors LLC, another US-based investment firm (10%), (Virgin Media, 2009).

4.3.2.2 Radio

The British radio market is about one tenth the size of the TV market in terms of overall revenue. Radio's share of advertising expenditure is just 2.9%. There are 397 radio stations in the UK, most of them (336) are local commercial stations. There are only four national commercial stations, versus eleven nationwide BBC stations. Local BBC stations make up the remaining 46 (Ofcom, 2008, p. 243). The BBC's total share of audience is 57%. The biggest commercial operators of radio stations are Global Radio (15%) and Bauer Radio (10%).

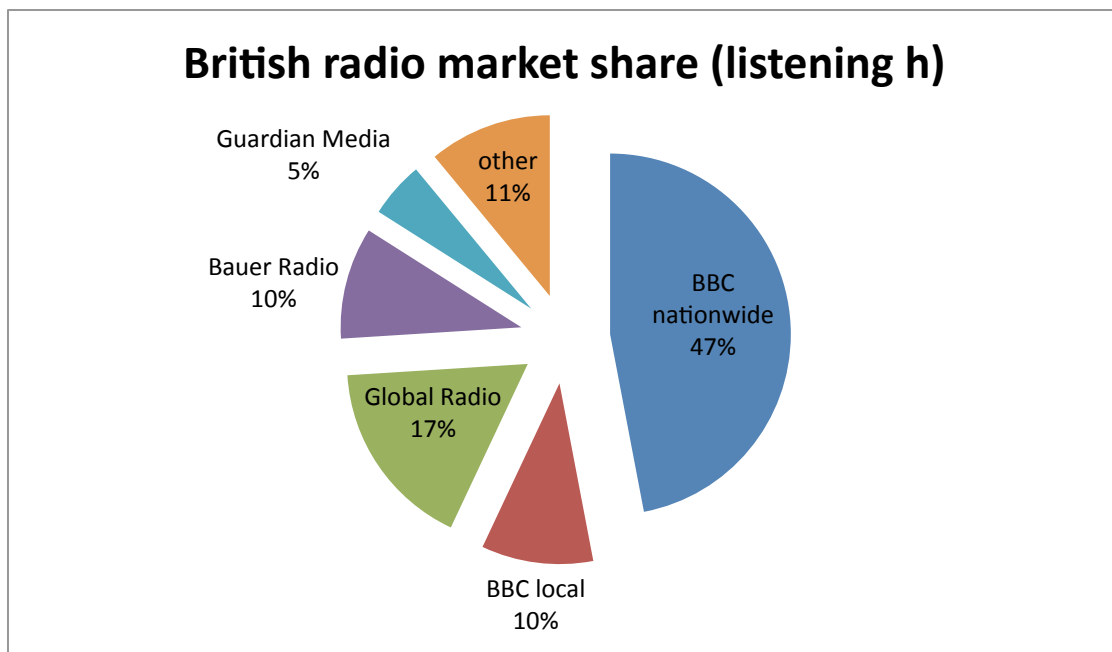


Figure 4-19 British radio market share, Source: Ofcom Communications report 2008, p. 253

The domination of publicly funded BBC stations in the share of listening hours leads to a domination of commercial leader Global Radio on the advertisement market. The group, which is owned by a consortium of Irish investors, controls approximately 44% of the ad market (Piasecka, 2008). The other major player is Bauer, a German company, which also holds shares in regional radio stations in northern Germany but is more renowned for its publishing activities. Interestingly, digital and online radio broadcasts make up almost 18% of the total UK radio audience (Ofcom, 2008, p. 238).

4.3.2.3 Written press

There are 30 national daily newspapers with an overall circulation of 22.5m copies. A striking feature of the British newspaper market is the high performance of Sunday papers. The Financial Times and The Evening Standard are the only national newspapers without a Sunday edition.

In addition to that, 668 British magazines distribute about 100m copies on a weekly or monthly basis. 46m of those copies are actively purchased.

In the first quarter of 2009 the top ten British daily newspapers (without Sunday papers) were (regional newspapers shaded grey):

Title	Publisher	Circulation (in 1,000)
The Sun	News International Ltd	2,954
The Daily Mail	Associated Newspapers Ltd	2,218
The Daily Mirror	Trinity Mirror plc	1,326
The Daily Telegraph	Telegraph Media Group Ltd.	822
The Daily Star	Express Newspapers	781
Daily Express	Express Newspapers	715
The Times	News International Ltd	608
Financial Times	Financial Times Ltd.	421
Daily Record	Trinity Mirror plc	349
The Guardian	Guardian Media Group	340

Figure 4-20 Top Ten British newspapers, Source: Audit Bureau of Circulations 2009

The British newspaper market is highly concentrated. The top four publishers control more than 80% of the newspaper market (including Sunday publications), with News International Ltd. (News Corp.) accounting for one third of the market share alone.

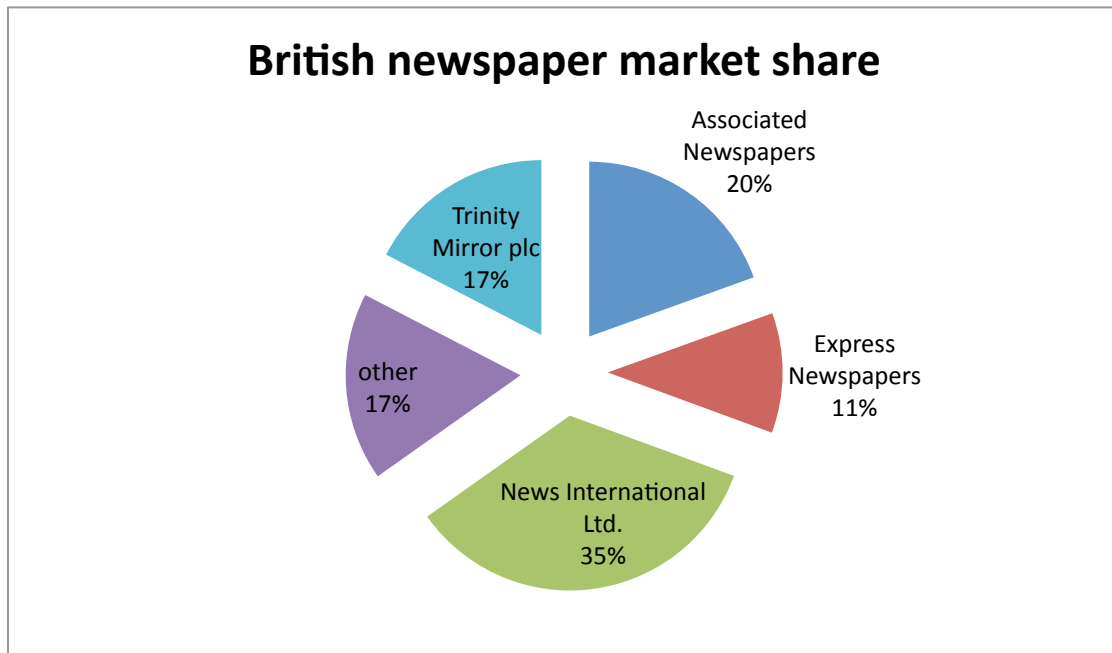


Figure 4-21 British newspaper market share, Source: own calculations based ABC 2009 data

Similar to the situation in Germany, the top four publishers' domination is all the more obvious if the market is divided into tabloid and quality papers. In the tabloid segment, the big four control 96% of the market. However, News International's share does not change significantly in comparison to the overall market, since they publish the quality market leader The Times. The growing importance of freesheet newspapers, in particular in metropolitan areas marks a significant trend of the UK newspaper market. There are currently four freesheet papers in London, two of which belong to the biggest publishers Associated Newspapers (London Lite) and News Corp. (The London Paper).

The consumer magazine market is not concentrated as intensely. However, the four largest publishers hold a joint market share of 46%. The two largest publishing groups are the German Bauer group (16.6% market share) and IPC Media (15.9%), a member of the US-based Time Warner conglomerate. Their smaller competitors are Nat Mags (National Magazine Company Ltd., 6.7%), which belongs to the old US media giant Hearst Communications and BBC Magazines, the commercial publishing subsidiary of the BBC (6.4%).

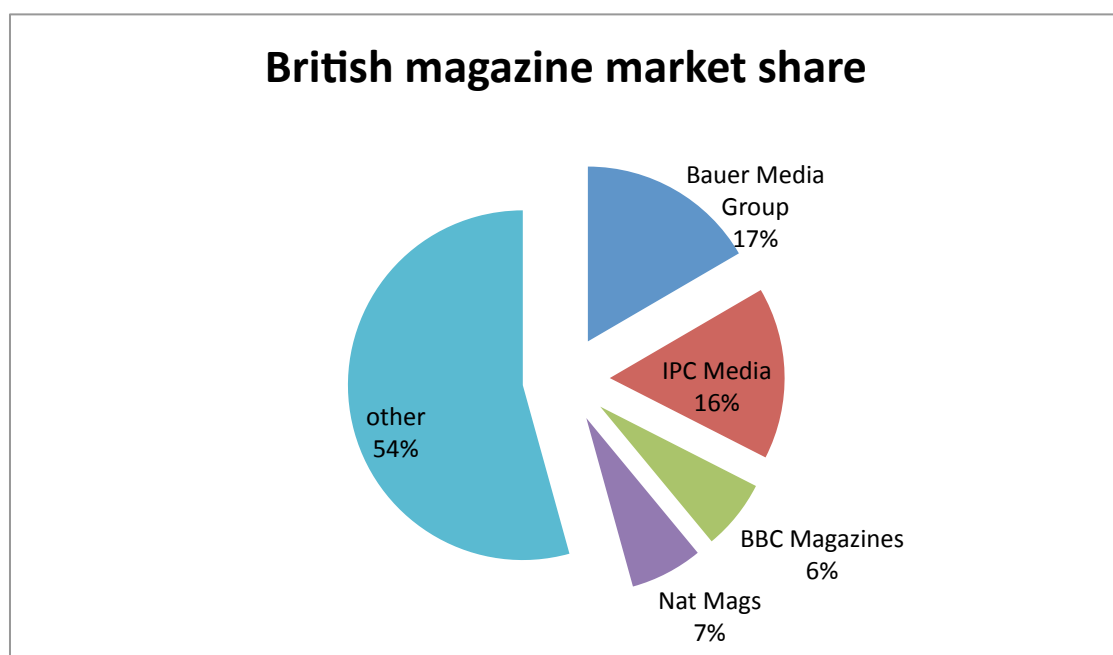


Figure 4-22 British magazine market share, Source: own calculations based on ABC 2009 data

Although there is no data available on the market share in the weekly/bi-weekly and the monthly segment, it is fairly safe to assume that the joint market share of the big publishers increases in proportion to decreasing publishing intervals, similar to German and French markets.

4.3.2.4 Online

In February 2009 the top ten providers/marketers in the United Kingdom according to Nielsen Online were (domestic players shaded grey):

Property name	Unique clients per month	Reach/market coverage in %
Google	24,251	87.08
Microsoft	22,090	79.32
BBC	14,601	52.43
Yahoo!	14,518	52.13
eBay	14,277	51.26

Facebook	13,630	48.94
Amazon	10,194	36.6
HM Government	8,665	31.11
AOL	8,628	30.98
Wikimedia Foundation	8,232	29.56

Figure 4-23 Top British internet marketers, Source: Nielsen Online 2009

The domination of US-based online services is striking. The ABCe, the online department of the Audit Bureau of Circulation published unique user clients rankings, which contradict heavily with Nielsen's figures because the ABCe measurement includes worldwide users outside of the UK.

According to the ABCe, guardian.co.uk, the Telegraph, Times online, Mail Online and The Sun online all managed to go beyond the 20m unique clients per month mark, with guardian.co.uk close to breaking 30m. Moreover The Independent and the Mirror Group reached 10m and 6m visitors respectively (Audit Bureau of Circulation electronic, 2009).

4.3.3 France

The French media sector is characterised by a strong regional press and highly competitive television and radio industries. Despite the emergence of Vivendi as a global player in the audiovisual industry, the French television market has been very stable, while the radio sector is one of the least concentrated in Europe (Ward, 2004, p. 43)

4.3.3.1 Television

Television accounts for 36% of media advertising expenditure which equals slightly more than €4bn (Conseil Supérieur de l'Audivisuel, 2009). Advertising is the principal source of funding for French television.

There are seven national channels of which four are public service broadcasters (France 2, France 3 France 5 and Arte) and one is a partially encrypted Pay-TV channel (Canal +). The remaining TF1 and M6 are commercially operated. These seven channels together hold 77% of the overall audience share. Of the remainder, 11% is accounted for by free to view channels available on the TNT digital terrestrial platform. Other special-interest channels make up 12%.

Among the national channels, TF1 is the clear market leader, accounting for 27.2% of the audience share. TF1's largest shareholder is Bougyes (43%), a large French industrial and telecom group. The remaining 57% are free floating shares. Second placed France 2 trails TF1 by nearly 10%. Together, public broadcasters control 35.5% of the market. State television receives license fees, government subsidies and is allowed to advertise in different proportions depending on each channel (Albarran & Chan-Olmsted, 1998, p. 189). While Canal + is owned by media conglomerate Vivendi, 44% of the shares and 33% of the voting rights of M6 belong to the RTL Group.

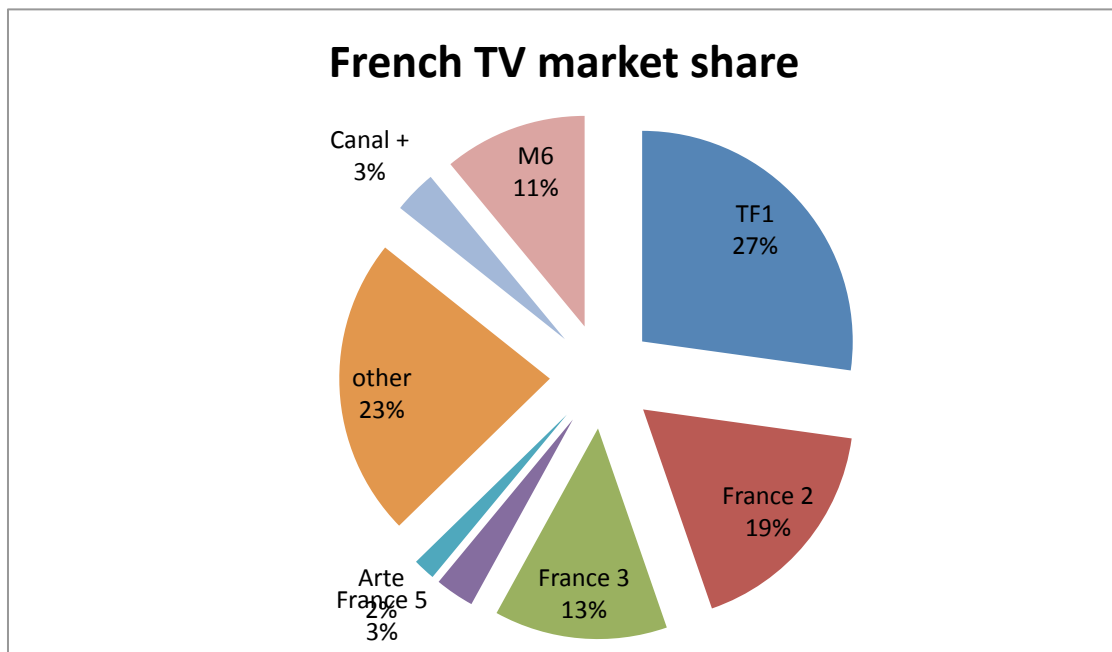


Figure 4-24 French TV market share, Source: Médiametrie 2008, p. 2

It has to be mentioned that on analogue terrestrial platforms, France 5 and Arte have a time-sharing agreement. France 5 broadcasts before 7pm, Arte afterwards. On digital TV, however, both are available 24 hours.

The overall French television audience is 57m people. 33% access TV through the Télévision Numérique Terrestre (TNT) platform, a digital terrestrial television platform, which is comparable to Freeview in the UK. The portfolio of channels carried on TNT is subject to selection by the CSA. At the moment 18 free to view channels and nine Pay-TV channels are broadcast on TNT (The pay channels are drawn from the most popular offerings of satellite and cable operators).

24% of the French television audience have access to subscription based satellite channels. There are two main operators of satellite Pay-TV. The dominant player is Nouveau Canalsat, owned by Vivendi (65%), publishing group Lagardère (20%) and commercial TV operators TF1 (9.9%) and M6 (5.1%), which carries the popular Canal+ portfolio. Canalsat's sole competitor is Bis Télévision, which is owned by the founder of its holding company AB Groupe, Claude Berda (66.5%) and TF1 (33.5%). (Médiametrie, 2008, p. 5).

Approximately 6% use subscription-based cable-services as a means of accessing TV. The only provider on the cable market is Numéricable, which is owned by British and

American private equity groups Cinven and Carlyle (both hold 35%) and fellow cable operator Altice (30%) based in Luxembourg.

20% still use analogue terrestrial transmission, while 16% use DSL based online services, offered by most telecom providers, including the Iliad Group (Alice, Free), Bouygues Télécom, SFR (controlled by Vivendi) and Orange.

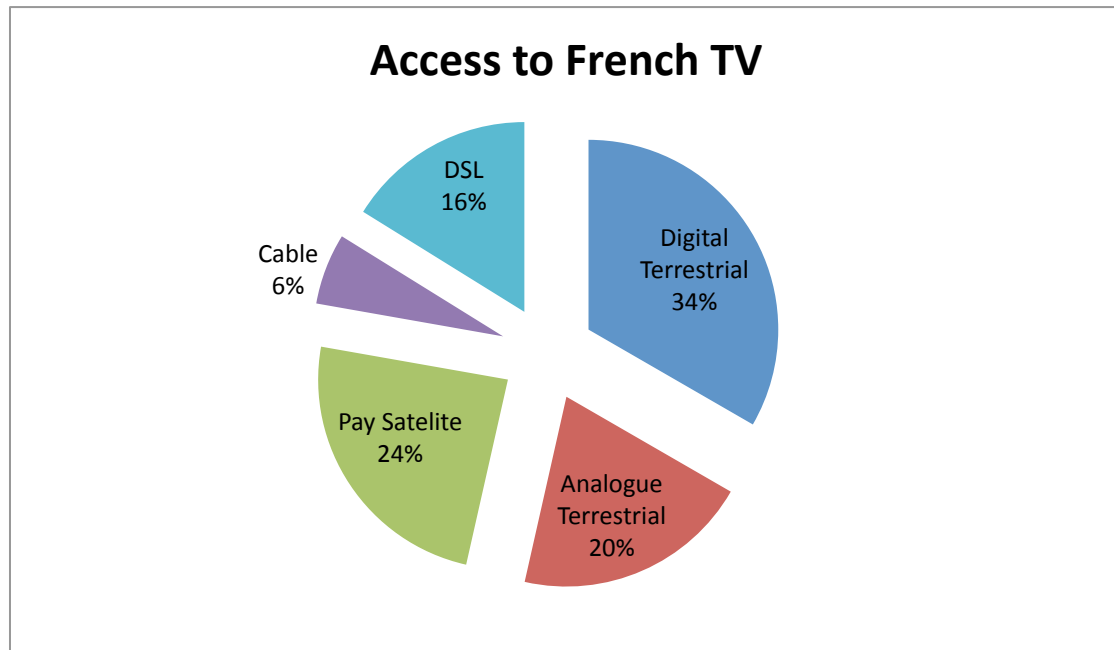


Figure 4-25 Access to French TV, Source: Médiametrie 2008, p. 5

4.3.3.2 Radio

Radio is a highly popular medium in France, More than 98% of the population own at least one receiver. After being state owned for nearly 40 years, radio was liberalized in the early 1982. Shortly afterwards, advertisement was authorized as a viable source of funding for private radio stations. Today radio receives about 7% of total media advertising (€ 0.7 billion). Public radio broadcaster France Radio carries a portfolio of general and special interest channels and attains a combined audience share of 21%. RTL is the largest commercial radio group and only slightly behind public radio in term of audience share (19.2%). Moreover RTL has the most popular radio station RTL radio, which 13% of the French population listens to regularly.

Other significant commercial operators are NRJ Group and Lagardère (Médiamétrie, 2008).

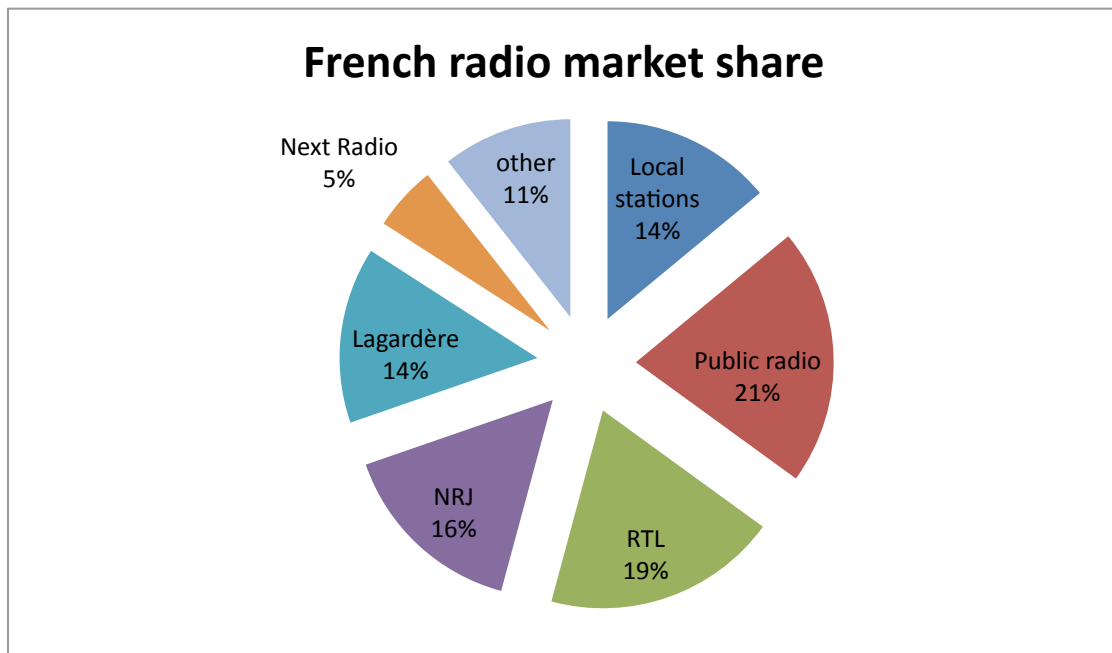


Figure 4-26 French radio market share, Source: Médiamétrie 2008

Together the four largest commercial operators attract more than half of the French radio audience (54.4%).

4.3.3.3 Written press

Compared to Germany or the UK, the French newspaper market is small and consists of ten national newspapers and 62 regional newspapers. The daily circulation of all French newspapers totals 8m per day, which is one third of Germany and half of the UK. This situation is sometimes attributed to the tight control exercised by the French workers' union Le Livre, which has set rigid working hours and strict protections for the production of printworks. This makes producing a newspaper in France more expensive than in other European countries (Chrisafis, 2008). Another striking feature of the market is the absence of a big daily tabloid newspaper. The biggest selling title is the regional newspaper Ouest France (OJD, 2008). In 2008 the top ten newspapers were (regional newspapers shaded grey):

Title	Publisher	Circulation (in 1.000)
Ouest France	Groupe Ouest France	772
Le Parisien/Aujourd'hui	Groupe Amaury	512
Le Figaro	Socpresse / Groupe Dassault	320
L'Equipe	Groupe Amaury	311
Sud Ouest	Groupe Sud Ouest (Lemoine)	308
Le Monde	Groupe La Vie-Le Monde	300
La Voix du Nord	Groupe La Voix du Nord	282
Le Dauphine Libéré	Groupe EBRA	239
Le Progres	Groupe EBRA	214
La Nouvelle Republique Centre Ouest	Groupe NRCO	208

Figure 4-27 Top Ten French newspapers, Source: OJD 2008

Due to the specific structure of the French newspaper market and the strong position of regional and local publishers, there is no dominating player on the newspaper market and the audience shares are more or less evenly distributed. The five biggest publishers account for slightly more than 50% of the newspaper market, none of them exceeds 15% market share.

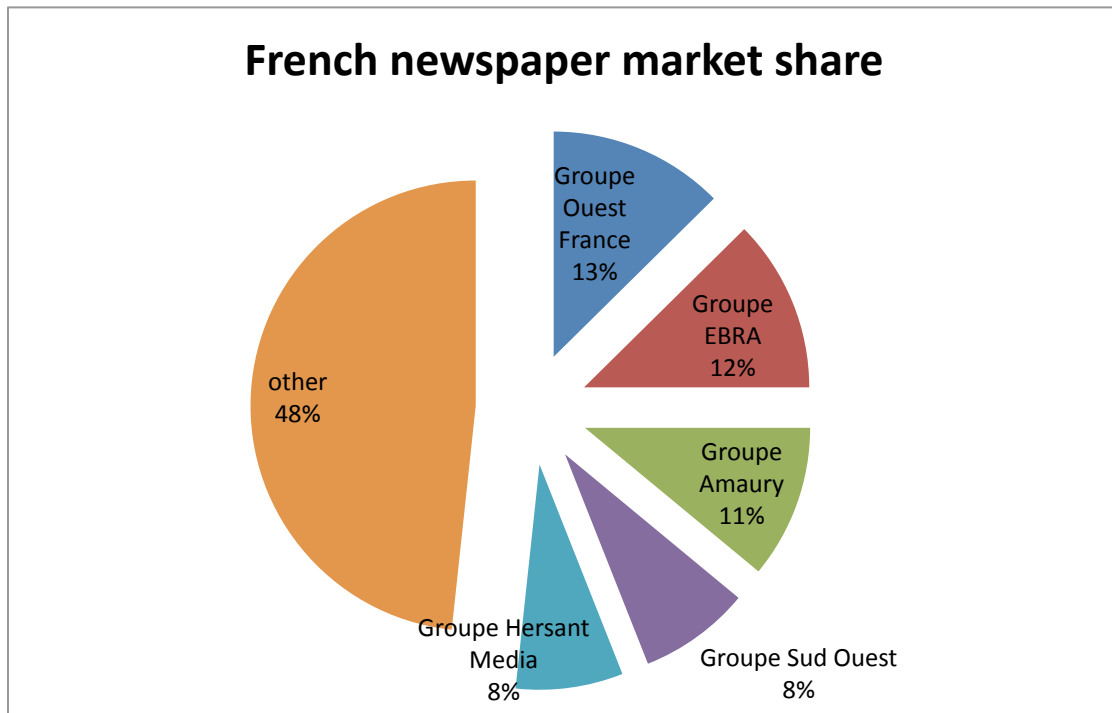


Figure 4-28 French newspaper market share, Source: own calculations

In contrast to the newspaper market, the French magazine market is one of the biggest in Europe. About 40m copies are actively purchased every week, five times as many as newspapers (OJD, 2008). Although there are no numbers available on market shares of the biggest publishers it is understood that Hachette Filipacci publishers (which belong to the Lagardère group) are undisputed market leaders, followed by the Prisma Group and Mondadori Group controlled by the Italian Fininvest, which belongs to Silvio Berlusconi. (Albarran & Chan-Olmsted, 1998, p. 188).

4.3.3.4 Online

In March 2009 the top ten French online content providers were (domestic players shaded grey):

Property name	Unique clients per month	Reach/market coverage in %
Google	25,445	84.98

Microsoft	24,718	82.55
France Telecom	18,077	60.37
Iliad	12,817	42.8
PagesJaunes	12,197	40.74
eBay	12,065	40.29
Yahoo!	11,979	40.01
Groupe TF1	11,582	38.68
Groupe Lagardere	11,572	38.65
Benchmark Group	11,277	37.66

Figure 4-29 Top ten internet marketers and providers, Source: Nielsen Online 2009

The OJD also publishes online rankings, however, no data on unique clients is available. According to the OJD, the web presence of the private radio station Skyrock, which belongs to the Orbus group owned by insurance company Axa, had by far the most visits per month in 2008 (OJD, 2008).

4.3.4 Europe

Due to structural and cultural reasons, (for example technical and linguistic barriers, see chapter 6) media markets have been strongly tied to nation states which is why there are only a few transnational European media companies (see Figure 9-1).

Government deregulation and convergence of media sectors, however, have facilitated the formation of pan-European corporations and have led to non-EU investors entering the European media markets. In particular Eastern European countries, many of which are still in a period of economic transition have been persistent targets for cross border investment.

The only real conglomerate, operating in all media sectors is the German-based Bertelsmann, the world's third largest media group with a revenue of more than €15bn, which owns Europe's biggest TV operator RTL and Europe's biggest publisher of magazines Gruner + Jahr. They have been active in a number of European countries, mainly in Germany and the UK.

The number two in Europe is French-based Vivendi group, which has taken convergence furthest and integrated film, music, mobile communication, publishing, theme parks and a range of non-media activities in their portfolio. However, only 42% of Vivendi's revenue of more than €20bn is accounted for by media operations.

Third ranked Groupe Lagardère is also based in France and mainly active in the publishing sector. Its revenue comes close to €14bn, 58% of which is accounted for by media activities.

The Council of Europe (2004) listed other considerable transnational media businesses:

- Publishers Springer, WAZ and Ringier from Germany and Switzerland have achieved influential positions on Central and Eastern European markets in the publishing and press segments respectively.
- Rupert Murdoch's News Corp., already active in the press and television markets of Australia, the US and the United Kingdom expanded to the Italian market and announced plans to acquire German pay TV operator Premiere

(see chapter 4.3.1.1)

- After merging with Scandinavian broadcasting Group SBS the German ProSiebenSat.1 Media holds interests across various European countries.
- CME (Central European Media Enterprises) owns several television stations in seven Central and Eastern European countries. In early 2009 US-based Time Warner, inc., the world's biggest media company, announced that it intends to acquire a stake of 31% in the company (Tomasova, 2009).

Overall the European media markets are still very much dominated by domestic players, with exceptions in some Eastern European countries. However, the real level of cross border investment is sometimes concealed by complex legal constructions which raises the need for transparency on this matter in order to assess the true extent of transnational media concentration.

5 Current regulations of media ownership

There are many ways in which society limits business practices for the sake of the public interest- from the broad institutionalization of labour laws in Europe in the mid 19th century to the international introduction of environmental laws at the beginning of the 20th century to newly established financial regulations in the wake the global economic crisis at the end of 2008, there is a long history of regulatory measures. Regardless of their business, companies have to operate within a dynamic framework of social and political constraints (Croteau & Hoynes, 2006). Regulations are based on the broad consensus on the concept on the possibility of market failure and the increasingly important idea that success of companies cannot be assessed solely by their profits, which means that other factors need to be incorporated in the evaluation in order to see “the bigger picture”. There is a variety of stakeholders who have an interest in the actions of a media company and particular the shape of the regulation it is faced with.



Figure 5-1 Stakeholders of media regulation, Source: own illustration

The interests of the various stakeholders are very heterogeneous. For example, journalist may be worried about their jobs, while politician want to have a strong ally in a campaign and competitors seek to gain market share at the expense of other media businesses. To unite all these different interests within one regulatory framework (spanning across different nations in case of the EU) is very difficult and requires considerable compromises. The concept of media governance (see chapter 5.3) provides theoretical background on this issue.

In this paper I will focus on legal methods of regulation carried out by national and international authorities. They may choose between different tools of regulation such as rules and regulations, public ownership, expenditure (subsidies) and taxation (Lipsey & Chrystal, 1995, p. 425). Lipsey and Chrystal call interventions to prevent firms from engaging in anti-competitive practices such as colluding or merging unnecessarily the *“least stringent form of government regulation”*, as opposed to fixing particular prices or defining the conditions of entry and exit to a market. Laws and other instruments that are used to encourage competition and discourage monopoly practices make up competition policy and are used to influence both the market structure and the behaviour of firms (Lipsey & Chrystal, 1995). Antitrust measures, regulations of ownership and limits on the exertion of market power are some of these constraints to be analysed more closely in this chapter.

In academic literature, the majority of assessments of the impact of concentration of media ownership focus exclusively on economic aspects. Some authors (for example Compaine, 2000) defend this approach for two main reasons. One is the alignment with methods of evaluation used by current antitrust legislation which is combined with the persistent view that historically, antitrust law is bound to embody socio-political values in addition to the mere restriction of monopolistic pricing power (Baker, 2007, p. 65). Secondly an economic approach employs “criteria that are relatively identifiable, quantified and validated” (Compaine, 2000, p. 555). This provides a quick overview of the number and strength of forces at play in a given market.

For others (for example Baker 2007) the assumption, that competition law provides appropriate measurement (and remedy) for media concentration is wrong, since the mere act of preventing an *“entity from amassing sufficient economic power [...] is certainly a legitimate goal by itself but is has no necessary correspondence to avoiding an objectionable distribution of influence over public opinion”* (Baker, 2007, p. 56) which would constitute a threat to media pluralism. Therefore, they call for a multi-value approach, which also includes relevant socio-political concerns.³⁵

³⁵ Knoche adds that an exclusive focus on economic aspects further establishes the role of communications sciences as a mere documentor of company rankings. In effect more and more researches keep to describing the symptoms of the problem rather than analysing the causes and consequences (Knoche, 1996, p. 103).

5.1 National regulations

5.1.1 Legislation in Germany

Germany has protected the freedom of the press in the second sentence of Art 5 Par 1 GG in its constitution. This legitimizes legislators to confine business interests from threatening media pluralism and obliges them to consider the nature of media upon regulating competition (Bundesministerium für Justiz, 2004, p. 38). However, the German Federal Constitutional Court BVerfGE has repeatedly prodded to the reciprocation between market competition and pluralism. German law differentiates between print media and broadcast media. The federal cartel law Gesetz gegen Wettbewerbsbeschränkungen (GWB) with its special provisions for media companies applies to both. Additionally, broadcast media have to comply with the Rundfunkstaatsvertrag (RStV), which establishes further limits on market power. The scarcity of frequencies and the high set up costs of broadcast media were two arguments to justify the necessity of treating broadcast media differently and to apply tighter regulation than for print media. More importantly however, the BVerfGE has clearly stated the need for precautionary measures in order to protect broadcast media from any effects of market failure, since a basic supply of information and other content has to be guaranteed regardless of economic constraints (KEK, 2000, p. 49). Due to the coexistence of public and private broadcasters, the BVerfGE regards special regulation for broadcast media not as an infringement in the freedom of the press but as a necessary measure to guarantee this freedom (Lehrke, 2006, p. 173).

5.1.1.1 Competition law

Mergers are regulated in §§35-41 GWB. The law defines a merger in §37 GWB as any acquisition of assets, control over of rights or contracts or shares exceeding 50% of the capital or 25% of the capital and the voting rights. The law will also be applied to any attempts to avoid and bypass the legal definition of a merger (i.e. acquiring

24.9%) while gaining the same factual power. Government approval has to be given for mergers of companies with combined worldwide turnover exceeding 500m Euro and combined domestic turnover exceeding 25m and 5m Euro. In case both conditions are fulfilled approval will only be granted when the Federal Monopolies Commission according to §36 Par 1 GWB decides that the new entity has no potential of market dominance or the companies prove that the benefits to competition resulting from the merger outweigh the ills of market dominance. Market dominance is defined in §19 GWB which contains a variety of horizontal and vertical criteria to be applied depending on the individual case, such as market share, access to supply markets, ability to erect barriers of entry, level of competition. The relevant market is defined by the nature of goods produced or traded and by geographical factors. For media companies (producers and distributors of newspapers, magazines and broadcasted content, as well as sellers of airtime for advertisement), §38 Par 3 codifies much lower levels of turnover in order to constitute the necessity of government approval. Exceeding one twentieth of the turnover limit of other industries is sufficient, which means the barriers for media companies are worldwide turnover of €25m and domestic turnover of €1.25m.

The regulation of the GWB is viewed as effective by German policy makers, however big publishing groups such as Axel Springer, Bauer and Holtzbrinck have repeatedly pushed for a lift of the strict regulation for the sake of competitiveness of the German press in the wake of globalisation. Some Bundesländer have suggested the introduction of measures in order to strengthen the pluralism of opinions within media companies, the majority of which have not proved practicable yet (Bundesministerium für Justiz, 2004, p. 53).

5.1.1.2 Law for broadcast media

For historical reasons broadcasting regulation falls under the authority of the Bundesländer which have agreed on a multilateral contract to address the legal issues surrounding broadcast media. The safeguarding of pluralism is regulated in §§25-34 RStV. An independent regulatory authority (KEK) and the assembly of the

media authorities of the Bundesländer (KDLM) are in charge of monitoring concentration of broadcast media and taking action if necessary. Private broadcasters need to be licensed and are obliged to adequately consider the most important political and ideological forces in the country in their programmes. The number of programme-licences for a company is unlimited unless it attains a dominant influence over the expression of opinions. Having a dominant influence is defined as

- reaching more than 30% of viewers³⁶ in one year or
- reaching 25% of viewers in one year whilst holding a dominant market position in a related market or
- taking all other relevant activities into account, achieving a status similar to reaching 30% of viewers.

Programmes of other companies of which 25% or more shares are held, or significant control similar to that can be exercised are attributed directly.

The third point is crucial, since the achievement of a dominant position may be realized well below the 30% mark through means of vertical integration and the creation of barriers of entry (KEK, 2000, p. 56). For example in 2005 the KEK prohibited Axel Springer from taking over ProSiebenSat.1 Media because, although the new group would effectively not cross the 25% audience share mark on the television market, its dominant influence on the press would hand it the same influence on public opinion as a media group with a 42% TV audience share.

The RStV does not prohibit any legally specified cross media concentration activities but will consider other media markets, which are related to television. Related markets may be advertisement, radio, print media, rights distribution, production, online-media or else. Ultimately, upon evaluation of a related market, the BVerfGE ruled that comparable features with regard to influencing and shaping opinions be assessed. These comparable features include suggestive power, mass appeal and up-

³⁶ In some cases a dominant influence may be achieved at a lower mark, however, the KDLM has defined a 28% audience share as the lowest level at which a dominant influence may effectively be realized and the regulation of the broadcasting act may be applied (KEK, 2000 p.58)

to-dateness. The average time spent on consumption is not relevant in this matter, since the mode of consumption differs heavily between various types of media (press, radio, TV) in terms of attention, activity and effort. Whether a dominant position in any of these related markets is achieved is assessed through the criteria of §19 GWB outlined above. It is essential to differentiate between the *relevant* market with regard to the evaluation whether a dominant position has been established and the *related* market with regard to the nature of media goods and services.

Interestingly, the RStV not only prohibits external growth such as mergers and acquisitions but also internal growth, in case a company exceeds the mark of 30% audience share. If no agreement between the regulator and the company can be achieved to address such a situation the state media authority in charge may take away as many programmes as necessary to revoke the dominant influence.

5.1.2 Legislation in the United Kingdom

The constitutional foundation of press freedom and media-related regulation in the UK is different from other European countries due to the British tradition of common law. Common law refers to a legal system, which is based on decisions of courts rather than written statutes. Britain does not have a codified constitution but has safeguarded the freedom of opinion, information and press in the Civil Liberties. However, these are not legally binding for the UK legislators, who – de iure – could defy them anytime³⁷. Yet, due to the UK's integration in the legal framework of the EU, British legislation has to comply with EC and EU treaties and is subject to rulings of the European Court of Justice. Moreover, the UK is signatory to the ECHR and has included, among most other provisions, the freedom of expression in Section 12 of the Human Rights Act 1998.

In 2003 the UK introduced a revised and liberalized legal framework to address concentration of media ownership. At that time the government sought to retain a tough stance on joint ownership of newspapers and mass appeal public television stations while relaxing most other rules in order to attain “healthy competition” through deregulation (Ofcom, 2006, p. 9). Instead of specified limits for media mergers, more authority was handed to the Competition Commission. According to a regulatory assessment by Ofcom, the overall aim was to promote plurality of news sources rather than diversity of media entities (Ofcom, 2006, p. 6). However, due to the absence of a generally accepted way to measure viewpoint plurality, ownership plurality was retained as the best applicable proxy.

There are currently four main pieces of legislation governing the regulation of media ownership in the UK:

³⁷ This stems from the traditional way the unwritten English constitution was understood to operate. The freedom of individual action is presumed not to be based on ideas of positive human rights but on negative liberties – subjects are entitled to do whatever is not forbidden by law. This notion turned out to be particularly problematic when linked with the sovereignty of Parliament, which in effect would be free to restrict individual liberties any time by passing the necessary legislation (Slapper & Kelly, 1999 p.23)

- the Communications Act 2003, which has established statutory duties regarding the safeguarding of media pluralism for the regulatory authority Ofcom and updated some provisions of
- the Broadcasting Act 1990, which stipulates restrictions on eligibility for holding a broadcast licence
- the Enterprise Act 2002 which applies to general competition issues and allows the Secretary of State to order a public interest test for media mergers
- the Media Ownership Order 2003, which introduced a point system to address ownership of local radio stations

Every three years the Ofcom is required to revise the rules on media ownership and report to the Secretary of State, giving recommendations whether to amend or repeal certain measures of regulation. Ofcom was established as a body corporate by the Office of Communications Act 2002. It is the regulator for the UK communications industries, with responsibilities spanning across television, radio, telecommunications and wireless communications services.

5.1.2.1 Competition Law

Mergers are regulated in Part 3 of the Enterprise Act 2002. The law requires the Office of Fair Trade (OFT) to make a reference to the Competition Commission if, according to Section 23 (1), two or more enterprises have ceased to be distinct enterprises (i.e. they are brought under common ownership or control) and the value of the turnover in the United Kingdom of the enterprise being taken over exceeds £70m (€80m) or the newly formed enterprise controls at least 25% of the relevant market. There are exceptions if the merger is not of sufficient importance to justify the making of a reference or the consumer benefits (lower prices, better quality, greater choice) outweigh the substantial lessening of competition. The Secretary of State, however, has the power to give an intervention notice to the OFT and order a public interest consideration (Section 42 (2)) and subsequently, refer the case to the Competition Commission even if the legal thresholds of Section 23 would not be met. The public interest consideration would require a consultation of Ofcom and an assessment of the accurate presentation of news, the free expression of opinion and the plurality of views.

The law is generally applied to all media mergers. In the past, due to specific provisions for broadcast media it was mostly applied to newspaper mergers, none of which were prohibited.

Prior to 2003 all newspaper mergers were subject to a public interest test (under the Fair Trade Act 1978). Due to the de minimis rules of Section 23 in place now, the test will be conducted for larger mergers only.

5.1.2.2 *Laws for broadcast media*

Schedule 2 of the Broadcasting Act 1990 names a range of institutions, which are disqualified from holding a broadcast licence in the first place.

Generally disqualified are

- local authorities
- political organisations
- the BBC (which obtains its licence under a different legal provision)
- the Welsh Authority;
- advertising agencies
- persons who are subject to undue influence by a disqualified person such as to act against the public interest.

Disqualified for certain broadcast licences (particularly national radio and Channel 3 and Channel 5 licences) are

- religious bodies
- publicly funded bodies, which receive more than 50% of funding from the public
- BBC and Channel 4 / S4C subsidiaries
- national public telecommunications operators with annual turnover in excess of £2bn

Those who are eligible to hold a broadcasting licence have to comply with a set of cross ownership restrictions. Most notably, Par 1 of Schedule 14 of the Communications Act stipulates that no proprietor of a national newspaper, which

has a market share of 20% (measured by circulation), may obtain a Channel 3 (one of 15 regional ITV stations) TV license. The same applies in case a regional newspaper reaches the 20% threshold in the coverage area. Holding shares in a body corporate that obtained a Channel 3 license is permitted for these newspaper proprietors only up to a 20% limit. Similarly, the holder of a Channel 3 licence may not acquire an interest of 20% or more in a body corporate running one or more national newspapers with an aggregate market share of 20% or more, or in a body corporate running one or more regional newspapers reaching the same threshold in the coverage area.

Section 9 of the Media Ownership Order 2003 specifies another cross media ownership prohibition. No person may hold a local radio licence and a local Channel 3 TV licence while being a dominant local newspaper (50% market share or more in the coverage area of the radio licence) provider in the same area. Whether a newspaper is to be considered national or regional is determined by Ofcom.

The Channel 3 license holders are also obliged to appoint an Appointed News Provider (ANP), which provides national news on all ITV broadcasting stations and has to be independent from the BBC. The justification for this obligation is that ITV, as the largest commercial television channel, has an especially important role to play in ensuring plurality in the provision of news (Ofcom, 2006, p. 24). It is important to note that the same restrictions apply in respect of the Channel 3 appointed news provider as for holders of Channel 3 licences, as set out in Schedule 14 of the Communications Act 2003.

For radio broadcasters other, more complex rules apply depending upon whether the licence is an analogue or digital licence and, in the case of digital licences, whether it is a multiplex³⁸ or a sound programme service licence.

The Media Ownership Order 2003 introduced a points system to be applied prospectively in order to measure the influence on public opinion of overlapping

³⁸ a multiplex refers to a system where multiple audio streams are combined by means of compression which allows consumers to automatically tune to all the available stations, choosing from a list of all stations

radio broadcasters. Section 8 provides an example:

<i>Description of licence</i>	<i>Number of points</i>
The licence in question	4 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes 75% or more of the potential audience of the service in question	4 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes at least 25% of, but less than 75% of, the potential audience of the service in question	2 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes at least 5% of, but less than 25% of, the potential audience of the service in question	1 point

Figure 5-2 UK radio ownership points system, Source: Media Ownership Order 2003

Under this system a person who holds at least two local radio licenses may not be permitted to obtain another one if that would move his share of the total points available in the region past the 55% mark. The mark is lowered to 45% in case the holder would be a person who is the dominant local newspaper provider, or the holder of a local Channel 3 television licence, regardless of whether he owns the other overlapping radio stations or not.

Comparable rules apply for local digital sound programme services (DSPS) and multiplexes. The basic rule states that no person may provide an additional DSPS in case he already holds hold more than four licences on a relevant multiplex or an overlapping multiplex and, as a result of the additional DSPS licence he would hold more than 55% of the total points in the relevant area.

Central to the new legislation was the underlying concept of three media voices in each area. Whether this concept is applicable for very small regional markets or the allowance of synergies of local news providers might induce better service without constituting a threat for plurality remains to be seen. In its latest consultation in 2006 Ofcom proposed no changes to the regulations.

Non-national restrictions on media ownership, particularly the distinction between European and non-European ownership were dropped in 2003.

5.1.3 Legislation in France

The French constitution does not contain a bill of rights, which means there is no codified right to freedom of expression, opinion and press. In its rulings on media concentration, the French Supreme Court Conseil Constitutionnel has therefore resorted to Art 11 of the Déclaration des droits de l'homme et du citoyen de 1789 which is mentioned in the preamble of the French constitution.

Art 11 reads: *“La libre communication des pensées et des opinions est un des droits les plus précieux de l’Homme: tout Citoyen peut donc parler, écrire, imprimer librement, sauf à répondre de l’abus de cette liberté, dans les cas déterminés par la Loi.”*

The Conseil Constitutionnel interprets this ruling as to also embody freedom of dissemination of content by media institutions (Holznagel, 1996, p. 106). In a decision regarding audiovisual communication the Conseil Constitutionnel has adjudged that one of the duties of the legislator with respect to Art 11 is to protect and guarantee the plurality of opinions (Loi sur la communication audiovisuelle, 1982), which later on was defined as requiring a holistic approach to regulation beyond the audiovisual media sector (KEK, 2000, p. 398).

There are three pieces of legislation governing the regulation of media ownership.

- The Loi n° 2001-420 du 15 mai 2001 relative aux nouvelles régulations économiques (NRE) of the commercial code, which lays out general regulations for competition but does not include specific provisions for media and is therefore rarely applied to media mergers
- The Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication (LLC) which defines a complex set of rules restricting ownership based on share of capital or voting rights of a media institutions rather than market share of the institutions (contrary to Germany and UK).
- The Loi n°86-897 du 1 août 1986 portant réforme du régime juridique de la presse which regulates media ownership of the press

5.1.3.1 Competition law

Under the presumption of Art L430-1 of the commercial code a concentration is deemed to arise under French law when two or more previously independent undertakings merge or one or more persons already holding control of at least one undertaking acquire control of all or part of one or more other undertakings, directly or indirectly, whether by the acquisition of a holding in the capital or by purchasing assets, a contract or any other means. The acquisition of control may be constituted by rights, contracts or else and is defined as any course of action leading to a situation which confers all the possibility of exercising decisive influence on an enterprise. A legal definition is provided by Art L233-3.

In case the merger constitutes a

- combined aggregate worldwide turnover of all of the companies or of all of the natural persons or legal entities involved in the merger greater than €150m or a
- combined aggregate turnover achieved in France by at least two of the companies or groups of natural persons or legal entities concerned greater than €50m

the Ministry of Economy has to be notified prior to completion of the merger according to Art L431-3. Failure to do so may lead to a substantial financial penalty of up to 5% of the annual turnover. If the Ministry considers the merger to adversely affect competition, the matter has to be referred to the Council on Competition for an opinion. The Council may then propose specific measures in order to remedy adverse effects on competition.

5.1.3.2 Laws for print and broadcast media

For print media, Art 11 of the Loi n°86-897 du 1 août 1986 prohibits any person, group or body corporate from obtaining control over a general interest national daily newspaper in case this would hand the person, group or body corporate control of over 30% or more of the total circulation of French general interest daily newspapers. Art 7 of the same law prohibits foreigners from obtaining more than

20% of shares or voting rights of a media company involved in publishing French language content. Foreign in this context refers to non-EU nationalities since the law is subject to the international commitments undertaken by France in order to ensure conformity with EC treaties.

According to Paraschos (1998) there are two justifications for this rule. Firstly a fear of dilution of cultural values under powerful foreign ownership, secondly the opportunity to increase the chances of survival of failing newspapers and thus maintain pluralism, which is why the French government has been subsidizing daily newspapers since 1974 (Paraschos, 1998, p. 188)³⁹.

The regulation of ownership for broadcast media differs according to the platform of transmission. It is important to note that according to Art 29 LLC a licence may only be awarded to a body corporate (*société*) in the form of a company, a foundation or an association. Art 39 Par 1 LLC provides that no shareholder must hold more than 49% of capital shares or voting rights in a *société* authorized for a national terrestrial broadcast service if the average annual audience exceeds 2.5% of the total television audience, which effectively requires a minimum of three shareholders for larger TV-stations. A maximum of 50% of shares or voting rights is permitted for regional terrestrial TV stations (servicing between 200,000 and 6m people). Shareholders who hold more than 15% in a *société* that holds a national terrestrial licence are prohibited from holding more than 15% in another national licence holding *société*. Similarly, shareholders who hold more than 5% in two such societies are prohibited from obtaining more than 5% of a third one. Similarly to Art 7 of the loi n°86-897 du 1 août 1986 no foreign national may make a purchase that directly or indirectly causes the share of capital owned by foreigners to exceed 20% of the share capital or voting rights of a company that holds an authorisation terrestrial broadcasting service provided in the French language⁴⁰.

On top of that, according to Art 41 Par 1 LLC no one may hold two authorisations each for a terrestrial national television service broadcast or simultaneously hold

³⁹ In fact, in early 2009, the government announced a €600m financial aid plan for the newspaper industry, which includes free distribution of newspaper copies to the nation's 18-year olds for one year (Chrisafis, 2009).

⁴⁰ It is in dispute whether this limit also applies to cable operators

authorisation for a terrestrial national television service broadcast and an authorisation for a service of the same kind other than a national service (a service is considered national if it potentially reaches more than 6m people). Concerning radio, Art 41 Par 1 provides that a physical or legal person may only hold as many terrestrial radio licences as the total recorded audience in the areas serviced does not exceed 150m people.

For satellite broadcasters the rules are slightly different. A physical or legal person may hold up to two licenses. However, Art 39 Par 2 LLC provides that shareholders are allowed to hold up to 50% of an authorized société. In case they hold more than one third of capital shares or voting rights they are prohibited from obtaining more than one third in another société. If they own more than 5% in two societies they are prohibited from obtaining more than 5% of a third one.

Cable licences are not subject to any limitations. However, Art 41 Par 6 LLC provides that it is prohibited to obtain a new authorisation for a cable station if the total recorded population of the areas serviced exceeds 8m people.

In Addition to the provisions for monomedia, there are a range of cross media ownership restrictions, which are referred to as two out of four rule, since, according to Art 41 LLC no national television authorization (analogue or digital) must be issued to a company which would in effect hold more than two out of the following four positions:

- Be a holder of one or more authorisations for television services broadcast by terrestrial radio link that allows servicing of areas whose recorded population stands at four million people;
- Be a holder of one or more authorisation for radio broadcasting services that allows servicing of areas whose recorded population stands at thirty million people;
- Be a holder of one or more authorisations for the operation of networks that distribute radio and television broadcasting services by cable that allow servicing of areas whose recorded population stands at six million people;
- Produce or control one or more daily printed publications of political and general information representing more than 20% of the total circulation on

the national territory of printed daily publications of the same kind, considered over the last twelve months known prior to the date on which the application for authorisation was submitted.

Similar provisions apply on a local level. No regional television authorization must be issued to a company which would in effect hold more than two out of the following four positions:

- Be a holder of one or more authorisations for television services, whether national or not, broadcast by terrestrial radio link in the area in question;
- Be a holder of one or more authorisations for radio broadcasting services, whether national or not, whose total potential audience in the area in question exceeds 10 percent of the total potential audiences in the same area of all public or authorised services of the same kind;
- Be a holder of one or more authorisations for the operation of networks that distribute radio and television broadcasting services by cable within said area;
- Produce or control one or more daily printed publications of political and general information, whether national or not, circulated in said area.

The LLC established the Conseil supérieur de l'audiovisuel (CSA) as an independent body of regulation, which, among other duties, has the responsibility to monitor the development of media ownership in France and to safeguard media pluralism.

5.2 Legislation by the European Union

5.2.1 Existing legislation

Due to the principle of subsidiarity, the legislative power of the EU is limited. The EU can only act on issues assigned to the Communities. Art 5 EC Treaty (consolidated version, formerly Art 3b) stipulates:

“The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein. In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community”.

Currently no competence regarding the introduction of a limit of media ownership in order to ensure the safeguarding of pluralism has been assigned to the EU. There is one provision under Art 151 EC Treaty which states that *„The Community shall contribute to the flowering of the culture of the Member States [...]. [It] shall take cultural aspects into account in its actions under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.”* However: Art 151 Par 5 explicitly excludes any *harmonization* of laws in Member States and is limited to *incentive measures*.

In nearly the same words in Art III-181 of the Constitutional Treaty, the Union should take cultural aspects into account in its action under other provisions of the Constitution, in particular in order to respect and promote the diversity of its cultures. This means that the Union should for example take media pluralism into consideration when it is about to apply EU competition law to the media sector. However, no complementary competence has been conferred to the Union (Council of Europe, 2004, p. 16).

Although EU competition law does not include any media related provisions it contributes to securing competition in the European market, albeit only from an economic/market point of view. Mergers and acquisitions of media companies or companies in any other industry are treated equally. Art 81 and 82 EC Treaty both provide general principles regarding the appliance of competition law, prohibiting collusions and the exploitation of dominant market positions. However, these Articles did not permit a systematic and holistic approach to competition, which is why the Commission introduced the Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentration between undertakings to make the Articles of the EC Treaty applicable to mergers of “*community dimension*”.

Community dimension is considered to be (European Commission, 2005):

- the combined aggregate worldwide turnover of all the companies is more than €5bn and
- the aggregate Community-wide turnover of each of at least two of the companies is more than €250m, unless each of the companies achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State.

Any merger that does not meet these thresholds nevertheless has a Community dimension where:

- the combined aggregate worldwide turnover of all the companies is more than €2.5bn and
- in each of at least three Member States, the combined aggregate turnover of all the companies is more than €100m and
- in each of at least three Member States, the aggregate turnover of each of at least two of the companies is more than €25m and;
- the aggregate Community-wide turnover of each of at least two of the companies is more than €100m; unless each of the companies achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State.

Mergers with a Community dimension must be notified to the Commission not more than one week after the agreement. It then may decide to initiate proceedings, ask

the companies involved to make adjustments and changes to the deal or declare the merger compatible with the common market (European Commission, 2005).

Art 21 Par 4 of the merger regulation allows Member States to take appropriate measures to protect legitimate interests in cases of mergers of community dimension. The plurality of the media is explicitly mentioned as being a legitimate interest. So far there has only been one case where this principle has been applied (Newspaper Publishing, 1994).

Some improvements were made in the follow up Council Regulation (EC) No 139/2004 of 20 January 2004 which came into effect shortly after the enlargement of the EU and due to increased complexity of industrial concentration; it adopted the principle of subsidiarity, whereby a merger is examined by the judicial authority best placed to do so.

The criteria which mergers must be notified to the Commission remained the same in the 2004 regulation, which means that internal growth such as setting up a subsidiary even beyond the limits defined by the merger regulation are not covered.

Based on the merger regulation, the DG Competition has decided on a large number of media related mergers (DG Competition, 2009), most of them have been declared compatible with the internal market according to Art 6 Par 1 lit b of the merger regulation. However, five major cases so far have been dismissed, all of them between 1994 and 2000: the German regulatory authority KEK acclaimed that as a *"contribution to the indirect protection of media pluralism"* (KEK, 2000, p. 75). The five cases were

- The foundation of MSG Media Service by Bertelsmann and Deutsche Telekom (MSG Media Service, 1994)
- A joint venture by Norsk Telekom and Tele Danmark (Nordic Satellite Distribution, 1995)
- Holland, Media Group, a joint venture between RTL, Veronica and Endemol (RTL/Veronica/Endemol, 1996)
- The acquisition of Premiere by CLT-UFA (Bertelsmann) and Taurus (Kirch) (Bertelsmann/Kirch/Premiere, 1998)

- The acquisition of BetaResearch by Beta Technik and Deutsche Telekom (Deutsche Telekom/BetaResearch, 1998)

Regarding the definition of the relevant market, the Commission has repeatedly applied the criterion of a possible substitution of services and goods from a consumer's point of view. With regard to the television market this means the commission focuses primarily on the advertising market, it considers the position of a television broadcaster on the viewer market singly as an indicator of the advertising power due to the lack of economic exchange between broadcasters and viewers⁴¹ (KEK, 2000, p. 78). In general the Commission has attempted to abide by a rather narrow definition of the market, which bears the risk of failing to capture cross media concentration. However, vertical integration of media companies, which spreads across different markets, has been considered in the Bertelsmann/CLT Case (Bertelsmann/CLT, 1996). By and large the European Commission has considered that threats to pluralism, arising as a consequence of large media companies extending their activity in other States, would not raise competition concerns at the EU level because, being in different national markets, the media companies would not be considered to have a dominant position (Council of Europe, 2004, p. 16). Therefore it remains doubtful, whether EU competition law is sufficiently dealing with the threats to pluralism which cross-country and cross-ownership consolidation of sources of opinion could pose.

In addition to competition regulations there are specific provisions for broadcast media in the Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, commonly referred to as the Television without Frontiers Directive. This directive laid down a minimum standard, which all European broadcasters have to comply with. It has been improved and updated in 1997 and was finally amended into the Audiovisual Media Services Directive in 2007 which is due to be implemented in the national law

⁴¹ "Attention" is not regarded as adequately quantifiable in economic monetary terms

of the Member States by the end of 2009. Art 19 lit b of the Television without Frontiers Directive allows Member States to lay down stricter rules for broadcasters to take account of “the protection of pluralism of information and of the media”. In addition, several provisions of the directive actively promote pluralism: the aim of Art 4, 5 and 6 is to facilitate the circulation of audiovisual works from other countries and to support independent producers (European Commission, 2005, p. 3).

In the Audiovisual Media Services Directive the Commission also requires the Member States to choose appropriate instruments to transpose and implement the legislation with consideration given to the promotion of media pluralism.

Moreover, the EU introduced a regulatory framework for electronic communications (Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services), which comprises a series of legal texts and associated measures that apply throughout the EU Member States, promoting competition in order to achieve economic efficiency in the interests of users. The framework supports media pluralism in two ways:

- Firstly through access remedies, which limits the market power of those who control access to networks or associated facilities.
- Secondly through safeguards to ensure basic user interests that would not be guaranteed by market forces, for example must-carry rules (European Commission, 2005, p. 4).

Overall the Commission has been active on media ownership mostly through calling on the Member States to consider the issue in their national frameworks. Due to the limits of its legislative power it may not go beyond that stage unless it is legitimized to do so by a resolution of the Member States, which, however, are unwilling to hand away competence on that matter.

5.2.2 Proposals

In the early 1990s there were several attempts to intervene on the issue of concentration of media ownership. Following the ratification of the first Television without Frontiers directive in 1989 (which required that at least half of the programming of broadcasters be of European origin) the European Parliament put out two resolutions and two working papers between 1990 and 1992 addressing this issue. Moreover, the Council of Europe expressed concern over media concentration in resolution 1 of the third European Ministerial Conference on Mass Media Policy in 1991. Although they recognized the positive role, mergers play in enabling media to compete in national and international markets, they found the pace of concentration to be prejudicial to freedom of information and pluralism of opinion (Paraschos, 1998, p. 182). They called on the Council to monitor the development of transnational media concentration and the problems this phenomenon might raise for smaller European countries.

In response, the European Commission released its first Green Paper on Pluralism and Media Concentration in 1992 (Harcourt, 1998). The Green Paper proposed the option of a harmonization of national regulations, with respect to the principle of proportionality laid out in the EC Treaty. It based this proposal either on

- a directive legitimated by Art 57 Par 2 of the EC Treaty, which provides that *"[...] the Council shall issue directives for the co-ordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking up and pursuit of activities as self-employed persons."* or
- a regulation, legitimated by Art 100a of the EC Treaty, which provides that *"[...] the Council shall [...] after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishing and functioning of the internal market."*

This means that media concentration would not be addressed for the sake of media

pluralism but rather in order ensure a functioning internal market – there would have been not competence to harmonize national legislations otherwise.

The harmonization would focus solely on national, media specific anti-concentration rules in order to firstly facilitate access to media activities and secondly guarantee plurality of media controllers. In effect the Member States would be unable to grant any licences, authorizations or concession to media companies in case the harmonized conditions were not met (European Commission, 1992, p. 107). The Green paper proposed two variants, one focusing on broadcast media and cross media activities (comparable to Germany), the other one also including monomedia press activities on top of that (comparable to France).

The Commission put three options up for discussion (European Commission, 1992, p. 9) without issuing any preference:

- I. taking no action in case the situation is assessed as not to justify community action
- II. proposing a recommendation to enhance transparency. The Commission considered that more transparency of media ownership and control could facilitate the task of national regulators and serve to create solidarity between authorities of Member States. This action would be completely independent from any harmonization.
- III. proposing a harmonization of national restrictions of media ownership by directive, regulation or either of the two in conjunction with a independent committee in the form of a European media council comprised of representatives from the independent regulatory authorities of each Member States (which would have to be set up in case they do not exist).

The underlying problem of the Green Paper with regard to the safeguarding of pluralism was that it defined the mass media as part of the services industries, which accordingly subjected it to regulation by the European Union organs in charge of ensuring against economic concentration. Under this premise, the EU's intervention on media ownership was effectively always going to be restricted to simply promoting efficiency in the domestic markets. Contrary to the EU Parliament's

resolution⁴², which precipitated the Green Paper and which clearly stressed that *“restrictions on concentration are essential in the media sector, not only for economic reasons but also, and above all, as a means of guaranteeing a variety of information and freedom of the press”*, pluralism was not the focus since it was primarily regarded by the Commission as a matter for the Member States. The Commission stated that *“there would not appear to be any need for action at community level, since national mechanisms for protecting pluralism can be applied to situations with a community dimension”* (European Commission, 1992, p. 7). The Commission would only propose to take action insofar as national regulations would lead to any interference within the area without frontiers and the establishment of the internal market provided by Art 7a of the EC Treaty. This would include limiting the number of media controllers, which may have indirect positive effects on media pluralism. Ultimately however, pluralism cannot be conflated with competition policy (see chapter 4.2.1).

In its introductory statement to the Green Paper, the Commission made clear that it viewed the many divergent laws and regulations concerning media ownership in place in the EU Member States as a probable danger to competition in the internal market.

Several, potentially harmful scenarios were outlined (European Commission, 1992, p. 8):

- A member state could possibly restrict the free movement of broadcasts in the event of genuine circumvention of one of these laws [i.e. a broadcaster operates from a neighbour country in order to bypass stricter legislation in the country he is servicing]
- The establishment of media companies in another member state could be limited
- Restrictions and distortions of competition are introduced
- Uncertainty in the law, harmful to the competitiveness of companies, could

⁴² see Resolution on Media Takeovers and Mergers, OJ C 68/137-138, 15 February 1990

result from diverging views on what constitutes circumvention

- Such laws limit access to the activities and to the ownership of the media, when access should be facilitated so as to permit the establishment of a single market and secure the competitiveness of the media companies which pluralism requires.

In his consultation on the Green Paper Iosifides (1997) has identified two other objectives besides the establishment of a single European market which appear to stand behind the approach proposed back then, namely to raise the international competitiveness of European media companies and to facilitate the formation of a European audio-visual policy to create a European audio-visual space⁴³ (Iosifides, 1997, p. 94). Both objectives are impeded by a range of divergent national restrictions.

The publication of the Green Book was followed by a wide-ranging consultation which lasted more than one year, with seventy organisations submitting written statements – one factor that contributed to the difficulty of finding consensus on this issue. Option III was supported by both, the European Parliament and the Economic and Social Committee, which advocated EU wide specific limits on media ownership both within one country and on a transnational level with other Union countries (Paraschos, 1998, p. 198). Most Member States and the media industry⁴⁴ on the other hand favoured option I. No agreement was in sight, which is why in 1994 the Commission submitted a Communication to the Council, which called for further consultations on the matter.

The Parliament, however, continued to call on the Commission to issue a directive. After many consultations, in 1997, the Commission submitted a new text and drafted a directive titled “Media Ownership”, which suggested a change in the future goal of regulation by introducing the *“flexibility clause, that would enable the Member*

⁴³ see Bundesministerium für Justiz, 2004 p. 183 for further elaboration on this issue in conjunction with Art 6 EU Treaty

⁴⁴ The proprietors were particularly wary of taking a position without knowing the exact content of the regulations in advance (Iosifides, 1997, p. 95)

States to individually set the thresholds of concentration,” (Harcourt, 1998).

However, this draft⁴⁵ was later changed to a non-binding recommendation (KEK, 2000, p. 80). The idea was to define an EU wide standard of a “media controller”, which according to the consultation would have required to change the enterprise ownership rules of many Member States, since there is not a common approach to company ownership across Europe (Watson-Brown, 2008). Moreover, the level of transnational media activity was not considered sufficient to justify Community action.

Recently, a number of initiatives with reference to economic concentration and media pluralism have been taken by the EU, among them the 2004 White paper of the European Commission on services of general interest by the Commission and several reports and resolution by the European Parliament

The Council of Europe recognized that in the Commission’s approach towards addressing media ownership the status quo had been effectively preserved, since EC competition law continued to be the main tool for EU intervention. However the law takes into account non-economic factors only to a very limited extent, which makes it insufficient to deal with the threats to pluralism which cross- country and cross-ownership consolidation of sources of opinion could pose (Council of Europe, 2004, p. 18)

In early 2007 this status quo appeared to change, which to large parts is owed to a new pragmatic approach by Commissioners Viviane Reding and Margot Wallström. Upon the presentation of the Reding-Wallström-approach, Reding was quoted as stating that

“While the media face radical changes and restructuring due to new technology and global competition, maintaining media pluralism is crucial for the democratic process

⁴⁵ The draft appeared to be modelled after the German regulation as it prohibited broadcast media from obtaining further licences once they controlled 30% of the relevant market. A similar rule was introduced for the press with the mark set at 10% (KEK, 2000, p. 81)

in the Member States and in the European Union as a whole (European Commission, 2007).

The new approach contains three steps and is to be implemented by the Task Force for Co-ordination of Media Affairs in the DG Information Society and Media:

1 The Commission prepares a working paper on media pluralism, which outlines efforts to promote pluralism by third parties and organisations and has a basic first survey of Member States' audiovisual and print media markets.

2 An independent study on media pluralism in EU Member States is conducted in order to define and test concrete and objective indicators for assessing media pluralism in the EU Member States.

3 The Commission issues a communication on indicators for media pluralism in EU Member States, to be followed by a broad public consultation.

This new approach, which is not solely focused on the functioning of the internal market but on developing a framework in order to assess and evaluate the condition of media pluralism in each member state comes much closer to meeting the calls for effective measures to guarantee media pluralism by the European Parliament and the Council of Europe in the 90s. The approach follows suggestions made by at the Liverpool Audiovisual Conference in 2005 where a Study conducted by the European Institute for the Media on behalf of the European Parliament was presented. This study found that due to the variety of approaches to ensuring media pluralism and the differing measures to assess influence on the market (circulation, audience share, number of licences, capital shares, voting rights, advertising revenue, involvement in a certain number of media sectors) *"it is difficult to propose any kind of harmonization of rules between the EU Member States. The systems have developed alongside and partly in response to the national markets, which in each country have specific characteristics"* (The European Institute for the Media, 2004, p. 222).

Reding justified the new approach as being required by the challenges of media convergence, which as Just & Latzer (2000) have found, may first and foremost lead to problems regarding the definition of the relevant market within national borders,

partly due to growing co-opetition in the media sector (Just & Latzer, 2000, p. 404). This facilitates the erosion of national restrictions and strengthens the call for regulatory measures beyond member state level.

At the moment, step two of the Commission's action plan is approaching completion. In June 2009 a preliminary draft was published, asking stakeholders for feedback to be amended in the final report. Step three is proposed to be completed by 2010. That means it might take some years before any legislation, whether on Community or member state level on this matter comes into effect. The question is whether this is already too late, since consolidation between old media conglomerates and new media institutions has already started to unfold. As of now it also remains unclear whether the next Commission starting its term in autumn 2009 will pursue the issue of safeguarding media pluralism on a European level with the same approach and the same intensity.

5.3 Media Governance

While there is no institutional definition for media governance, Donges (2007) champions the view that it is composed of elements of regulation, controlling, coordination and cooperation and its main goal is the collective settlement of societal issues on all levels of institutional hierarchy. There is no consensus among the disciplines of social science as to how this goal should be achieved. In this paper I will follow the suggestions made from a politics and policies point of view which centre around the argument that the government when it comes to regulation and control of society and media, is joined by a range of non-governmental organisations in a multi-layer system of coordination (manifested for example by the process of wide-range consultations of Commission proposals). When put to work properly, media governance should thus encourage citizens to actively take part in the process of regulation and control of media.⁴⁶

Therefore, (media) governance can be defined as a guideline of analysing complex structures of collective action, as new stakeholders join the process of policy making (Donges, 2007). Particularly given increasing levels of media concentration and media power, media governance thus serves as a means of democratisation because the very nature of governance is that multiple stakeholders with differing preferences take part in the process. Donges points out that preferences, in this context, do not refer to maximization of utility only, but also includes values and ideas (Donges, 2007, p. 20)

Examples of media governance put into practice are mostly found in a content related context: Self-regulation (i.e. the German Press Council) and co-regulation (i.e. the Office of Communication in the UK) are well known examples of this approach.

⁴⁶ Schedler & Proeller (2006) have given the participation of citizens in public administration a lot of thought, albeit in a more general, quality of service-related way. The concept of new public management builds on individual responsibility based on a positive and optimistic idea of man which derives from the assumption that problem solving capacities, judgement, imagination and responsibility are not limited to elites but are an innate feature of most people who usually do not need external rewards to perform at their best.

In terms of concentration of ownership there are no effective governance models in place in Europe. National discussions aside, some institutions such as the European Parliament, the Trade Unions, the Economic and Social Committee and Academics and Consumer Platforms have addressed media concentration and its possible threat to pluralism and have repeatedly issued their concern. Despite that, no institutionalized discourse has formed although the Commission's report on the indicators of pluralism is set to stimulate public discussion decisively.

Interestingly, Donges raises the question whether the European Union has to be seen as one single stakeholder of media policy. In his view it is a conglomerate of stakeholders with widely differing interests – cultural vs. economical (Donges, 2007, p. 17). From this point of view it has to be discussed whether the EU has to speak with one voice in this matter, or if it is capable of conducting action on the basis of multilateral consensus. With the Green Paper in 1992 this approach has not produced any agreement (Iosifides, 1997), it remains to be seen whether the consultation process following the study on the indicators of pluralism will be more successful.

6 Necessity and of supranational regulations

For a long time media concentration in Europe was clearly restricted to Member States. The Council of Europe (2004) has identified a number of reasons for this:

- lacking substitutability of cultural products due to linguistic and cultural barriers
- lacking flexibility of advertisements (tailored to national markets)
- high set up costs or lack of available broadcasting licences due to technical limitations
- strong positions of domestic public broadcasters
- government regulations
- sufficient possibility for growth within domestic market

These factors contributed to cementing the role of Member States as legal authorities on this matter, which was very reasonable as long as media sectors were systematically separated by technology. However, due to recent technological developments and convergence media businesses can no longer be seen as autonomous entities with “one teleological line of actions” (Watson-Brown, 2008). Media content has grown increasingly undistinguishable with regard to different platforms (i.e. websites of newspapers compared to websites of TV-stations). With new, digital forms of broadcasting, regulatory measures based for example on the concept of scarcity of frequencies within one single nation seem obsolete.

Newspapers, which formerly were very expensive to produce have become increasingly commodified (rising freesheet circulation) and in some markets are merely receding assets. Moreover, national markets are becoming saturated, and legal stipulations limit growth or mergers at a national level (Malzanini, 2007). At the same time, due to the establishment of the internal market, media sectors have been deregulated and liberalized. Authorities have permitted foreign players to span their operations across multiple nations (Council of Europe, 2004, p. 7).

Furthermore, the last couple of years have brought tendencies of homogenisation of

content at a European level, across different cultural regions. Programmes such as "Big Brother", "Who wants to be a millionaire" and "X-Factor" (Malzanini, Media Concentrations in Europe, 2007) and advertisement campaigns such as Heineken (in partnership with the UEFA Champion's League) or Nespresso are prominent examples.

As my economic analyses in chapter 4.1.2 has shown, most of the aforementioned developments strongly promote transnational concentration from the view of profit maximizing media companies. For some, due to an increasingly outdated business model, consolidation is a means of surviving, for others it constitutes an opportunity to stay on top. However, the empirical evidence that transnational media concentration is about to rise continuously is not convincing (see chapter 4.3.4), yet a steady trend particularly in Eastern Europe is apparent.

If it is assumed that transnational concentration will rise, the question is whether the current regulations by the EU and the Member States, some of which were designed for a different media landscape, are sufficient to deal with the challenges this poses regarding media pluralism.

This question needs to be evaluated on different levels:

6.1 Transnational level

Besides the fact that the Community does not have any legislative competence to address issues of media pluralism on Community level in case this does not constitute an infringement on the provisions of EC competition law, media pluralism according to Malzanini (2008) and Kleist (2006) may only be at risk within a given and sufficiently specified area of communication. While this is certainly true for nations and in some cases even language areas, it is highly doubtful whether the multinational and multilingual EU constitutes such an area and whether there is a European public sphere of a Habermasian conception, which may be under threat. Malzanini does not perceive a "*subject of protection*" with regard to media pluralism on a European level (Malzanini, 2008). Neither does Kleist, who points out that, while there has been a steady progression of economic integration, the EU has maintained its cultural heterogeneity (Kleist, 2006, p. 11). The TV shows, which are

broadcasted in different languages but in the same format throughout Europe mentioned above, are a first step towards content homogenisation. Pan-European broadcasters such as Eurosport and Euronews (which is financed by the Commission) already go one step further. However, not one of these broadcasters attracts more than a niche audience or is in any other way in a position to influence public opinion in Europe.

Even without the existence of a European public sphere some authors have pointed to the risk that powerful owners of media conglomerates may utilize their various media outlets to push certain political agendas, which reflect their personal views, through different formats all over Europe (Baker, 2007). Empirically, however, there is no proof to this claim, which remains a “gut-feeling” (Malzanini, 2008). Moreover, under the presumption of the neoclassical theory of the firm it appears unlikely that media companies would favour agenda-setting over profit-maximization unless these goals happen to coincide or the former yields other economic benefits relevant to the company. This presumption is supported by the ongoing commercialization of media discussed in chapter 4.1.2.6, which is much more likely to lead to a de-politisation of media consumers as media producers focus on the mass appeal of their content rather than on the public value it holds. This problem, however, is not necessarily linked to media ownership. Rather, it represents a distinct structural feature of today’s media landscape, which needs to be addressed and closely scrutinized by media impact studies.

To sum it up: Due to the

- lack of legislative competence
- absence of a European public sphere

supranational measures of media ownership regulations in the EU are not workable.

6.2 Member State level

If there is no need to take action on a European level, what about Member States which have not yet introduced legislation in order to safeguard media pluralism or which have very lenient regulations?

The underlying theory of many authors advocating a harmonization of media ownership rules is that if every Member State has the same rules governing media pluralism, or at least sets the same ceilings on media ownership, this would effectively prevent media conglomerates from attaining a position, which would allow them to exercise a dominant influence on public opinion.

However, my economic and legal analyses have shown that a harmonization of media ownership regulations is not feasible, even despite an ongoing transformation of the European media markets.

This is due to a number of factors:

The EU does not have any legislative competence to regulate media ownership solely for the purpose of protecting media pluralism. Under the provisions of the EC Treaty the Community is bound to act only upon matters, which have been explicitly conferred on it. At the moment this does not include taking regulatory measures to protect the diversity of opinions. The 1992 Green Paper had been prepared by the DG Internal Market and aimed at ensuring a functioning internal market. Even though the aim was different from what is proposed in the research question of this paper, the consultation following the publication of the Green Paper revealed the whole variety of stakeholders at play in this matter and the full extent of how far their opinions diverge. The European Parliament on the one side called for transnational regulation, while the Member States did not want to change the existing rules, unwilling to give away their own legislative competence on this matter.

Apart from being legally and politically unacceptable a harmonization would pose a range of practical problems. In chapter 4.3 I have shown that at least among the tripartite countries, there are certain similarities in the market structure of the media sector. Strong public service broadcasters face private competition

predominantly from a few powerful groups of TV and radio channels, while highly concentrated national newspaper markets are counterbalanced by diverse regional print media landscapes. The key online players are mostly associated with established old media companies or based in the US.

While the market structures may suggest a harmonization is attainable, Chapter 5.1 has then provided an overview of the differences in the regulatory approaches to these market structures. This made clear that the regulatory models which include⁴⁷

- different regulatory competencies⁴⁸
- different measures of regulation (general competition law, audience share model, cross-ownership regulation)
- different treatment of non-domestic licensees
- and other regulatory trends, influenced by national economic interests

are too divergent to be harmonized.

Moreover there is no concise and generally accepted definition to media pluralism yet. Any evaluation of the level of media pluralism is very much tied to the conditions of the relevant market. The establishment of Sky Italia for example has certainly benefited media pluralism Italy, which is one of the most concentrated media markets in Europe while at the same time serving to increase the market share of a transnational European media player (Watson-Brown, 2008).

Furthermore a harmonization of media ownership could be used as a tool of protecting underperforming “old media” companies from the emergence of new forms of media. Legal regulations however, should not preserve old structures but should rather support an ongoing process of transformation, which will most certainly include changes in the structure of media ownership and some amount of consolidation. For Croteau & Hoynes, the rapid growth in media outlets, the constant shifts in consumer tastes, and the ever-changing terrain of the industry itself make any apparent domination of the industry by a few companies an illusion.

⁴⁷ See Grünwald, H. (2005) for an elaboration on the diverse forms of media ownership regulation

⁴⁸ In Germany for example, broadcasting regulation are a legislative competence of the Bundesländer – the German federation could not pledge them to comply with any European legislation

“No one can control such a vast and constantly evolving industry” (Croteau & Hoynes, 2006).

In its study on the indicators of pluralism the Commission acknowledges this fact by adopting a risk-based approach focusing on the question to what extent the transformation may be allowed to unfold (Watson-Brown, 2008). They intend to do so by focusing in internal pluralism and on media output, rather than on diversity of media ownership. This approach also seems much more applicable for Member States, which are too small to develop economically viable indigenous media players since a harmonized set of rules that works for Germany may effectively erode the media market in Lithuania.

To sum it up: Due to a

- lack of legislative competence
- lack of political will
- lack of a concise definition of media pluralism
- diverging national regulations
- diverging market sizes
- a possible obstruction of structural transformation

a harmonization of media ownership regulations in the EU is not workable.

7 Conclusion

In this paper I have shown that despite considerable changes in the European media landscape an approach to safeguarding media pluralism based on supranational measures and a harmonization of national restriction as proposed by the Commission in the early 1990's is still not applicable at present day. Even though the specific economic characteristics of media promote consolidation in the current period of structural transformation from a paradigm of technologically separated media sectors to an age of multi-media convergence, the safeguarding of media pluralism should not be used as a tool of protecting outdated business models of "old media" companies. Moreover, the EU has no legislative competence to establish regulatory measures on this matter, which has traditionally lied with the Member States. Although more and more forms of media will emerge which can no longer be tied to any national jurisdiction in terms of dissemination of media content there is currently no European public sphere which would constitute the need to protect the process of European will formation from any undue influences.

Drawing from my economic and legal analyses, my research question whether any supranational measures, be it a harmonization of legal instruments or any other action in support of pluralism across the EU would be feasible, effective and expedient has to be answered with a clear no. However, some aspects of this problem have remained unclear and require empirical research.

In order to get a full understanding of the issue more transparency about the level of transnational concentration in Europe is needed as well as additional research on the changing media landscape and its likely impact on media pluralism.

Therefore I propose measures modelled after option II of the 1992 Green Paper (see chapter 5.2.2) to promote transparency about media ownership. Only few European countries have established independent bodies such as the German KEK or the British Ofcom, which among other duties have the responsibility to keep track of changes in media ownership. This has become an increasingly difficult task as

ownership structures are concealed through complex legal constructions. In the Green Paper The Commission considered that *“more transparency of media ownership and control could facilitate the task of national regulators and serve to create solidarity between authorities of Member states”* (European Commission, 1992, p. 9). Shortly afterwards, in December 1992, the European Audiovisual Observatory was established in Strasbourg under the legal framework of the Council of Europe. Its aim is to improve the transfer of information within the audiovisual industry and to promote a clearer view of the market. In the wake of ongoing convergence on the media markets I propose an expansion of the responsibilities of the European Audiovisual Observatory to also include press and cross media operations. The expansion of duties does not constitute the need to confer any regulatory powers on it. However, Malzanini (2007) has called for increased collaboration between the European monitoring agency and national media supervisory authorities.

Either way the enhancement of transparency symbolizes an empowerment of citizens, which might serve to stimulate national and transnational discussions about media pluralism.

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9 Appendix

The biggest media companies in Europe (ranked by revenue from media activities):

Company	Domicile	Total revenue (Euro mills)	Media revenue (Euro mills)	Media share of revenue (%)	Newspapers	Magazines	Books	Radio	TV	Film	Music
<i>Bertelsmann AG</i>	Germany	19,297	19,297	100	✓	✓	✓	✓	✓	✓	✓
<i>Vivendi²</i>	France	20,044	8,494	42		✓	✓		✓		✓
<i>Lagardère</i>	France	13,999	8,092	58	✓	✓	✓	✓	✓		
<i>Reed Elsevier</i>	Netherlands/ Great Britain	7,935	7,935	100		✓	✓				
<i>ARD</i>	Germany	6,161	6,161	100				✓	✓		
<i>BBC</i>	Great Britain	6,127	6,127	100		✓		✓	✓		
<i>BSkyB</i>	Great Britain	6,086	6,086	100					✓		
<i>Pearson</i>	Great Britain	6,068	6,068	100	✓	✓	✓				
<i>Mediaset⁵</i>	Italy	3,748	3,748	100					✓		
<i>Wolters Kluwer</i>	The Netherlands	3,693	3,693	100		✓	✓				
<i>Daily Mail & General Trust</i>	Great Britain	3,192	3,192	100	✓	✓		✓			
<i>ITV Plc</i>	Great Britain	3,171	3,171	100					✓		
<i>France Télévision</i>	France	2,853	2,853	100					✓		
<i>RAI - Radiotelevisione Italiana</i>	Italy	2,839	2,839	100				✓	✓		
<i>Grupo Prisa</i>	Spain	2,812	2,812	100	✓	✓		✓	✓		
<i>TF1- Société Télévision Français</i>	France	2,654	2,654	100					✓		
<i>EMI Group</i>	Great Britain	2,652	2,652	100							✓
<i>Sanoma WSOY</i>	Finland	2,742	2,386	87	✓	✓	✓	✓	✓	✓	
<i>RCS MediaGroup</i>	Italy	2,380	2,380	100	✓	✓	✓	✓			
<i>Springer Verlag</i>	Germany	2,376	2,376	100	✓	✓					

Figure 9-1 Biggest media companies in Europe, Source: Nordicom 2006, based on company reports

Word cloud of this paper by www.wordle.net

LUKAS WIESBOECK

Date of birth: 08/10/1983

EDUCATION

2008 (July) – 2008 (August)	Harvard University Summer School course on strategic analysis (Strategic Management In A Dynamic Environment)
2007 (February) – present day	Vienna University of Economics and Business Administration LLB Business Law (exp. graduation June 2010)
2006 (September) – 2009 (November)	University of Vienna Mag.phil. Media and Communication with focus on media economics Master thesis: <i>Concentration of media ownership in Europe</i>
2006 (September) – 2007 (January)	Middlesex University London ERASMUS-study semester, main focus on finance
2003 (March)– 2006 (September)	University of Vienna Bakk.phil Media and Communication (1.9), minor in media law
2002 (July) – 2003 (March)	Austrian Armed Forces Military service with promotion to <i>Gefreiter</i> (private first class)
1994 (September) – 2002 (June)	Bruck/Leitha grammar school (language focus) A-Levels: English (A), French (A), German (B), Music (A), Mathematics (C) [German and Mathematics mandatory]

WORK EXPERIENCE

Since 2009 (May)	Thierry Politikberatung , Vienna <i>Researcher/Political Consultant</i> Working part time in a team of four <i>Researching background information, developing and implementing political communication strategies</i>
2008 (June)	EURO 2008 – European Football Championships , Vienna <i>Media Assistant</i> One month volunteer experience at a large international event <i>Assisting the Venue Media Coordinator as a teamleader providing service for accredited journalists</i>
2008 (January) – 2009 (January)	INSET Research & Advisory , Vienna <i>Consultant/Research Analyst</i> One year work experience with a small consultant firm specialized on mobile business solutions <i>Conducting market research and developing marketing strategies in the telecom sector, preparing customer presentations and managing small projects</i>

2007 (July) – 2007 (October)	Invyte.de , Hamburg <i>Marketing assistant and editor</i> Three months work experience with a German internet start up specializing on event invitation management <i>Various marketing activities, building up online magazine</i>
2006 (July) – 2006 (October)	Frankfurter Allgemeinen Zeitung , Frankfurt <i>Journalist, reporter</i> Three months work experience with a prestigious German newspaper <i>Writing independently about society-, economy-, and culture-related topics in Frankfurt and the surrounding area</i>
2006 (March) – 2006 (July)	Institute of Communication Science , Vienna <i>Teaching assistant</i> Five months work experience overseeing a group of 20 university students <i>Preparing a seminar for first year students in order to help them understand the main concepts taught in the introductory lectures.</i>
2004 (July) – 2004 (October) and 2005 (July)	ORF and Pro7 , Vienna <i>Production assistant</i> Three months work experience each year, firstly with a public broadcasting TV station, secondly with a private TV station <i>Assisting a senior reporter producing TV-clips and segments for news broadcasts; independent teletext and online service.</i>
2001 (July) – 2005 (November)	NÖN and Bezirksblätter , Lower Austria <i>Reporter and photographer (2001 – 2005), Editor of the culture section (2004-2005)</i> Four years work experience with two weekly local newspapers, working in teams from five to eight <i>Independently covering local topics and events, configuring the layout of newspaper pages.</i>

SCHOLARSHIPS AND AWARDS

2008 (October)	<i>Study Tour of Japan for European Youth</i> – Ten day scholarship granted by the Ministry of Foreign Affairs of Japan
2008 (May)	<i>kwA</i> (kurzfristige wissenschaftliche Arbeiten im Ausland) – One month scholarship granted by the University of Vienna for independent research
2002 (October)	<i>Austrian Armed Forces Service Medal</i> awarded by the Austrian secretary of defence for three weeks service in a disaster relief operation (flood)