

Media Concentration

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- *This article begins with an attempt to clarify the definitions of concentration and goes on to analyse the latest options in the communication policies of the United States, the United Kingdom and Italy. The different options each country has taken in relation to promoting pluralism in the media demonstrate the complexity of tackling a qualitative subject such as pluralism from the basis of quantitative regulations. The article concludes by underlying the need for further work on anti-monopoly laws to adopt measures relating to content.*

Introduction

Media concentration and its impact on pluralism have been and are a central focus of communication studies, particularly by schools and authors that specialise in studying broadcasters. But this discussion, which we could label academic, has regularly broken out of the theoretical sphere to become the subject of broad political and social debate.

One debate arose from the arrival on the scene in the middle of the 1980s of private television networks in Europe. New players and media empires, such as those of Silvio Berlusconi, Robert Maxwell, Ted Turner and Rupert Murdoch, sparked discussions about power and the potential control of private organisations on public opinion through the ownership of a media group.

The controversy livened up again with the wave of mergers

in the light of the technology bubble of the mid-to-late 1990s. People such as Leo Kirch, Jean-Marie Messier and Viacom president Summer Redstone again brought up the question of whether it was necessary to limit the power of a number of media groups that were growing inexorably.

In the first quarter of 2003, the debate about media concentration and its repercussions on pluralism and the democratic system again went beyond academic circles to become the subject of public discussion in the United States, the United Kingdom, Italy and, to a lesser extent, Spain. This had nothing to do with a new wave of takeovers or mergers in the media sector, but rather the political requirements and decisions of governments and agencies to try to promote new laws for the sector that in general had a clearly deregulatory orientation. Governments ran up against fervent popular and political opposition, particularly in countries with a long democratic tradition, such as the UK or US. Therefore, before analysing each case, I would like to go over a number of basic questions with regard to concentration, pluralism and their interdependency, which I will refer back to at the end of the article.

The different commonly accepted meanings of 'concentration'

When we talk about concentration, we usually refer to at least five different phenomena: four with an economic basis and the fifth of a political nature. The first phenomenon usually refers to concentration operations and business integration, i.e., corporate takeovers or mergers. Secondly, when we talk about concentration we often refer to ownership concentration; thirdly, we refer to market concentration and fourthly we sometimes refer to audience concentration. The fifth and possibly most commonly

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accepted meaning of concentration is political in nature and is understood to be the centralisation or accumulation of power in one or a few organisations arising from their dominant position.

a) Business Concentration

The first commonly accepted meaning of concentration, i.e., business integration, corresponds to the process or result of a company's external growth strategy, which it employs through the use of mergers, takeovers or the creation of joint ventures. This strategy is the opposite of strengthening internal growth, which consists of developing new economic production capabilities.

Business integration represents the most important and fastest way to reach a certain size. The opposite occurs with internal growth, which usually requires more time to transform a company's cycle and inhouse production capabilities.

Beyond the media uproar that surrounds the takeovers or mergers of media organisations and the type of strategy they respond to - international, horizontal, vertical, multi-

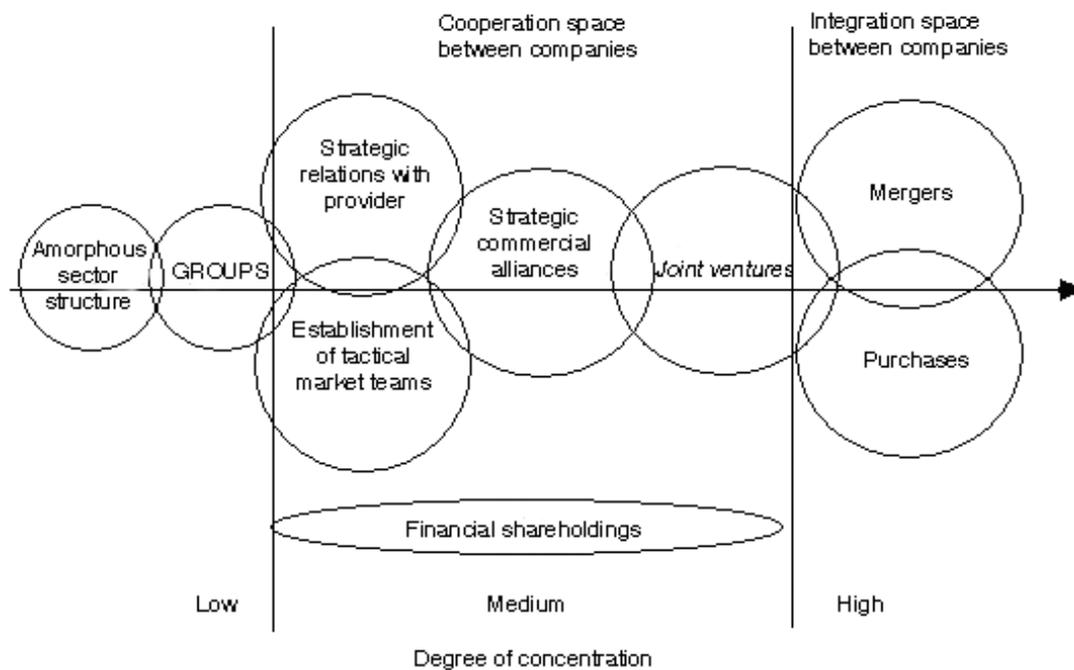
media or the formation of conglomerates (BUSTAMANTE, 1999) - the most important thing with regard to pluralism is the level of intensity of these corporate operations. A one-off agreement by two companies to develop joint projects is not the same as a merger or takeover and involves a very different level of ownership and market concentration (see Figure 1).

It is also important to mention that the concentration process is less common than the media hype that surrounds such mergers and takeovers could lead us to believe. Not every merger, agreement or takeover operation that is announced actually goes ahead and they certainly do not all result in increased value for shareholders. A study by the consultancy group Bain & Co. (1997) found that three out of every four mergers or takeovers fail, either because in the end they don't go ahead (20%) or because they lead to a fall in value (56%) for shareholders. Only 24% are successful.

b) Ownership Concentration

While the first commonly accepted meaning of concentration refers to a dynamic process (the union of companies),

Figure 1: Taxonomy of Business Agreements by Level of Concentration.



Source: Author's own work based on information from the European Commission (1996: 33).

ownership concentration is a fixed reference in time and space. The process of business integration leads to ownership concentration. Kowalsky (1998: 4) defined it as "the extent to which a media sector is controlled by individual companies". The determination of this 'extent' of control is very complex. When is a company or individual a *de facto* or *de jure* owner or controller? In 1994, the European Institute for the Media prepared a report to look into that very question. Its conclusions suggested the need to simultaneously bear various factors in mind: ownership links, financial links, contractual links and links relating to the appointment of staff at a company (EIM, 1994: 201).

c) Market Concentration

Market concentration, the third commonly accepted meaning of concentration, focuses on analysing the market rather than the owner. It involves studying the extent to which particular companies dominate a market. In this case, no prior business integration is necessary. Market concentration can arise as a direct result of a company's internal growth or the disappearance of a competitor. This situation leads to the need for anti-monopoly policies to be applied not just to mergers and takeovers but also in cases that lead to an abuse of the dominant position.

Sánchez Tabernero (1993: 31) defined market concentration as "the increased presence of a single media organisation or reduced number of organisations in any market as a consequence of different possible processes: acquisitions, mergers, agreements with other companies or even the disappearance of competitors".

This meaning and the previous one reflect two closely related but different phenomena, i.e., industry concentration and market concentration, which are usually, but not always, related. The important point is that studying them together can allow us to determine whether there is economic concentration in any sector of the media.

d) Audience Concentration

Audience concentration is a relatively new concept that has gained importance and acceptance in anti-monopoly legislation. Audience concentration involves assessing a media outlet's reach in a particular geographical market. The logic of this concept is based on considering that excessive audience concentration is more dangerous than

ownership concentration.

The choice between different audience definitions is very important. It is not the same to define audiences by market share as by total potential audience. In 1996, the US, UK and Germany applied the latter concept of an audience in their media laws.

e) Economic and Political Concentration

Concentration understood as an increase in political and economic power is a more global meaning and is based on the previous meanings. Any economic power has sociopolitical power repercussions; some of these influences are particularly important in the media sector because they can strengthen or reduce particular collective values. It is therefore important to talk about a fifth type of concentration that corresponds to the rise of power in the political and social influence of a media company based on its economic and symbolic power. This is the meaning that Nieto and Iglesias (1993: 207) used in their definition of information concentration: "It is the accumulation of the power to inform as a subsequence of advertising or commercial agreements, which could alter the free competition of goods or services in the information market". Miguel (1993: 101) preferred to call this process centralisation and to reserve the term 'concentration' for the process of corporate expansion.

These definitions provide us with a methodological tool for analysing the different perspectives each country has recently used when tackling the task of media regulation. In general terms, while the debate in the US focussed mainly on audience concentration, in the UK it centred on regulating ownership concentration, while in Italy the main topic of discussion was the market concentration of Berlusconi's television stations.

The United States: A Debate on Audience Concentration

On 2 June 2002, the Federal Communications Commission (FCC), the government agency charged with regulating most aspects relating to communications (telecommunications infrastructure and services, television and radio services) approved a review of concentration regulations.

This review had been imposed upon it by the 1996 Telecommunications Act and by various recent legal sentences that found it had to provide a stronger basis for the anti-monopoly laws contained in the Act.

The main revisions of the anti-monopoly laws anticipated by the Federal Communications Commission were as follows:

1. The limit on the maximum national audience allowed the owner of a television broadcaster was raised from 35% to 45%. This meant that a company could buy as many broadcasters as it wanted so long as it did not exceed 45% of the potential national audience. In mid-2003, CBS and FOX already reached over 35% of the country. NBC's broadcasters could reach 34% of the country, while ABC could reach 24% of the national audience.

2. With regard to radio, the limit of a maximum of eight radio broadcasters in the top ten local media markets was maintained.

3. The ban on merging two of the four most important networks was upheld.

4. The ban on owning a newspaper and television station in the same market was eliminated.

To give you an example, the new regulations meant that a single company could be the owner in the most important markets of the US, i.e., New York, Los Angeles and Chicago, of:

- 3 television broadcasters (only one among the four biggest ratings winners)
- 8 radio stations
- 1 newspaper
- 1 cable operator

The most significant restrictions were on smaller markets. For example, in markets with three or fewer television broadcasters, the same company or individual was banned from buying either newspapers or radio stations in the same city.

The approval of these regulations sparked intense opposition from the public and was taken up by politicians in the US Congress. In response, the House of Representatives, in a coalition of Democratic and Republic members (400 votes in favour and 21 against), proposed a law of a budgetary nature that stopped the FCC from using federal funds to apply the new audience limits for a one-year period. The new FCC regulations may therefore come to nothing. A

presidential veto against the House of Representatives' initiative is still possible, but if the Senate joins the proposal, President Bush would find it hard to justify his decision on an issue that has crossed party lines and ideologies. Furthermore, the fact that 2004 is an election year in the US would increase the political cost of a presidential veto.

This stand against the FCC did not come just from the political world. Opposition was keen and cut across society to bring together people on the right, middle and left. The former aimed to defend local media control to guarantee the minimum standards of quality and decency they felt the big groups no longer respected. The latter wanted to conserve diversity. Finally, independent voters mistrusted the media and its manipulation in general. This large coalition had easy access to its political representatives through emails and faxes. The FCC says it received more than half a million emails on the subject, most against a relaxation on concentration limits.

Why did the FCC focus on audience limits? The reason is very simple. In a country with more than 2,000 broadcasters, establishing anti-monopoly laws based on number of licences is ridiculous. For example, FOX currently has 25 broadcasters. The important point is that they are located in the best television markets in the country. This explains why potential audience level was more important than ownership per se.

Two purely economic questions were taken up in the debate. Independent production companies such as USA Networks and the public network PBS opposed the review on audience limits, calling instead for the return of regulations that required a separation between production companies and television broadcasters, or which at least set a minimum number of independent productions on the network grids. Regulations on the separation of production and broadcasting, known as syndication rules, which had led to independent production companies such as Lorimar and MTM, were eliminated in 1993. However, this was not before FOX was granted a preliminary exception (due to its 1986 establishment as a network) that allowed it to produce its own programmes. This limitation was subsequently eliminated for all the networks and the integration between television studios and companies accelerated. Disney's buyout of ABC and Viacom's purchase of CBS can be explained by this idea of integrating the production and

broadcasting of programmes.

Today, the five biggest US communications groups (Disney, Viacom, FOX, NBC and AOL Time Warner) control 85% of prime-time viewing. As Michael J. Copps said, cable is not the solution: the networks and main cable operators control 90% of the 50 most-watched channels, according to Nielsen figures (COPPS, 2003).

The main defenders of the deregulation of audience limits are obviously the networks. They argue that with the relaxation of anti-monopoly laws, the number of networks has risen from three to five, with FOX being the big winner. Furthermore, competition from cable and satellite has led to a shake-up of their economic model. They argue that only growth and concentration will allow them to compete with pay video services.

Analysts also point out that the new programming model, based largely on reality shows, involves an initially low cost in which the big studios do not participate and which is exhausted on first runs. The people who make an advertising profit with this model are the affiliated broadcasters, while the networks find it hard to recover investment if there are no re-runs on the syndicated or secondary markets. The networks thus opt to invest more heavily in the purchase of broadcasters to redeem their investment in programming or paying for expensive programming that is now moving onto cable and satellite.

For their part, independent television broadcasters affiliated to a network oppose the new regulations because they believe that the forced relations, which now work in their favour, would benefit the networks if there was a relaxation on audience limits.

The United Kingdom: A British Debate on Ownership

The British television market, much smaller than the American one, bases its regulations on limiting media ownership and cross-ownership regulations. The system was the subject of much debate until 17 July 2003 when, after three years and seven months of discussion, the proposal by the Blair government to organise the communications sector, i.e., the Communications Bill, was approved by the Queen and became the Communications Act.

The new law attempts to group together in a new

independent governmental office called Ofcom all the regulatory bodies involved in broadcasting that had existed. Agencies such as the Independent Television Commission (ITC), the Broadcasting Standards Commission (BSC), Oftel, the Radio Authority (RA) and the Radiocommunications Agency (RA) thus disappeared. Ofcom's powers came into operation in late 2003.

As in the United States, the issue did not cut down party lines between the Conservatives and Labour during the process of preparing the law. For example, a rebellion by Labour members in the British high chamber, led by Lord David Puttnam, the producer of films such as *Chariots of Fire*, *The Killing Fields* and *Midnight Express*, led to Ofcom regulations including the duty to attend citizen and consumer interest in its decisions (section 3, article 1 of the new law).

This was not just at the general level or level of principle. The law was also redrawn to shore up a guarantee of pluralism. In particular, section 375 of the Act included a proposal from the House of Lords to prevent mergers because of the belief they could endanger pluralism. The clause was known as the 'plurality test' and was included in the rules on general mergers.

The text specified the need to take into consideration in the assessment of mergers whether there was "sufficient plurality" of ownership for "each different audience". Section 319 of the new law specifies that, as well as owners, the assessment must take into account "a genuine commitment to programming standards and impartiality".

The procedure is somewhat complicated and means that both the preliminary and definitive decision corresponded to the Secretary of State for Trade and Industry. In particular, if the merger has a "specified public interest concern in relation to media plurality" (section 376, article 3), the Secretary of State can request a report from Ofcom on the implications for public interest and operation. Ofcom's conclusions, together with public submissions from the Office of Fair Trading on competition issues, are then sent to the Competition Commission, which passes them on to the Secretary of State, who has the final say.

The procedure shows that even in the oldest democracy in the world politicians still want to have the final control on media concentration. Rumbling away in the background there is, as always, a debate about who will control the

controller, which also shows the lack of confidence politicians have in the independent organisations they themselves create. At the end of the day, there is a problem with accepting the rules of the democratic game, as the effectiveness of regulatory authorities depends on their credibility, which grows in inverse proportion to their dependence on political power (SÁNCHEZ-TABERNERO I CARVAJAL, 2002: 138).

The plurality test is dangerous because of its implicit subjectivity. Large groups can take the regulator to court if they disagree with a mistaken application of what they understand as "sufficient plurality" or "a genuine commitment" to the goals of impartiality and diversity. This legal insecurity led the Blair government to commit to the financial backing of Ofcom in the event of legal disputes with media organisations over the 'plurality test'.

The figure of Rupert Murdoch has featured throughout the process of the British debate on the new law. The US magnate dominates pay television in the United Kingdom with Sky, has a foothold in free-to-air digital terrestrial broadcasting through an alliance with the BBC (Freeview) and also dominates the NewsGroup newspaper group with iconic titles including *The Times* and *The Sun*. The only thing he doesn't have is ownership of a terrestrial television station. His only option was and is Channel 5, currently controlled by the RTL group. Until now, anti-monopoly laws prevented him from buying this station because of his dominance in the newspaper market. Under the new law, these limits have been eliminated, but he would need to pass the plurality test.

With respect to ITN News, linked to the third channel, ITV, the law anticipates eliminating the 20% maximum ownership limit for a single shareholder. However, it gives Ofcom the power to review the conditions of each new contract to ensure that ITN is comfortably funded and can provide high-quality news. The government's intention with this control is to preserve the three big television-news providers in the UK: the BBC, ITV and Sky.

Italy: A Debate on Market Concentration

The debate in Italy focuses on the concept of market concentration for obvious reasons. The Berlusconi government

defends a broadcasting bill that favours the prime minister's private interests. On one hand, the economic duopoly between the RAI and Mediaset ensures great media interest in any discussion about anti-monopoly measures. On the other hand, the conflict of interests since Berlusconi came to power is enormous: as prime minister he controls the RAI and as a private businessperson, through his family, he dominates the Mediaset group. From the purely economic point of view, according to the Italian organisation charged with protecting competition, the *Autorità Garante della Concorrenza e del Mercato* (AGCM), Italian television has the highest level of market concentration among the main European countries: 90% of the market is dominated by the two leading companies. By way of comparison, the two most important channels in France hold 74% of the market, the two big players in Germany have 66%, the two leading channels in the United Kingdom have 65% and the two biggest ones in Spain account for 54% (AGCM, 2003).

Given this situation and the anticipation of a new broadcasting law, Italy's president, Carlo Azeglio Ciampi, expressed his concerns in July 2002 in a specific speech on pluralism delivered to the Parliament. He called for the defence of a more authentic and profound pluralism and classified media independence as a vital element of democracy.

The bill prepared by the Berlusconi government and debated in the Italian Parliament would allow Fininvest (the holding company behind Mediaset) the freedom to enter into new businesses where it has until now been banned, such as publishing, print and radio. In particular, the new regulations would allow a television channel to acquire a newspaper beginning in 2009. The main change in the bill is that it modifies the maximum limit on advertising income with respect to the whole television market that a television channel can obtain, fixing it at 30%. The current limit is 20%, but the percentage would be calculated on the basis of all the advertising income of all the media outlets. Furthermore, if the bill goes through, it will also allow Mediaset to include station plugs by presenters beyond the maximum 18 minutes per hour and to enter it into the accounts as a daily total.

The bill also abolishes the decision of the Constitutional Court that stripped Mediaset of one of its terrestrial stations, Rete 4, and banned it from sending a signal by satellite, for

having exceeded the 20% limit on terrestrial television licences for a single operator and which the 1997 Act imposed on terrestrial television (VV.AA., 2001:47). The bill is expected to be approved, with the odd incidental amendment, as Berlusconi's government enjoys a majority in both chambers of the Italian Parliament.

Relationships between Concentration and Pluralism

Beyond communication policies, the public usually has the perception that concentration in general is gaining an ever-stronger foothold: a few, increasingly large, companies dominate the market. However, if we talk about market concentration, the reality is quite different. The latest research shows that at both the global economic level (GHEMAYAT AND GADHAR, 2002) and in the media sector in Europe (LLORENS-MALUQUER, 2001; SÁNCHEZ-TABERNERO AND CARVAJAL, 2002), media concentration is on the wane. Although these studies do not analyse local and regional markets, where concentration can be greater due to the narrowness of the market, the results suggest that concentration is sometimes confused with size. The fact that

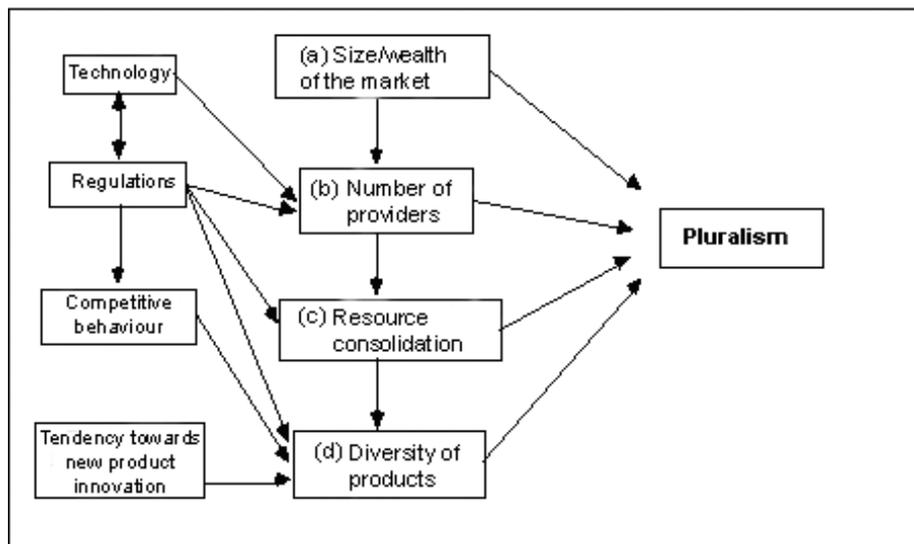
a number of companies have a very high turnover does not automatically denote market concentration and lack of competition. The car industry would be one example that could support this view.

A decline in market concentration does not mean that clear cases of concentration don't exist, but apart from these particular cases, it is often very easy to establish a negative relationship, along the lines of 'the greater the level of concentration, the smaller the supply of independent media', i.e., high levels of market concentration equals less supply equals less pluralism.

As Kowlasky (1998), Doyle (2002) and McQuail (1992) have said, the relationship between the concentration of media ownership and pluralism is not so direct, due to the intervention of other factors. Doyle (2002) says that the other variables that have a decisive impact on pluralism are market size, the resources available in the market, the structure of the media system and the goals and competitiveness of the media organisations (see figure 2).

Media concentration is therefore an important variable, but within a wider framework of circumstances that may or may not have a positive effect on pluralism. It is therefore logical, says Doyle, that measures that can promote pluralism

Figure 2: Relevant Elements for Analysing the Relationship between Pluralism and Concentration.



Source: DOYLE, 2002: 15.

should not be limited to ones that affect ownership concentration, otherwise we could fall into a dangerous form of reductionism, i.e., identifying pluralism with *plurality*. The concept of plurality carries the semantic weight of its name, of quantity; while the term 'pluralism' is more often associated with diversity, understood as variety.

In fact, the concept of *plurality* is one of the elements the industry uses to defend governments not intervening in the area of media concentration. The ability to choose between a variety of things is one of the positive components of the term pluralism, but we should also bear diverse content in mind. In that framework, the standardised content that has arisen from the deregulation of the broadcasting industry in Europe since the mid-1980s is a demonstration of how plurality is not in itself enough. As Moragas and Prado (2000: 175, 200) so forcefully put it, "Under the cover of this [neo-liberal] philosophy develops the pro-liberalisation equations manifested in the belief that Privatisation = Multiplication of Channels = Increased Supply = Diversity = Pluralism. [...] having analysed the programming grid, we could revise the equation to: Privatisation = Multiplication of Channels = Competition = Standardisation of Supply = Concentration = Reduction of Pluralism". Therefore, in the strictest sense, defending media plurality is to defend the existence of more than one media outlet, without judging its content, which may or may not be diverse.

I believe that the opinion of the Council of Europe is much more appropriate: "Diversity has to be defined as the possibility of choosing at a given time between different journalistic genres, different issues and events, different sources of information, different interests, opinions and values, different authors, different perspectives, etc." (Council of Europe, 1992). Pluralism should therefore not just be external, but internal as well.

The model shown in figure 2 suggests that the levels of pluralism in a particular market depend on (a) the size and wealth of the market, conditions that limit the number of different and autonomous supplies (b). But the key point is how the consolidation of recourses is articulated, particularly in the editorial functions of the media (c). If, for example, we compare the same sources of information from the media organisations of a particular group, we end up with less pluralism than if they are diversified or independent.

The key question in any concentration operation is

therefore: what functions does an owner of a multimedia group combine to reach economies of scale or scope? General support or back-office services, accounting, sales, publicity, or ones related to content? The question is knowing whether a media outlet which has carried out a takeover or merger operation will reinvest the profit into producing a diversity of content in order to cover the different market sectors or whether it will standardise them.

This indirect relationship between economic concentration and pluralism does not, however, mean that media concentration has to be under-appreciated or ignored. The existence of a plurality of suppliers already has a positive impact on pluralism. Even if some media share the same content, or even if it is standardised, at least there is a different supply, thus preventing a single supplier from having absolute programming control and further reducing the potential risk of excessive political influence.

Doyle's model is also interesting because it focuses on the size of the market and its development. In small countries, a small market is unable to finance a large number of media outlets, which usually implies a high degree of concentration. In small communication markets, therefore, the degrees of pluralism that can be required could be less than in bigger markets. In short, different market sizes involve different degrees of pluralism and different types of anti-monopoly measures.

The big conceptual problem that pluralism presents is its particular manifestation in regulations and laws. Pluralism is a politically qualitative subject that seeks diversity in the content supplied but quantitative tools must be forged to protect it. For example, as Sánchez-Tabernero and Carvajal (2003: 19) say, the Herfindahl-Hirschman concentration index is useful for comparing concentration situations in different markets or for seeing evolutions over time. Furthermore, "it is impossible to establish an index from which one can say that a level of concentration is excessive or intolerable to the authorities: the figure will depend on the features of each market, the type of business and, in the final analysis, the decision taken by the public through its political representatives".

The question we have to ask is: why, if the problem is diversity of content, have anti-monopoly laws been imposed to protect pluralism? Anti-monopoly measures based on ownership have proven to be useful because as it is difficult

to control the intentions of media owners or to completely regulate their conduct with regard to editorial lines, the most effective and simplest way of ensuring a healthy diversity of views is for governments to prevent the media from being monopolised.

Furthermore, interventions to actively promote diverse content, e.g., programming quotas, are hard to impose if they oppose such fundamental rights as freedom of expression or business freedom. At the same time, although the imposition of content quotas is unviable in the press, in the television sector there is a certain justification in that operators occupy a broadcasting space that belongs to society as a whole and which make their business from a public resource.

The key is to find the legislative development that can best be used to meet the greatest number of public, economic and social-interest goals at a minimum cost.

On the other hand, if State intervention is justified in the name of pluralism but is used for partisan or spurious purposes, such as in Italy, the regulations could become a control method for the communications system at the same time and public interest will lose out.

In short, the intervention of the State to protect pluralism is justified on the grounds of common good so long as the principle of proportionality is respected.

Pluralism is, therefore, like democracy, a question of balance, in this case between social and political goods and imperfect regulations. For that reason, the main question is not what is regulated but how it is regulated: its implications on the day-to-day world, the respect for laws and the rule of law. In other words, the problem is one of democratic culture.

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Links:

Laws:

- United Kingdom: Communications Act of 17 July 2003
www.hms.o.gov.uk/acts/acts2003/20030021.pdf
- United States: FCC Regulations on Media Concentration of 2 July 2003
hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-127A1.pdf

Agencies:

- Italy*: Autorità per le garanzie nelle comunicazione (AGCOM)
www.agcom.it/
- United Kingdom*: Ofcom (Office of Communications)
www.ofcom.org.uk/
- United States*: FCC (Federal Communications Commission - media ownership)
www.fcc.gov/ownership/documents.html
- FCC (Federal Communications Commission - media bureau)
www.fcc.gov/mb/