



MEDIA REFORM
COALITION

MEDIA MANIFESTO 2019

**A MEDIA POLICY
FIT FOR THE 21ST
CENTURY**

INTRODUCTION

Since 2011, the Media Reform Coalition has been at the forefront of the UK's progressive media reform movement, producing evidence and giving oral testimony to a broad range of public inquiries into the media; engaging the public on media reform issues; and designing innovative solutions that address the most critical issues in media policy-making.

This manifesto builds on extensive academic research and a number of briefing reports produced by, and in consultation with, a broad range of experts and stakeholders. In sum, it charts a roadmap towards genuine progressive reform that is both practical and radical; replacing legacy frameworks with a media policy fit for the twenty-first century. Though our core concerns have always related to media ownership and plurality, in today's digital environment policymakers must avoid disentangling the key issues at stake in promoting a more democratic and accountable media system.

This manifesto encompasses four parts. First, we set out a series of recommendations aimed at forging a new 'future proof' framework for media plurality. Second, we summarise key proposals for a more democratic, diverse and devolved BBC. Third, we elaborate the urgent steps a new government must take in order to restore faith in a free, accountable and sustainable press. Finally, we map out reform measures in the broader arena of digital media policy where the next government could take a lead role in developing innovative tools and solutions to emergent problems.

Concerns about concentrated and unaccountable media are no longer confined to the margins of public debate. Nor can they be subjugated in favour of other policy priorities if the next government is to fulfil any kind of mandate for progressive social change. Indeed, a pre-requisite for such change is a more fair, free, accurate and representative media system; one that is capable of informing and nourishing the kind of inclusive public debate that is the lifeblood of functioning democracies.

PART 1

A NEW ‘FUTURE PROOF’ FRAMEWORK FOR MEDIA PLURALITY

1.1 INTRODUCTION

The UK’s plurality framework was established by the 2003 Communications Act, which created several public interest grounds on which ministers could intervene in media mergers, including “the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be **a sufficient plurality of persons with control of the media enterprises** serving that audience.”¹

But this system has proved unfit for purpose in the digital age. For one thing, the UK’s media landscape at both the national and local level is becoming progressively more concentrated. The latest evidence shows that just three companies dominate 83 percent of the national newspaper market (up from 71 percent in 2015). Even when online readers are included, just five companies account for more than 80 percent of the combined markets.² The print circulation of newspapers may be shrinking, but the prevailing evidence suggests that the audience reach of the largest titles – including the *Sun*, *Daily Mail* and the *Guardian* – is increasing. What’s more, recent studies have shown the enduring influence that national newspapers have over the wider news agenda, including television news and the BBC.³

There are several problems and deficiencies with this framework. These are set out below, along with our policy recommendations.

1 Section 58(2C)(a) of the Enterprise Act 2002.

2 Media Reform Coalition, *Who Owns the UK Media?* 2019. www.mediareform.org.uk

3 Stephen Cushion, Allaina Kilby, Richard Thomas, Marina Morani & Richard Sambrook (2018) Newspapers, Impartiality and Television News, *Journalism Studies*, 19:2, 162-181,

1.2 CRITERIA FOR INTERVENTION AND DEFINING SUFFICIENT PLURALITY

At present, decision-making power over whether to intervene in, and ultimately block, a proposed media merger on plurality grounds is vested in the hands of the Culture Secretary and regulator. This creates conditions of capture that could be minimised if Parliament produced clearer guidance both on the criteria for intervention and the definition of sufficient plurality.

Recommendation: Parliament should establish a set of thresholds based on audience share of the relevant market, as well as cross-market indicators, as a basis for decisions on whether or not to intervene on plurality grounds. Such thresholds should be subject to periodic review and consultation by Ofcom.

1.3 MEDIA PLURALITY MARKET REVIEWS

Much of the on-going concentration of UK news media is taking place outside of major mergers and acquisitions. Ofcom, the Leveson Report, the Lords Communications Committee, and even the Government have all endorsed proposals for Ofcom to carry out regular plurality reviews. But to date, no such review has taken place,⁴ only inquiries into the plurality effects of media mergers carried out by regulators working under time pressure.⁵

Recommendation: Parliament should *require* Ofcom to carry out regular reviews to assess media plurality outside of merger activity. These could trigger intervention and remedies based on the same thresholds used in the context of mergers. Parliament should also set out explicit guidance on the range of applicable remedies, including public interest obligations and forced divestment of assets.

⁴ In July 2013, the then Culture Secretary Maria Miller promised one, but it has still not happened.

⁵ Ofcom and the Competition Commission in 2007, Ofcom in 2010, Ofcom in 2017 and the CMA in 2018.

1.4 REFINING THE MEASUREMENT FRAMEWORK

Ofcom's current plurality measurement framework, whilst broadly workable, includes some blindspots. In particular, its measure of cross-market audience share risks under-estimating the extent of concentration, as pointed out by the CMA in its recent review of the Fox-Sky merger.

Recommendation: The government should require Ofcom to revisit its plurality measurement framework taking account of concerns raised by the CMA and others. In particular

- a. The 'share of reference' should be re-weighted in order to take account of at least partial reliance of Global and Bauer radio stations on 'wholesale' news feeds currently provided by Sky.
- b. Digital intermediaries should not be included in the 'share of reference' measure since that assumes all news consumptions via intermediaries is inherently pluralistic. Instead, they should be subject to bespoke monitoring for plurality as outlined below.

1.5 FACTORING IN THE TECH GIANTS

The present framework does not adequately take account of the potential contribution and threat to media plurality posed by major intermediaries like Google and Facebook.

Recommendation: There are two ways in which major intermediaries should be brought within the current framework:

- a. A 2% levy should be imposed on the UK revenues of companies with more than a 50% share of online search or social networking markets. The money should be redirected to an independent public funding body along the lines proposed by the recent Cairncross Review, and targeted at those vehicles and forms of public interest journalism that have become increasingly squeezed in the digital news environment. To ensure that this new money is not simply funnelled into existing commercial providers but rather extends plurality, it should be directed towards new models of not-for-profit public

interest journalism and to those organisations that have signed up to a regulator recognised by the Press Recognition Panel under the Royal Charter framework.

- b.** Both the metrics and performance of their news algorithms should be scrutinised and monitored by Ofcom to ensure that they do not unduly favour particular types of news providers over others; except in the case of print and online news where those outlets that are members of a ‘recognised’ press regulator should be given due prominence over those that are not.

PART 2

TOWARDS A MORE DEMOCRATIC, DIVERSE AND INDEPENDENT BBC

2.1 INTRODUCTION

Over the last three decades the BBC’s independence has been steadily eroded and its programme making increasingly commercialised. In recent years in particular, its funding has been severely cut and its editorial culture has become increasingly conservative and risk averse. If the BBC is to live up to its core values and meet the challenges of 21st century media and politics, radical reform is necessary. We want an adequately funded BBC that positively shapes a broader media ecology, nationally and internationally. This will mean a clear break with the market-based approach that has eroded the BBC’s public service ethos. However, rather than returning to the statist model on which it was founded, the BBC should become a modern, democratised public platform and network, completely independent of government and insulated as far as possible from the market.

To this end, we have produced a set of clear and comprehensive policy recommendations outlined below.

2.2 SHORING UP INDEPENDENCE

Governmental influence over the BBC threatens to undermine its capacity to deliver impartial news and information. Whilst the BBC's current Royal Charter states that it should be 'independent in all matters', it also stipulates that the Government is responsible both for appointing the chair and four directors to the BBC Board, and for setting the level of the licence fee. The periodic renewal of the Royal Charter is another means of governmental influence over the BBC.

Recommendation: These procedures should be abolished so the BBC becomes truly independent of governments. In place of these mechanisms of accountability, members of the BBC Board should be directly elected by licence fee payers and BBC staff. The BBC should be put on a permanent statutory footing and an independent, non-market, regulator, acting solely in the public interest, should set the level of the licence fee and periodically review the BBC's constitutional remit.

2.3 A PROGRESSIVE FUTURE PROOF FUNDING MECHANISM

The BBC's major source of income, the licence fee, was frozen from 2010 to 2017 and the BBC has had to bear the cost of free TV licences for the over-75s. This has meant a dramatic reduction in the BBC's income over the course of a decade. To ensure the BBC can deliver creative, diverse, high-quality programmes, and accurate and impartial news, current affairs and factual programming, it must receive adequate and secure public funding that is independent of governmental control.

Recommendation: The licence fee system should be maintained but radically reformed, with the rate set by an independent, non-market, regulator. Television licences should be replaced with a digital licence fee based on internet access rather than possession of television receiving equipment. To avoid payment falling disproportionately on lower income groups, the fee should be pegged to households' council tax bands. BBC

Worldwide should continue to generate commercial returns from international markets, but with a preference for partnership with public media and the development of international public media platforms.

2.4 REGULATORY REFORM

Broadcasting in the UK was originally regulated according to public service principles, but this model has been increasingly marginalised with the BBC more and more subject to a market-based regulation. The BBC's activities currently have to be balanced with consideration for competition through public value tests, and are now also subjected to market impact assessments by Ofcom, an independent communications regulator that has been criticised for privileging consumer interests over those of citizens.

Recommendation: Regulation of the BBC must move away from a 'market failure' model in which the BBC is expected to provide what the market will not, to a model in which public and democratic programme making, and rigorous professional standards, positively shape the broader media ecology. A new public media regulator should be established that will act purely in the public interest. It should be responsible, among other things, for the regulation of the BBC and the other public service broadcasters, as well as any new not for profit providers and cooperatives, and for regulating standards in commercial broadcasting. It should set the level of the licence fee and periodically review the BBC's constitutional remit.

2.5 DEMOCRATISING AND DIVERSIFYING PRODUCTION

Despite some progress with strengthening regional production, the BBC remains a highly centralised organisation. The London-based, centralised managerial and editorial structure needs to be reformed to ensure the BBC fully reflects the diversity of the UK's nations, regions and communities.

Recommendation: To make the BBC more accountable to the public it serves, programme making and editorial functions should be devolved to the nations and regions. A system of localised, democratic management and commissioning should be established, with national and regional boards elected by staff and local licence fee payers in the same manner as the BBC Board. The role of the BBC Board and Executive Committee should be restricted to corporate-wide oversight, coordination and strategic planning. This strengthened local management and programme making will help to address the recognised need for more local reporting.

2.6 DIVERSIFYING THE WORKFORCE

The BBC has acknowledged the need to address the question of diversity in both its programming and its workforce. The Diversity & Inclusion Strategy is a welcome step, as is the commitment to Project Diamond, an industry-wide initiative to monitor diversity across the sector. But more could and should be done.

Recommendation: Ensuring adequate diversity will require complete transparency about the makeup of the BBC's workforce. This will mean publishing rigorously collected equality monitoring data at the programme and production level for all producers of BBC content, whether in-house or external. This should include data on social class, as well as age, gender, sexuality, ethnicity, religion, disabilities, and other characteristics. Delivering on diversity will also mean addressing the casualisation of the BBC's workforce over the last three decades. Precarious working conditions narrow the range of people able to produce programmes, disproportionately impacting on those from lower income families, women, minority groups, and those with disabilities.

PART 3

A FREE, ACCOUNTABLE AND SUSTAINABLE PRESS

3.1 INTRODUCTION

Although the phone hacking scandal erupted in 2011, evidence of widespread criminality and corruption in newsrooms has continued to surface since. In 2017, for instance, we learned that the *Sun* newspaper had engaged in illegal hacking that went far beyond interception of voicemails. But there are also genuine and serious threats to press freedom stemming from state surveillance and inadequate protections for journalists in the Investigatory Powers Act. Sustainability pressures can also impact on both press freedom and standards and diminish the vital ‘watchdog’ function of the press in democratic life.

3.2 LEVESON 2 AND PRESS REGULATION REFORM

National newspapers remain outside the system of recognised independent self-regulation recommended by the Leveson Report and established by cross-party agreement. The Independent Press Standards Organisation (IPSO) – which regulates the majority of national newspapers – has refused to seek recognition from the Press Recognition Panel (PRP) and has demonstrably failed to deliver effective and independent self-regulation that could address the kind of widespread institutional corruption that unravelled in the phone hacking scandal. There is evidence to suggest that individual self-regulators such as the Guardian’s Readers Editor have fared little better in this respect.

Recommendation: The Leveson Inquiry must complete its work as set out in the original terms of reference, when it was acknowledged that the inquiry could not examine the roots of the phone hacking scandal whilst police investigations were on-going. Part two of the Leveson Inquiry

must therefore be commenced in order to get to the bottom of the webs of institutional corruption that have persisted for decades between elements of the press, police and politicians. The original terms of reference should be updated to reflect what we have learnt since 2011 about the occurrence of phone hacking at other publishers besides News International, and the new culture, practices and ethics of the press that have developed as a result of the transition to digital publishing.

New legislation should be introduced to support fair and effective independent self-regulation of the press along with access to justice for victims of press abuse. This should include a statutory right of reply and a new framework of incentives for news publishers to join a recognised self-regulator. In particular, members of recognised self-regulators should be granted ‘due prominence’ status in the plurality audit of major news algorithms (as set out in section 1.5), and be prioritised as recipients of new sources of funding (as set out in section 3.3).

3.3 A NEW FUNDING SETTLEMENT FOR PUBLIC INTEREST NEWS

As noted in the recent report of the Cairncross Review, the crisis and market failure in print and online news can no longer be ignored. There needs to be new forms of public funding and support to regenerate the supply of public interest news – especially in the domains of investigative reporting and local journalism.

Recommendation: An Institute for Public Interest News should be established in line with the Cairncross Review recommendations. It should not target particular types of output (local and investigative journalism), but rather particular types of vehicles for such output. Such an approach would better guarantee an ‘arms-length’ distance in the funding mechanism and minimise the risk of encroachment on press freedom. In particular, the new funding body should target not-for-profit news organisations with governance structures that guarantee editorial independence from owner influence, as well as those news organisations that have signed up to a self-regulatory body ratified by the Press Recognition Panel.

The Institute should be funded initially by the proposed levy on platform monopolies (see section 1.5). This should be supplemented by a mix of funding sources including public funding, donations, and national lottery awards. Its first task should be to review and consult on the criteria and means of allocating funds. Consideration should be given to innovative proposals that will involve the public in funding decisions, including a ‘voucher’ system that enables individuals to nominate preferred recipients based on eligibility criteria as outlined by the Institute.

3.4 PROTECTIONS FOR PRESS FREEDOM

As well as financial support, journalists need better privacy protections. In this respect, the Investigatory Powers Act continues to pose a genuine and serious threat to press freedom in Britain, as noted by Freedom House in 2018.

Recommendation: In consultation with stakeholders, the government should enact amendments to the Investigatory Powers Act in order to strengthen privacy protections for journalists. In particular, and as a minimum, the law should be amended so as to require authorities to inform journalists if and when they are placed under surveillance since this could compromise their ability to protect sources, and to investigate and report on sensitive topics in the public interest. Further amendments to both the Investigatory Powers Act (as well as related legislation such as the Counter-Terrorism and Border Security Bill) should respond directly to UNESCO’s call for member states to “Recognise the role that anonymity and encryption can play as enablers of privacy protection and freedom of expression”.⁶

In addition, there should be a statutory right to privacy for both the press and public, with a corresponding public interest defence for journalists. A public interest defence should also be incorporated into the official secrecy legislation in order to protect journalists covering issues of national security in the public interest with due regard to notices issued by the Defence Advisory Committee.

6 <https://unesdoc.unesco.org/ark:/48223/pf0000234090>

PART 4

A DIGITAL MEDIA POLICY FOR THE 21ST CENTURY

4.1 INTRODUCTION

The preceding recommendations have focused on news provision but they are intimately connected to other areas of regulation in the digital media environment. The dominance of platform monopolies, the weakening of ‘net neutrality’, and the relative opacity of online political advertising all have a direct bearing on the media’s capacity to support freedom of expression and inclusive public debate. The next government can and must take a lead role in developing innovative solutions to these problems with a view to safeguarding both media freedom and access to diverse and credible sources of information online.

4.2 BRITISH DIGITAL CORPORATION

In his Alternative McTaggart lecture in 2018, Jeremy Corbyn called for a new British Digital Corporation alongside the BBC: “to rival Netflix and Amazon, but also to harness data for the public good.” Clearly the emergence of platform monopolies in search, social media and ‘over the top’ content provision risks eroding the public value of the internet ‘commons’ and exacerbating digital divides in access to diverse and credible sources of news and information.

Recommendation: There is a role to be played by the public sector in this space and a starting point should be the establishment of a British Digital Corporation, tasked with developing innovative technological solutions and open source software aimed at resourcing not for profit journalism. It should also investigate potential for developing a public service search engine and

other digital services as alternative platforms to commercial offers and which could be rolled out across schools, libraries and universities.

4.3 ENHANCING THE TRANSPARENCY OF CONTENT

The Electoral Commission and Information Commissioner have both issued reports about recent digital campaigning trends raising concerns about whether political parties and other campaigning organisations and companies are complying with electoral and data protection law and whether existing law is adequate. Both make recommendations for greater transparency in political campaigning and reflect a growing consensus that the regulation of online campaigning needs to change. Equally, there are growing concerns about the invisibility of sponsored information and advertorials in the online environment.

Recommendation: Paid political advertising online should be prohibited during elections just as it is on broadcasting platforms. Parties will still be able to share content organically, subject to campaign spending limits and particular restrictions on the acquisition and use of personal data. New rules should prohibit the practice of buying personal data for campaign purposes without users' knowledge or consent and ensure that all published campaign messages during election periods are clearly and consistently kitemarked. This should ensure that users are made aware that the content is part of a political campaign, as well as who it has been commissioned by and who has funded it.

At the same time, new legislation should task Ofcom to develop and implement a new system of labelling for sources of content. The rules could be applied to both major content providers and/or intermediaries. They should be designed to maximise the transparency of branded, sponsored or 'advertorial' content especially in news and information. They should also be designed with a view to promoting sources of content that are subject either to public service regulation (i.e. broadcasters) or self-regulation recognised by the Press Recognition Panel.

4.4 REINFORCING NET NEUTRALITY

In the UK net neutrality is currently protected by the EU Open Internet Access Regulation, which the government confirmed in January 2018⁷, would be converted into UK law. However, this legislation applies the core principle of ‘non-discrimination’ over content in a restrictive way that does not reflect the realities of gatekeeping power in the new information environment.

Recommendation: The legislation should be enhanced and expanded to address the myriad ways in which network operators can promote or demote particular content or services based on their ability to pay. Further consideration should also be given to how continued membership or relationship with the Body of European Regulators for Electronic Communications (BEREC) will impact on net neutrality regulation in the UK and how US legislation - where net neutrality rules have been abandoned – can impact on UK users notwithstanding protections in place here.

7 <https://www.theyworkforyou.com/wrans/?id=2017-12-21.120989.h>

CONCLUSION

A plural, sustainable and diverse media is vital for a healthy democracy. Without the above reforms our media will become ever more concentrated in ever fewer hands, be yet more susceptible to market pressures and distorted by commercial priorities, and be increasingly less diverse in every way. This is not about 'old' media versus 'new' intermediaries; it is about ensuring we have a communications environment that functions in the public interest. Only then will democracy be able to thrive.

If you want to know more about any of the proposals in this manifesto, go to www.mediareform.org.uk or email info@mediareform.org.uk

**PUBLISHED BY THE
MEDIA REFORM COALITION
MARCH 2019**