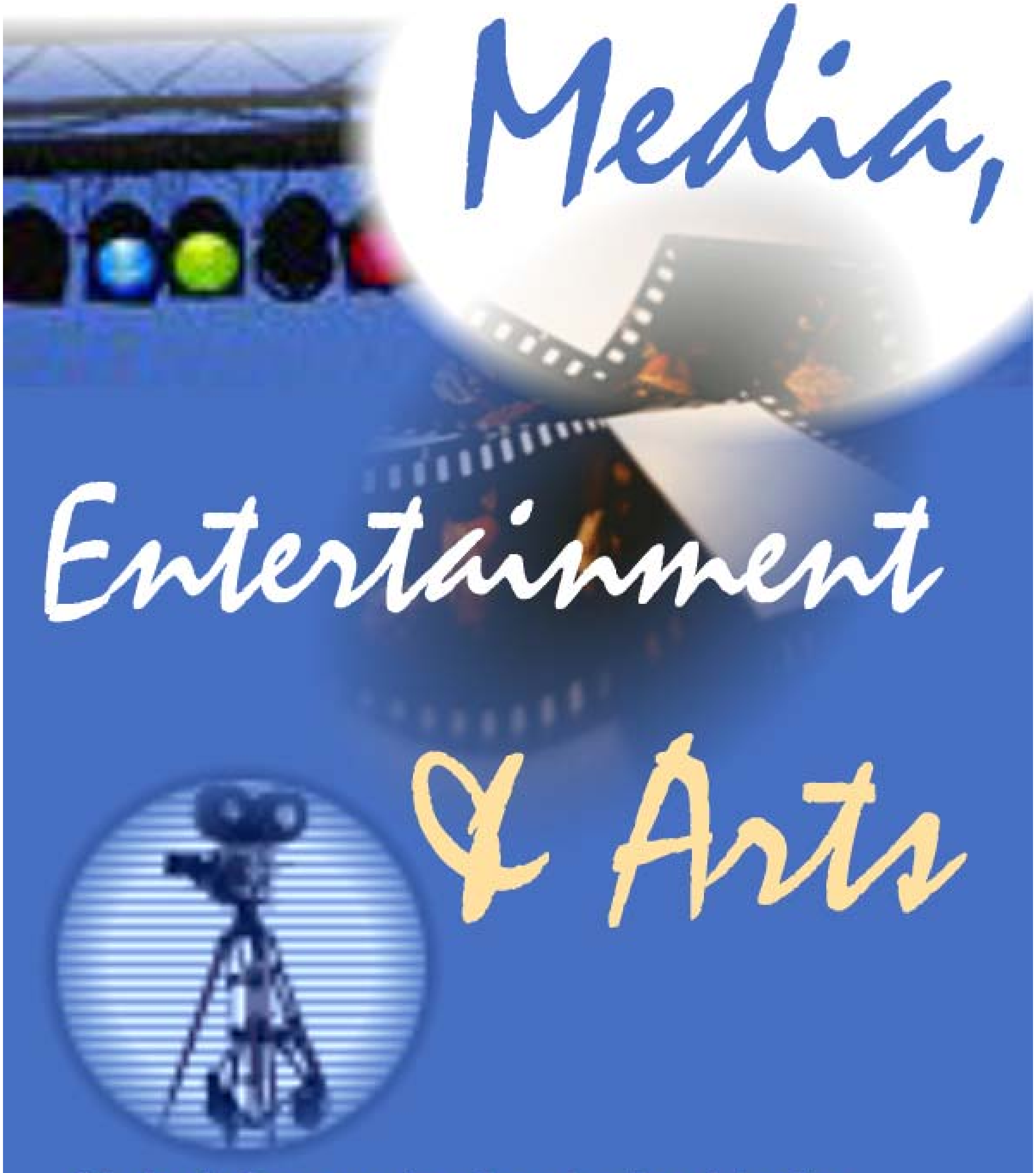

Media, Entertainment & Arts

Global Concentration in the Media

A report by Andrew Bibby

UNION NETWORK INTERNATIONAL

Global Concentration in the Media

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Foreword

We are confronted today with local and global concentration of media ownership. In media markets around the world, our members are faced with pressures to relax ownership rules. This push spills over into aggressive attacks on public broadcasting structures, with widespread calls for privatisation. Another dimension is the drive for deregulation in the private sector. Concentration is a threat to creativity, diversity and pluralism. Further, it impedes the protection of creators' rights. Finally, it also impacts negatively on trade union rights undermining or suppressing labour views in the public sphere.

To be able to participate in community life and make political choices, citizens rely heavily on information. They need to know what is going on and what are the options that they should weigh, debate and act upon. Ideally there should be a wide range of media representing the diverse opinions and viewpoints on issues of public interest existent in society, which are independent of the state and society's dominant economic forces. Media concentration can occur in a variety of ways and for different reasons.

Companies can integrate horizontally and vertically or through product diversification and internationalisation. Media concentration has a detrimental effect upon democracy, which vitally depends on diversity of opinion. Media should reflect the whole variety of ideas, viewpoints and opinions that exist in a society and represent a wide range of political and cultural societal groups. A concentrated media market might not only have a disadvantageous impact upon pluralism and allow media owners a heightened influence on public opinion, but can also enable the largest players to close the market to new entrants.

For UNI, growing global concentration of ownership has direct implications on jobs and working conditions. This report on media concentration by Andrew Bibby is a major step in UNI-MEI's campaign on media concentration. It assesses the current situation and brings forward evidence to argue that growing concentration of media ownership is a major issue and one which should concern both trade unions and wider society. Bibby rightly emphasises that unions should not necessarily oppose the concentration of ownership per se, but rather focus on the effect of that concentration. He illustrates that in the media and entertainment sectors the implications of concentration of ownership demand close examination, simply because of the intimate relationship between the media and the societies in which we live, our cultural and democratic life. The report clearly demonstrates that there is now a small number of media companies, and a small number of individuals within these companies, who wield considerable power. We are faced with global media oligopoly.

The challenge is to respond to this situation with something more positive: a call to the world community for real media plurality, creativity and diversity. UNI and trade unions globally point out that the world's development cannot safely be left for the markets to decide. Media ownership must be regulated at local, national and international levels in order to promote media plurality. UNI affiliates are taking actions at national level as this report illustrates.

However, global media concentration requires a global response. Following its General Assembly in Los Angeles, 1-3 October 2003, UNI-MEI is now in the process of establishing a fuller picture of union representation in the top global media companies and will initiate actions to improve the networking of unions in these companies. This report confirms that our response to mediaconcentration has to focus on the following issues: Protection of content, creativity, quality, diversity and pluralism, promotion of public service broadcasting and safeguarding creators' rights and artistic integrity.

The UNI World Executive adopted a resolution on media concentration at its meeting on 6 November 2003 supporting this campaign. UNI will continue its efforts to negotiate global framework agreements with major global media companies aiming at the promotion of creativity, diversity and quality as well as improving corporate governance. We call on all UNI affiliates and friends elsewhere, inside as well as outside the labour movement, to join the campaign to support media pluralism and oppose unregulated media concentration.

Jim Wilson, UNI-MEI Director

Philip Jennings, UNI General Secretary

Global Concentration in the Media

Introduction

Should we care who owns the media? Does it matter if, step by step, a consolidation process is taking place, creating a small group of global companies with interests spanning film, music, television, entertainment and the printed word? Is it really an issue if, at international as at national level, a handful of companies are becoming dominant?

Increasing business concentration is a facet of globalization. The media, entertainment and arts sectors are in this respect no different from other industries – or, if there is a difference, it is that the large media empires are minnows in comparison with really large transnational corporations in banking, the oil industry, pharmaceuticals, automobiles, retailing and IT. (In terms of the league table of the top 50 global companies by market value, you would currently have to wade down to the low 30s rankings before finding the first proper media company listed[1].)

So perhaps opponents of media concentration protest too much? Workers in the arts and media have, for hundreds of years, got on with their job of producing creative and professional work, regardless of whether their pay-master was a royal patron of the arts, a media mogul with an overweening ego, or a technology company trying to puzzle out how to run a Hollywood studio.

It's surely understandable if creative workers fail to become too obsessed with board room antics, given the way in which ownership of media businesses frequently changes. Consider Universal Studios, for example, the ownership of which has been shifted around the world in recent years – US, Japan, Canada, France – like a global game of pass-the-parcel. It's tempting to suggest that Universal's staff should ignore all this and simply get on with doing their own jobs in the best way they can.

To put it bluntly: perhaps the ultimate ownership of a media or entertainment company doesn't fundamentally matter?

But it does.

This report will be bringing forward evidence to argue that the growing concentration of media ownership *is* a major issue, and one which should concern both trade unions and wider society.

For those who work in the industry, there are direct implications for the security of their employment and the conditions in which they work

More generally, media concentration raises significant issues of public policy, potentially undermining democratic institutions and reducing cultural and linguistic diversity

Trade unions in the media and entertainments sector do not need to be told of the practical problems which media concentration can bring. In the past two years unions in several countries have had to cope with the fallout from the overblown media mergers of 1999 and 2000. Here are just a few examples:

- In France, unions have demonstrated several times at Vivendi Universal's head office in Paris, to demand proper treatment for Vivendi staff facing redundancy or transfer. As one of the unions has put it, Vivendi Universal's management is trying to make staff pay for management's mistakes[2].

- In the United States, the Writers Guild of America west is one of a number of UNI MEI affiliates to have attacked the trend towards large media corporates, which it says has a direct and adverse effect on writers, directors, actors, and other creative workers[3]:

"*The California economy has lost 10,000 entertainment industry jobs in the past three years. I attribute that loss, in part, to consolidation of the industry into just a small number of large conglomerates. More jobs will be lost if consolidation continues.*"[4]
(Charles Slocum, WGAw's assistant executive director)

- In Germany, the union ver.di has had to tackle, among other things, the aftermath of the large Kirch media empire's plunge into bankruptcy. A recent conference saw delegates discuss union responses to the more general media crisis in the country, which included a call for ver.di opposition to further media concentration.[5]

For a number of UNI MEI's affiliated unions, the last two years have seen the issue of media concentration take on a greater profile in the wider context of governmental or quasi-governmental moves towards deregulation and the loosening of controls on media ownership.

- This has been the experience in Australia, where unions have been attacking the government's Media Ownership bill. As the Media, Entertainment and Arts Alliance points out, Australia already has a remarkably concentrated media sector, with four dominant players; the new bill, by permitting greater cross-media ownership, will open the door to a national media sector with even fewer companies:

This bill has always had one unstated goal: to let large corporations own both television and daily newspapers… The big four will become the big two, It's not good for democracy.[6]

- It has been a similar story in the United Kingdom, where the broadcasting union BECTU has been concerned at the implications for media monopoly inherent in the government's communications strategy, now culminated in a Communications Act. BECTU opposed measures to remove bars to cross-ownership of broadcasting stations by newspaper interests. There has been particular concern in Britain that the Act may make it possible for Murdoch's News Corporation to acquire a UK terrestrial TV station.[7]

- However, it is in the United States where the campaign against official moves to loosen media ownership controls has received the highest profile, bringing UNI MEI affiliate unions together with a wider coalition of forces to oppose changes made by the Federal Communications Commission. The controversial changes, being championed by FCC Chairman Michael Powell, potentially give media companies the green light to grow still bigger, by developing cross-media ownership and acquiring more broadcasting stations.

The FCC's decision ('profoundly troubling', according to Writers Guild of America, west[8]) was announced in July this year. The Communications Workers of America (CWA) concur:

The Federal Communication Commission's decision… will have serious repercussions for our democracy… Fewer companies controlling the newspapers, radio stations and TV stations in a single community means fewer voices – fewer points of view – will be heard[9].

It is not only trade unions who are raising concerns at the dangers of media concentration. The Committee of Ministers of the Council of Europe, for example, has also called for measures to promote media pluralism, with recommendations to members states both to "consider the introduction of legislation designed to prevent or counteract concentrations that might endanger media pluralism" and to "examine the possibility of defining thresholds – in their law or authorization, licensing or similar procedures - to limit the influence which a single commercial company or group may have in one or more media sectors".[10]

A similar message comes from a more unlikely source. Barry Diller, the tough film and media operator who perhaps merits the 'mogul' tag more than most and who has in turn headed Paramount, Fox and Universal film studios, has also spoken out against concentration. In a much-quoted speech made in April 2003 to the US National Association of Broadcasters, he criticized the "few vertically integrated monoliths", who he said were eradicating diversity and competition:

Conglomerates buy eyeballs. That's it.. and they leverage… their producing power to drive content, their distribution power (such as retransmission consent) to drive new services, and their promotional power to literally obliterate competitors…

The barrier to entry is now so incredibly high that the ability of a new entrant to actually go out and get voice is practically nil… The possibilities today of somebody launching a new Fox network, a truly independent new network, are non-existent….

There are real dangers in complete concentration. The conventional wisdom is wrong – we need more regulation, not less.

Assessing the current situation

Before we look in more detail at the media 'monoliths' which Barry Diller was describing, let us try to summarize some key aspects both of the history of media concentration and of the current situation:

- Concentration of ownership in the entertainment, media and arts sectors is by no means a new phenomenon. Concentration developed initially primarily within single sectors of the media industry (as for example with the early consolidation in film production and newspaper publishing), but cross-media concentration has also been a major feature of recent decades. In other words, this trend is not simply the result of very recent interest in convergence and the 'information society'.

- Concentration initially tended to be restricted by national boundaries; media concentration within a single nation state still remains a major concern in some countries (examples include Italy, Brazil and Russia). However, as in other sectors, an increasingly globalized economy is being reflected in the growing global nature of media consolidation.

- Concentration is both horizontal (ie, between companies occupying the same position in a sector) and vertical (ie, extending up and down the full life cycle of a product or service, from production to eventual distribution).

- Distribution channels – the methods by which services reach the end consumer – are a key part of media empires. Those who control distribution channels gain the power to decide what will be distributed and under what conditions (the 'gate-keeper' role). (For example, the European Audiovisual Observatory has complained of the problems for the European film industry caused by the lack of a European distribution network[11].)

- Sectors which would once have been regarded as outside the media and arts world have been brought in as component parts of the large media empires. One example is professional sport, which is increasingly a vital content provider for TV. Major US sports teams are owned by, for example, Disney, NBC (General Electric), AOL Time Warner and Murdoch's News Corporation (the latter also tried to acquire one of the global brand leaders in football (soccer), the UK team Manchester United). Entertainment parks are a feature of several global media groups, following the trend begun by Disney.

- In music, the five major companies operate globally, have offices in almost every major music producing country and dominate local recording, wiping out local producers of all sizes. (This degree of global dominance is even considerably greater than that in, say, film and television production).

- Both book and magazine publishing has been transformed in recent years, with several large publishing companies ending up in the media conglomerates. But newspaper publishing (notwithstanding Rupert Murdoch's roots in newspaper publishing) has up to now been somewhat less closely integrated with the global media giants.

- In live performance (though not the direct focus of this report), the same tendency towards international concentration can be observed. As UNI MEI affiliate IATSE (US and Canada) and BECTU (UK) have found, the managements in both Broadway and London's West End are increasingly the same (and increasingly they use the same labor lawyers and sharp tactics to undermine century-old collective agreement practices). A similar process is occurring in other common language areas (for instance theatre unions in Germany, Austria and German-speaking Switzerland find increasingly that the same producers are present throughout the region).

- Digital technology has made available a host of new media services, including digital TV, digital radio and digital film and also including such things as webcasting, interactive television, MP3 music, and video-on-demand. Unlike analogue technologies, digital media are not limited by bandwidth considerations. Despite the apparent opportunities for greater choice, however, existing media groups have moved rapidly to dominate the new digital arena.

- The 1990s saw much talk of 'convergence', in the sense of the gradual coalescence of the IT and telecoms sectors with the media 'content' industry. This may now be something of an unfashionable term, but nevertheless the long-term trend is still in the direction of greater convergence. There are already examples (such as Bell Canada Enterprises and Telefónica) of telecom companies moving into the media sector; this trend may well pick up again, when telecom companies have recovered from the recent collapse of their sector.

- Technological change (including convergence and the development of digital media), combined with the dominant pro-liberalization agenda of international corporations and the global financial system, has created something of a legitimacy crisis for existing regulatory frameworks for the media and telecoms. As we have seen already, existing controls and requirements are under siege in several countries. We shall return to this point later in this report.

The media giants

Global media concentration is a constantly changing card game. In the years since Anthony Smith published his book *The Age of Behemoths: The Globalization of Mass Media Firms* in 1991, the decks have been reshuffled, hands played, tricks won and lost.

The process means that any survey of exactly who owns what runs the risk of being rapidly out of date. But as Mark Crispin Miller of the Project on Media Ownership (Promo) at New York University points out, it is the underlying trend which is important:

The media cartel that keeps us fully entertained and permanently half-informed is always growing here and shriveling there, with certain of its members bulking up while others slowly fall apart or get digested whole. But while the players tend to come and go – always with a few exceptions – the overall Leviathan itself keeps getting bigger, louder, brighter, forever taking up more time and space, in every street, in countless homes, in every other head.[12]

With this important principle in mind, the box below offers a brief resume of the situation during the second half of 2003.

Some major media conglomerates – a potted summary

- **AOL Time Warner**

The $112 bn merger of AOL and Time Warner was, in 2000, the largest merger in US corporate history. AOL had grown rapidly from its origins as a small on-line video game company, acquiring along the way Netscape, CompuServe and other web-related businesses. Time Warner was the product of the uneasy 1989 merger between Time Inc and Warner Communications, which brought together film production, TV, music and publishing interests. Ted Turner's media empire (including CNN) was acquired by Time Warner in 1996.

Post-merger, the company's performance failed to match the hype. CEO Jerry Levin (ex-Time Warner) was pressured into leaving in December 2001, and the company's first Chairman Steve Case (ex-AOL) left also under pressure in early 2003. Since then, the company has tried to reduce its enormous debt by selling some of its assets, including its book publishing division, sports teams and cable television channels.

The current portfolio includes: AOL (including Netscape, CompuServe), Time Warner books, HBO (cable), CNN (cable news), Warner Bros (film studios and television), magazines (Time, Fortune, etc), Warner Music group, Warner Brothers theme parks, Turner Entertainment (including Cartoon Network)

- **Vivendi Universal**

The dream of Jean-Marie Messier, CEO of Vivendi (formally the staid French water utility Générale des Eaux), to transform his company into a global media giant appeared to be realised with the 2000 deal with the Canadian company Seagram to create Vivendi Universal. Seagram, formerly a drinks based company, had moved into the media industry with the acquisition of MCM and, later PolyGram. The Vivendi Universal deal also involved Vivendi buying out minority shareholders to acquire full control of the important French and European television channel Canal+.

Vivendi Universal continued its spending spree, purchasing MP3.com and US publisher Houghton Mifflin in 2002 and bidding unsuccessfully for NBC (from GE) and Lycos. However, reality caught up with the company's massive corporate debts. Messier was forced out in 2002. Since then the company has attempted to generate much needed cash, by divesting itself of many of its assets. Houghton Mifflin was sold (at a 25% loss). Vivendi completely separated from its former utility arm (Vivendi Environnement, renamed Veolia). Most dramatically, in 2003 Vivendi has engaged in an auction process to sell its US film and media interests. It appears likely at time of writing that these will merge with GE's NBC TV interest to create a powerful new media giant.

Portfolio (subject to further divestment): telecoms (Cegetel), Universal Music (MCA, Motown, Polygram…), Canal+. Currently under auction: Universal studios, Universal pictures, theme parks. Already sold: Houghton Mifflin, Telepiù (Italian TV), Vivendi Environnement

- **NBC (General Electric)**

The broadcasting arm of General Electric, the multinational giant with interests in aerospace, manufacturing, finance, automobiles and much else.

At one stage almost acquired by Messier's Vivendi Universal, NBC may have the last laugh, if the proposed acquisition of Vivendi's US interests is successful.

Portfolio: NBC network television; sports interests; many joint ventures (eg MSNBC with Microsoft)

- **Disney (Walt Disney Company)**

Disney, under its chairman Michael Eisner, kept clear of the merger activity of 1999-2000. Eisner's position was called into question during 2002-1 as a result of poor returns, and the period was marked with some staffing losses, for example in the animation division and Miramax films. Nevertheless, the company continues to employ in total over 100,000 staff.
Portfolio: ABC network television, Walt Disney Pictures, Disneyland theme parks and resorts, Walt Disney Co Book Publishing, magazine interests, Disney Channel.

- **Viacom**

Viacom developed its current shape in the middle and late1990s, first with the acquisition of Paramount studios, Blockbuster and MTV and subsequently (in 1999) with the addition of the CBS television network. The company is controlled by its veteran chief executive Sumner Redstone. Most media interest recently has been focused on speculation of a rift between Redstone and Viacom's chief operating officer Mel Karmazin.

Portfolio: Paramount Pictures, CBS network television, MTV television, Nickelodeon, radio interests in US, Simon and Schuster (book publishers), Blockbuster video, UCI cinemas (50% holding)

- **Bertelsmann**

This German company, founded on a publishing empire and still based in the sleepy city of Gütersloh, remains privately owned. Under the leadership of Thomas Middelhoff, the company appeared to be following a Vivendi-style trajectory, including a public share offer. Instead, Middelhoff was ousted in 2002, and the company is now adopting a more conservative strategy.

Its music division BMG has 10% of the recorded music industry, and also owns the pioneering but now effectively dormant music swap service Napster. Reports suggest that Bertelsmann may be looking to sell or merge its music division. It is also retreating from e-commerce.

Portfolio: RTL Group (European biggest broadcaster), Random House (book publishing), Gruner + Jahr newspaper and magazine group; BMG Music, Direct Group (internet and book clubs).

- **Murdoch/News Corporation**

The media empire created by Australian (now US citizen) Rupert Murdoch originated in newspaper publishing, but now encompasses film production, television and book publishing.

Murdoch has received attention for the uncanny way his newspapers and TV stations almost invariably reflect his own robustly pro-business anti-'liberal' point of view. During the Iraq war, for example, Fox News's strongly partisan pro-war tone drew comment.

Murdoch has also used his media clout to political effect. In the UK, the Murdoch papers' (unprecedented) support for a Labour government was considered a significant feature of

Labour's election win in 1997; the government's recent Communications Act, which relaxes TV ownership rules, is seen by many observers as being a pay-back.

Murdoch's interests in the US have been immeasurably strengthened this year by his acquisition of Hughes Electronics, owners of the largest direct satellite network DirecTV. Murdoch attempted, but failed, to acquire DirecTV in 2001. His success this time (subject to regulatory approval, expected by the end of 2003) gives him a powerful distribution channel. It also strengthens his global satellite TV interests, including BSkyB in the UK and Star (Satellite Television Asia region) in Asia. Murdoch also recently acquired full control of Telepiù in Italy.

Murdoch's media holdings are structured in a highly complex way, including both family-owned holdings and companies in various offshore locations. Among other things, this structure helps minimize corporate tax liabilities.

Portfolio: Fox television, Fox News, Twentieth Century Fox (film production), HarperCollins (book publishers), DirecTV (under acquisition), New York Post, The Times of London and other major UK newspapers, Australian newspaper holdings, Star TV (Asia), sport and music interests.

- **Sony**

The Japanese electronics group acquired Columbia in 1989, followed a year later by its domestic rival Matsushita's acquisition of MGM/UA. Whilst Matsushita quickly withdrew from its film and music interests with its fingers badly burned, Sony has continued its relationship with Hollywood, although not without some difficulty.

Currently Sony's electronics business contributes about 60% of the group's profits; film adds about 10%, video games 11% and music a further 9%.

Portfolio: Columbia Pictures, music division

The key events of the years 1999-2001 were the creation of the two giants AOL Time Warner and Vivendi Universal, and the key events of 2002-2003 the subsequent remedial action by both firms to recover from their gross over- indebtedness.

Both mergers were creatures of their time. In the case of upstart AOL, its take-over of venerable Time Warner was a product of the absurd overvaluation of internet stocks (and of some apparently dodgy accounting practices at AOL now being investigated by the US Securities and Exchange Commission). Jean-Marie Messier's transformation of a pedestrian French utility company into a would-be global media empire was equally audacious and – in hindsight – equally flawed.

In both cases, the 'logic' of the merged companies was of the synergies which could be realised. In other words, in an increasingly information-based society, there were benefits to be realised not just from economies of scale but from releasing extra value by using the same information 'content' across different delivery platforms.

But the alleged benefits of this synergy turned out not to exist. As the business journalists Jo Johnson and Martine Orange have noted in their study of Messier's Vivendi:

More than any other chief executive during the bubble years, Messier worshipped the false god of synergy. He believed that the cross-promotion of products throughout the divisions of his vast conglomerate would justify all the complexity it entailed…. For Messier, who was attempting to create a world-leading media company ex nihilo and was therefore unable to benefit from more humdrum cost savings and economies of scale, synergy was an indispensable crutch… The assumptions turned out, of course, to be wildly optimistic[13].

But the failure of Messier's dream at Vivendi Universal or of Steve Case and Jerry Levin's project at AOL Time Warner does not mean that the gears have been thrown into reverse. There is, indeed, no going back.

In other words, despite the apparent lessons of AOL Time Warner and Vivendi Universal, the drive towards ever-greater media concentration is continuing. Vivendi's auction during 2003 of its Universal business (taking place whilst this report was being written) looks likely to give the world a new, all-embracing media giant including the powerful US TV network NBC. In fact with the Universal/NBC deal, we will move from a 'big six' to a 'big five' situation.

These companies are rivals. Nevertheless, their relationship is more subtle than this might suggest. As Ben Bagdikian has pointed out in his book *The Media Monopoly*:

They are intertwined; they own stock in each other, they cooperate in joint media ventures, and among themselves they divide profits from some of the most widely viewed programs on television, cable and movies[14].

The complex web of cross-ownership between the major media companies is such as to "make you dizzy", in the words of the Hollywood magazine *Variety*[15].

There are close social ties, sometimes friendship networks, between many of the key individuals involved. For example, Thomas Middelhoff, the ousted head of Bertelsmann, is a long-time friend of AOL's former Chairman Steve Case (Middelhoff was instrumental in the Bertelsmann/AOL joint venture, AOL Europe). Shortly after Middelhoff's removal from Bertelsmann he turned up at AOL Time Warner's head office, amid rumors that Steve Case wanted to appoint him to the AOL Time Warner board[16]. (As the press has pointed out, the friendship may be of wider relevance given the allegations of accounting irregularities at AOL in relation to dealings with Bertelsmann prior to the Time Warner merger.) Middelhoff has also been a friend of Vivendi's Jean-Marie Messier.

Almost all the key individuals of the major media companies are invited to share a week together once a year in Sun Valley, a resort in the mountains of Idaho, as guests of the investment banker Herb Allen. The Sun Valley reunion, strictly by invitation only, has for many years provided an opportunity for networking and deal-making. The 2003 event, for example, was held in July with Vivendi's auction of its Universal assets the main talking point. According to one high-placed observer, "As the industry consolidates, you have fewer and fewer owners, and each of the owners have more reason to do business with each other, so in a place like this, where they are all here together, a lot of business gets done"[17].

It is wrong to concentrate simply on the very largest media corporates, however. Below the global 'big five' or 'big six' are a second-division of companies which also have significant power.

In the recorded music business, for example, the UK-based company EMI is the third largest player with about 14% market share, behind Vivendi Universal (22%) and Sony (16%), but ahead of Warner Music (part of AOL Time Warner) with 13% and Bertelsmann with 11%. EMI has been in talks with both Time Warner (2000) and Bertelsmann (2001); a link-up with Bertelsmann's music group BMG is currently the subject of renewed press speculation.

Media companies do not need global reach to be able to play a very powerful role within individual countries. In Brazil, for example, the media empire Organizações Globo established by Roberto Marinho who died aged 98 in August this year, reaches 99.9% of all homes in Brazil through its network of TV channels, radio, newspapers, music, publishing and the internet. Marinho, at his peak worth $6.4 bn, played a powerful role in Brazilian political life.

Until last year, international investors were unable under Brazilian law from acquiring stakes in Organizações Globo or other domestic media companies. This has now been repealed, so that minority holdings of up to 30% are now permitted. However, the sector is currently undergoing a serious economic crisis, which has resulted in widespread unemployment among media workers. Organizações Globo has recently sold peripheral businesses, including a bank and a construction company.[18]

In Italy, one man – Silvio Berlusconi - has an all-powerful role in the media sector, where he owns three of the four private television networks, the largest publishing company (Mondadori) and a dominant advertising agency.

What is extraordinary is that Berlusconi is also Prime Minister of Italy. He has been accused – most recently by the pro-business British magazine The Economist – of both using his political power to advance his commercial interests and his media dominance to promote his political interests. The Economist went so far as to call it Europe's "most extreme case of the abuse by a capitalist of the democracy within which he lives and operates"[19]. A new Communications Bill, being debated in the Italian senate, is seen as potentially enabling Berlusconi to extend his media power still further.

Berlusconi has also used his political position to attempt to appoint allies to the board of Italy's public service broadcaster RAI, a ploy which UNI MEI has strongly condemned[20]. Significantly, in July this year RAI's evening news programme failed to cover highly controversial anti-German remarks made by Berlusconi in his current role as President of the European Union, a news story which was considered highly important by other European news organizations[21].

Unfortunately, it is a similar tale in Russia, where recent years have seen a sharp reversal of the moves towards a more pluralistic media culture which developed after the break-up of the USSR. Today there are few independent media voices left in Russia.

Two of Russia's TV networks, RTR and ORT, are effectively state controlled. A top security service official was appointed to a role overseeing the state-run RTR television in June this year. A third network, NTV, is run by the gas monopoly company Gazprom which acquired the network two years ago from the opposition figure Vladimir Gusinsky, a takeover which at the time was seen as an attack on media freedom. NTV nevertheless is still seen as somewhat more independent minded than RTR and ORT. Another station, the independently minded TV-6, has effectively been driven off the air.

Media concentration – a trade union response

The lessons of the last three years show that high-level mergers of the AOL Time Warner and Vivendi Universal kind have a deleterious effect not only on shareholder value but also on the individual workers who work in the media and entertainment sector.

As outlined at the start of this report, unions around the world have been attempting to take remedial action to protect jobs, guard pension rights and maintain employment standards. For many media workers, the power games of individuals such as Steve Case or Jean-Marie Messier have directly impinged on their working and living conditions.

More generally, it can be argued that media concentration per se threatens jobs. This is the view, for example, of Charles Slocum of the Writers Guild of America, west:

"*The economy is less robust when it depends on a few large companies rather than a web of a thousand small firms… There are a thousand small business that operate in the entertainment industry in California, and they are all threatened by consolidation…*

"*If an independent producer develops a script, that small business will have two to fifteen employees, developing the script creatively, negotiating options and contracts, managing the firm's cash flow, answering the phones, and cleaning up the office at the end of the day. If that development is consolidated into an entertainment conglomerate, the list of projects managed by the studio staff increases by the two or three, but the studio staff increases only minimally. Jobs are lost.*[22]"

A strategy for tackling the undesirable aspects of media concentration means engaging in a number of different areas of debate and public policy. The remainder of this report suggests five broad areas where trade union attention is needed:

- Regulatory issues
- Public service broadcasting
- Media diversity and plurality
- Creators' rights and artistic integrity
- Corporate governance

a) Regulatory issues

It is no coincidence that, as we saw earlier, the last few years have seen unions in several countries obliged to fight rearguard actions against proposed changes to media regulatory regimes.

Why are governments apparently so keen to revisit their media regulatory frameworks, in many cases making it easier for large multinational corporations to increase their power and influence?

There are a number of interlocking reasons. The first is the general neo-liberalistic climate which has been a feature of global capitalism since the 1980s and which has been associated with privatization of previously publicly-owned services and of an ideological emphasis on the importance of 'free market' forces, 'untrammeled' by unnecessary restrictions.

This ideological thrust can be clearly seen, for instance, in the comments of the minister in the UK made when introducing the country's Communications Bill: "For too long the UK's media have been over-regulated and over-protected from competition… The draft Bill we published today will liberalize the market, so removing unnecessary regulatory burdens and cutting red tape.[23]" The push from 'free market' interests was also clearly visible in the US where the FCC's July 2003 decision to liberalize ownership rules was the result of a 3:2 vote on party lines, with the three Republican-appointed Commissioners opposed by the two Democrat Commissioners.

Secondly, convergence is bringing up anomalies in existing regulatory practice. This is true particularly in relation to digitization, the transformation of the telephone network into a data telecommunications distribution channel, and the development of cable and satellite as alternative methods of distribution to traditional broadcast transmission. Generally, the telecoms and broadcasting sectors have in the past been separately regulated. But as an OECD paper has pointed out, "Where there are separate regulatory structures for telecommunications and broadcasting infrastructures, there is the possibility of overlap and conflict between regulatory regimes, and the possibility of incomplete coverage"[24]

In the European Union, a package of five directives for the telecoms sector was adopted in 2001 which effectively completed the transition from regulation of telecoms alone to that of the much broader field of communications, to cover among other things terrestrial, cable and satellite distribution networks (though not services and content).

Thirdly, regulation of analogue TV and radio broadcasting was traditionally undertaken as a way of allocating equitably the scarce resources of available frequency. In a digital environment, this sort of scarcity no longer exists in the same way.

How regulatory frameworks should be restructured is the question, and one where commercial interests have been intervening strongly.

This is not just about anti-trust regulation. Media and telecommunications company amalgamations and takeovers are, of course, controlled by anti-trust legislation in the same way as businesses in any other sector. Competition policy has already been used to intervene in some high profile takeovers and mergers: the AOL/Time Warner merger, for example, was obliged to satisfy the competition regulators in both the US (the Federal Trade Commission) and the European Commission before it could proceed, and indeed the European Commission insisted that the merger should be conditional on the shedding of the previous link between AOL and Bertelsmann.

The focus rather is on the specific regulatory framework in place for the telecoms, broadcasting and new media sectors.

The need to protect content diversity through adequate regulation of media concentration has been pointed out, among others, by the authors of a recent paper for the European Audiovisual Observatory:

"*While the harmful effects of commercial concentrations in other sectors are mainly economic, journalistic aspects are also involved where media concentrations are concerned. Unlike other companies, media undertakings… also serve to support one of the most fundamental human rights – freedom of opinion, information, the press and broadcasting, an indispensable part of any democracy…The control of media concentrations is therefore a special case, reaching beyond pure competition law*[25]".

The authors go on to make the observation that, despite the recent EU communications directives, there is still no specific European law on media concentration and no direct EU instruments to combat the threat to media pluralism. Previous attempts to address this, through the 1996 draft directive on Media Pluralism and the 1997 draft directive on Media Ownership in the Internal Market, both failed in the teeth of strong commercial opposition.

In a number of countries, new 'super-regulators' have been created, designed to cover the whole converged area of the information economy. In the United Kingdom, for example, a new Office of Communications (Ofcom) this year takes over powers previously held by five bodies covering telecoms regulation, TV and radio licensing and issues of broadcasting standards and content. The new Communications Commission of India (CCI) is adopting a similar approach. In the United States, telephone, broadcasting, cable and satellite are already all within the remit of the FCC, although in practice the FCC's six Bureaus – linked to industry sectors - tend to operate in a quasi-autonomous fashion[26].

One concern in establishing super-regulators covering both telecoms and media is that the focus can be unduly technical, with less attention given to broadcasting and media content. This is a particular fear where a single regulator, such as the UK's Ofcom, oversees both infrastructure issues and questions of content. (The UK union BECTU has called on Ofcom to set up a distinct and identifiable department to deal with content regulation issues[27].)

To summarize, we can say that the regulatory arena is one where many of the battles for the future shape of the entertainment and media sector are currently being fought out. Recent regulatory changes in several countries will have the effect of further encouraging media concentration. National and international debate on regulatory frameworks has up to now focused inadequately on the need to protect content quality, diversity and pluralism.

b) Public service broadcasting

In the statement drawn up in June 2001 at the Euro-MEI General Assembly in Brussels, UNI has drawn attention to the link between media concentration and the threat to public service broadcasting:

"*Confronting media concentration and cross-ownership, public service broadcasting now faces a direct challenge quite unlike anything it has known before: how to co-exist in competition with a* *handful of media meg-trusts that aggressively move towards controlling what is rapidly becoming an oligopolistic cartel*".

The statement goes on to claim:

"*The restructuring of the market and new technology in no way affects the importance and the relevance of public service broadcasting to society or alters its core values. The new digital technologies that reinforce both commercial pressures and globalization do not reduce the role of public service broadcasting, on the contrary, they increase the need for it*[28]."

UNI is not alone in this view. In the US, Robert McChesney and John Nichols, whose book *Our Media, not Theirs* amounts to a manifesto in defense of democratic control of the media, claim that "The defense of public broadcasting – and its reformation along less bureaucratic lines – is one of the cornerstones of media reform movements worldwide…There is a growing sense that we are on the verge of losing a unique and indispensable cultural resource[29]".

The Murdoch-owned media have been particularly fierce in their attack on public service broadcasting. In the UK, for example, Murdoch's influential stable of newspapers, including The Times and the top-selling popular daily The Sun, have long waged a fierce anti-BBC campaign. These papers have promoted the view that the BBC should lose its licensing right, which guarantees a national source of funding.

What could be at stake here is suggested from the comment made by one American woman who has access to BBC World to the conflicting news values demonstrated during the Iraq war: "When the kids go to sleep I watch the BBC news with my husband. If you ask me, Fox [the Murdoch-owned TV network] is so black and white. The BBC is kind of gray.[30]"

Defending the 'gray' things in life may not be the strongest slogan with which to fight for public sector broadcasting, but the importance of continuing to allow different shades of opinion to be heard in the mass media is surely a key one.

This is a challenge in all areas of the globe. In South Africa, for example, the Freedom of Expression Institute (FXI) has criticized changes made by the public broadcasting service SABC in response to a lack of state funding: "Formats, presenting styles, languages, genres and audiences that are not considered to be commercially viable have been systematically marginalized," FXI reports[31].

Even where the existing frontiers of public service broadcasting can be adequately defended against commercial attack, there is a danger at a time of growth in new media that the public service concept becomes corralled within a relatively narrow traditional concept of broadcasting. In fact, the principles behind public service broadcasting – those of universality of service, of quality and impartiality of output, and of helping support an active social and cultural citizenship, for example – can be just as readily applied to new media forms. This has been recognized by numerous international bodies, as for example by the European Broadcasting Union[32].

Nevertheless, in practice public service broadcasters are coming under pressure when they venture into new media. The Dutch Media Act of 1997 limits the so-called 'sideline' activities of public broadcasters[33], whilst the UK government recently announced a review of the BBC's much-praised (but also, by commercial competitors, much criticized) internet operation.

The task therefore is not simply to defend existing public service broadcasting but also to argue for its extension into new channels of communication. The challenge here is that this involves imposing public service obligations in areas, which up to now have been allowed to be purely commercial and largely unregulated in terms of content.

c) Media diversity and plurality

As this report has stressed throughout, media concentration challenges diversity and pluralism.

There is nothing new in the idea that media owners will try to use their power to promote their own ideas: Henry Luce, the founder of Time magazine in the US, once announced that "I am biased in favor of God, the Republican party, and free enterprise" – and that he expected his magazine to reflect his views[34]. Luce, powerful as he was, did not control a global media empire, however. The situation today is different. As the Media, Entertainment and Arts Alliance in Australia asks rhetorically, "Was it just coincidence that all 174 News Corp newspapers backed the Iraq war – like their boss Rupert Murdoch?[35]"

Trade unions are by no means alone in their concerns about the power wielded by the powerful media corporations. Federico Mayor, former Director-General of Unesco, has observed that the future of democratic societies "depend in part on the development and strengthening of free, independent and pluralistic media"[36].

Alliances are possible with many other groups and individuals who have anxieties about a dystopic future where – as US media journalist Neil Hickey has put it – "some transnational company that knows little and cares less about your community, and whose main allegiance is to its stockholders and advertisers, will own your local daily and weekly newspapers, all your television and radio stations, the cable system, the Internet service provider, several of the national networks that serve you, your local video stores and movie houses, many of the magazines and books you read, and all of the sports teams in your area[37]".

UNI has called for cultural and linguistic diversity to be protected and developed[38], and UNI MEI has linked this to the issue of media concentration. Euro-MEI, for example, has called on media ownership to be dealt with within the framework of the European Union's Television Without Frontiers directive, which is now under review by the European Commission. "It is our opinion that the Commission should regard monitoring of media concentration as one of the key priorities of European audiovisual policy," Euro-MEI says[39].

Attempts by states to defend national content and cultural and linguistic diversity potentially run the risk of falling foul of the World Trade Organization's General Agreement on Trade in Services (GATS). The current Doha round of negotiations includes moves to extend the remit of GATS. In the audiovisual sector, the US negotiating position, for example, effectively calls for new activities in new media such as the internet to be brought within the scope of GATS. Given the problems encountered during negotiations, it is not clear that this sort of extension to current GATS provisions will be agreed. Nevertheless, trade unions in the media and entertainments sectors need to continue to monitor the often arcane world of GATS negotiations carefully.

One initiative, which many UNI MEI affiliates support, is the call, made at a conference of international cultural organizations in Paris in 2003, for a global convention by Unesco on cultural diversity, a measure designed to limit the WTO's remit over cultural issues[40].

d) Creators' rights and artistic integrity

In an information-based economy where, increasingly, value is added not by the application of physical capital but through the use of intellectual capital, issues of intellectual property rights become much more significant than in the past.

Large corporations in the publishing, media and entertainment industry have understood the value of 'content' in a digitally-based information society, and have been attempting to acquire comprehensive rights to back catalogues of digitized material of all kinds. New media give new opportunities for extracting further value from this property. Old B-movies fill up space on cable television channels. Old music recordings are used as sound tracks for advertisements. Clips from old TV sitcoms are licensed for downloading from third generation mobile phones.

Copyright issues have become particularly important in the music sector, where the opportunity exists for users to illicitly copy digital recordings and, particularly, to exchange music files using services such as Napster. The issue of pirate recordings is also a major issue in the film and audiovisual sector.

For individual creative workers within the entertainment and media industries, the problem is one of ensuring that they are adequately rewarded for the full economic value of their work. As UNI's submission to the World Summit on the Information Society points out:

"*The rush for digital rights by powerful corporates… challenges the copyright and moral rights of individual creators (including musicians, artists and writers), the rights on which their livelihoods may depend. This is a matter of considerable concern at present for creators in several countries, not least given their relative powerlessness in the face of large institutions. UNI and several of its affiliates are concerned to ensure that [creators'] copyright… can be adequately defended.*"

The point here is that, as media companies become ever larger, it becomes increasingly harder for individuals to defend their own interests. Whilst stronger trade unions have long experience of assisting their members in detailed contractual and copyright negotiations, this is not the case universally. Trade unions in the media and entertainment industries have a major role to play here for their members.

The World Intellectual Property Organization (WIPO) is presently considering means of adopting international protection for broadcasters into the digital age. UNI MEI has commended this process but cautions that it must not be misused by broadcasters to undermine existing rights of creators in the course of transposing old rights to new circumstances.

A related issue is that of defending artistic integrity for creative workers at a time when cross-sectoral mergers in the media industry offer greater opportunities for cross-marketing and commercialization.

In the Murdoch empire, for example, commentators have noted the strong cross-promotion carried out between Murdoch-owned newspapers and his satellite television interests. Murdoch intervened to ensure that his HarperCollins publishing arm withdrew from publishing a book on Hong Kong written by a senior UK politician, in order to protect his business interests in China.

More generally, the single-minded search for greater profitability in large media corporations has led to ever greater commercial intervention in entertainment products, to the extent that many of these practices now fail to attract comment. One example is the use of product placement within films. As Robert McChesney and John Nichols point out, “Hollywood films have so thoroughly embraced commercial values that *Variety* now writes of the ‘burgeoning sub-field of Product Placement Cinema’, Conglomerate control of films and music has opened the floodgates to commercialism and has proved deadly for creativity.[41]”

e) Corporate governance

It would be wrong to pin the blame for debacles such as, for example, the Vivendi Universal merger simply on a single individual, no matter how central was the role played by Jean-Marie Messier: the underlying problem was one of the lack of adequate corporate governance. Corporate governance issues have also surfaced at AOL Time Warner, particularly in the light of allegations of practices at AOL which helped ‘ramp’ the share price. And of course the scandals at Worldcom, Enron, Global Crossing and a string of other corporates have belatedly focused the attention of financial regulators on this issue.

Poor corporate governance affects shareholders (Vivendi managed to lose $100 bn in shareholder value in two years, for example), but it also directly affects a company’s workforce. Trade unions have a direct interest, therefore, in this issue.

The OECD Trade Union Advisory Committee is coordinating union responses to the current review being undertaken by the OECD of its Principles of Corporate Governance. One point TUAC will be making is the importance of workers’ participation in the internal decision making processes of corporations.

Conclusion

There are those who argue that the way forward for the world at the start of the twenty-first century is to give full rein to ‘free market’ forces, to cut government ‘interference’ in business and diminish the role of regulation as a restraining factor on corporate activity.

Perhaps because these are often the opinions held by those in positions of power within media corporates, these views frequently crop up in the media and – more subtly, perhaps – in other areas of the entertainment industry.

By contrast, UNI and trade unions globally point out that the world's development cannot safely be left for the markets to decide. When things go wrong – as they do – all too often the penalty is paid and the pain is borne by those at the bottom of the corporate ladder, not those at the top.

A large share of the world economy is now in the hands of very powerful transnational corporations, with – as has many times been pointed out – more financial clout than many sovereign nations. Of course, this does not mean that all company takeovers and mergers are invariably 'bad', and that largeness is in some obscure metaphysical sense less satisfactory than smallness. Trade unions should not necessarily oppose the concentration of ownership per se, but rather focus on the *effect* of that concentration.

In the media and entertainment sectors, even more so than in other industries, the implications of concentration of ownership demand close forensic examination, simply because of the intimate relationship between the media and the societies in which we live, our cultural and democratic life. As this report has tried to demonstrate, there is now a small number of media companies, and a small number of individuals within these companies, who wield considerable power.

The challenge is to turn what could just be a negative, and probably ineffectual, attack into something more positive: a call which reaches out to as broad a cross-section of the world community as possible for real media plurality – for creativity, diversity, cultural renaissance, democratic strengthening and linguistic renaissance. It is a task which those who work in the creative industries should not be afraid to lead.

UNI-MEI Resolution on Media Concentration

UNI-MEI General Assembly, Los Angeles, 1-3 October 2003

***Considering that** the critical social, cultural, political and economic function of media in our world necessitates ensuring that the media uphold the values that underlie structures of citizenship in democratic societies and in particular, respect for human rights, culture and pluralism,*

***Taking into account** that the rapid evolution of convergence in technology, the deregulation of the market coupled by the dominance of neo-liberal policy options, exert tremendous pressures towards the shaping of a new media order further intensifying trends of concentration in the media,*

***Seriously concerned** that a handful of transnational media corporations - through merger strategies of internationalisation, diversification, vertical and horizontal integration reap the benefits of natural scale economies and dominate the market, virtually imposing an **oligopoly situation in the media**: a distorted fragmented market with a lack of equal competition,*

***Alarmed** that in the context of a globalised economy of competition, cross-ownership structures between different media sectors but also between different sectors of economy, complicate the corporate grip on the information and the audio-visual products flooding the world and add, with the advent of the information society, new impetus to the debate around media concentration and the dangers it entails,*

The 4th UNI-MEI World General Assembly meeting in Los Angeles 1-3 October 2003:

Declares that any concentration of power being unacceptable in a democracy, no commercial or corporate power should control information and culture just as no state or political power should.

Reiterates firmly that the concentration of media power in the hands of ever fewer operators poses a direct threat to democracy and pluralism since it can potentially interfere with the public's right to know by limiting the sources of information, restrict freedom of expression by limiting or controlling the available channels and manipulate public opinion by controlling content.

Expresses serious concern that this threat is compounded by the proliferation of cross ownership structures that create unethical conflicts of interest particularly in cases where news media own, or are owned by, non-news businesses.

Asserts its grave preoccupation concerning the risk posed to pluralism and access to information in the information society, by positions of dominance, unregulated conditional access systems and/or certain vertical integration patterns where i.e. groups in control of distribution networks might abuse their position as “gatekeepers” to favour their own services and programmes.

Calls for regulation, at national and international level, which will

- Prevent the formation of dominant positions in the market and control media concentration and cross-ownership trends that can result in the monopolisation of the information society.

- Protect public interest by ensuring plurality of ownership and content, quality and rights of access establishing standards and pricing regulation for conditional access systems.
- Establish standards to provide fair, unobstructed and non-discriminatory access for all broadcasters to platform and service infrastructure so that media barons do not become *the gatekeepers* to our society.
- Ensure that the logic of the market and the drive for profit does not prevail over the needs of society. If the development of the information society is to be progress in the real sense, it is essential that we maintain therein the kind of media that will be instrumental in supporting citizenship in a modern democracy.

Endnotes

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