

Measuring media plurality

The case of News Corp's (failed) bid for BSkyB

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Summary

1. The UK regulatory framework and the Public Interest Test
2. News Corp/BSkyB: the story step by step
3. Murdoch's grip over UK media
4. Assessing media plurality:
the role of OFCOM

1. The UK regulatory framework for media mergers

- “Media mergers and acquisitions are subject to the standard merger regime like any other sector.
- However, because of the special position of the media, media mergers and acquisitions can be subject to an **additional level of scrutiny that looks at their impact on the public interest.**
- The Public Interest Test was introduced by the Communications Act 2003 which amended the Enterprise Act 2002.

In the case of cross-media mergers, the public interest consider the need for **“a sufficient plurality of persons with control of the media enterprises” serving a particular audience”**

The Public Interest Test

1. The Secretary of State issues an Intervention Notice;
2. Ofcom and the OFT report back to the Secretary of State;
3. The Secretary of State decides whether to refer the case to the Competition Commission
(if he decides not to then the process stops here);
4. The Competition Commission reports back to the Secretary of State;
5. The Secretary of State makes a final decision;
6. Interested parties can appeal case to the Competition Appeals Tribunal.

The only use of the Public Interest Test before the News Corp/BSkyB case has been the [case](#) of BSkyB's purchase of a 17.9% stake in ITV.

2. News Corp/BSkyB: the story step by step

The key players

1. **News Corporation**
2. **British Sky Broadcasting (BSkyB)**
3. **Business Secretary Vince Cable**
4. **Culture Secretary Jeremy Hunt**
5. **Ofcom** – The media regulator
6. **Office of Fair Trading (OFT)**
Enforces consumer protection law and competition law, reviews proposed mergers and conducts market studies, decisions, and press notices
7. **European Commission**
8. **Competition Commission (CC)**
An independent public body which conducts in-depth inquiries into mergers, markets and the regulation of the major regulated industries



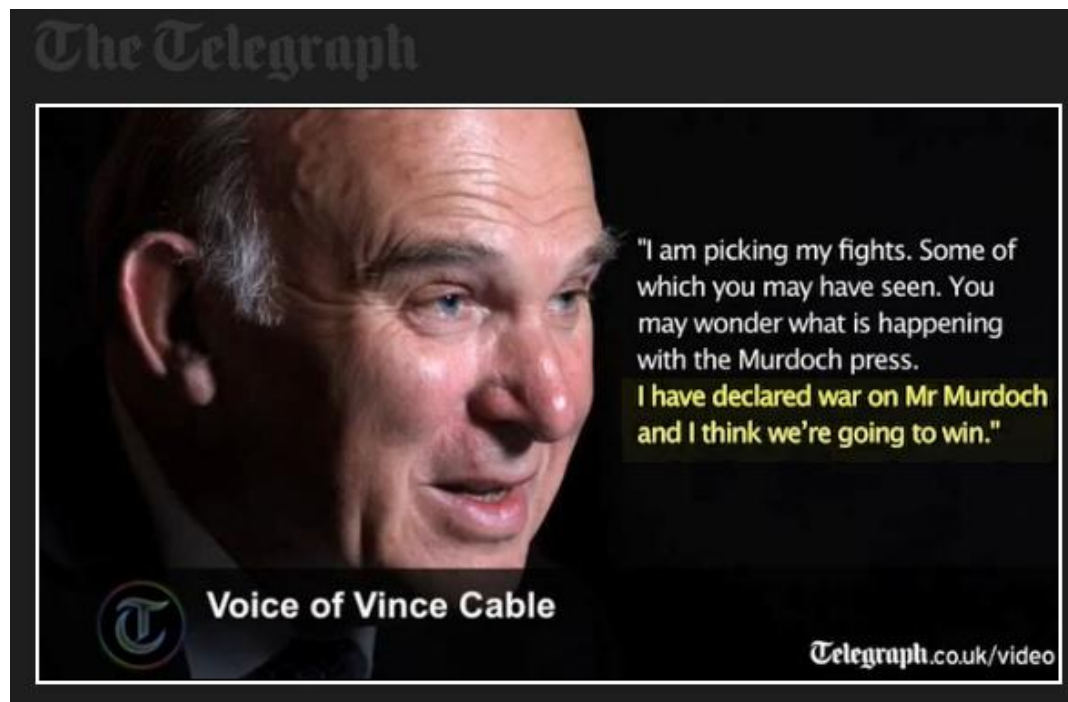
Proposed acquisition announced

- **15 June 2010 - BBC:** Rupert Murdoch's News Corporation is seeking to take full control of satellite broadcaster BSkyB, by **acquiring the 60.9% of the shares it does not already own**
- **3 November 2010:** News Corp notified the EU Commission of the proposed acquisition
- **4 November 2010:** the Secretary of State for Business, Innovation and Skills issued a **European intervention notice**, according to section 58 of the Enterprise Act 2002, concerned with the sufficiency of plurality of persons with control of media enterprises
- **4 November 2010:** The Secretary of State asked **Ofcom to investigate** and to report to him by 31 December 2010

Ofcom: “We will not deal with competition issues. These fall within the jurisdiction of the European Commission”

“I have declared war on Rupert Murdoch”

- **21 December 2010** - Vince Cable has “declared war” on Rupert Murdoch, the media tycoon, [The Daily Telegraph](#) can disclose



- *The Guardian*: “Humiliated Vince Cable stripped of Sky role after ‘war with Murdoch’ gaffe”.

The decision is now in the hands of Jeremy Hunt, the Culture Secretary

Green light by the EU Commission

- **21 December 2010** - The [EU Commission](#) clears the bid

“... the transaction would not significantly impede effective competition in the European Economic Area (EEA) or any substantial part of it.

The Commission's findings concern solely the competition aspects of the proposed transaction.



The UK remains free to decide whether or not to take appropriate measures to protect its legitimate interest in media plurality” (as permitted under Article 21 of the EU Merger Regulation).

- **30 December 2010** – “The [OFT](#) believes that the Secretary of State has jurisdiction to make a reference to the CC under Article 5(3) of the Order to address any media plurality concerns”

Against the public interest

25 January 2010:

[Ofcom's report](#) is published:

“it may be the case that the proposed acquisition may be expected to operate against the public interest since there may not be a sufficient plurality of persons with control of media enterprises providing news and current affairs to UK-wide cross-media audiences”

Jeremy Hunt: “I still intend to refer the merger to the Competition Commission”



Spin-off of Sky News



- **2 March 2011** – [Financial Times](#): “News Corp will spin-off the news operations of British Sky Broadcasting”

- **3 March 2011:**

Jeremy Hunts intends to accept undertakings from News Corporation

Ofcom: “We consider that the revised proposed undertakings would address the plurality concerns indentified in our report”

- **3 March 2011** – Jeremy Hunt launches a first [consultation](#) on “whether the attached undertakings in lieu were sufficient to remedy, mitigate or prevent the public interest concerns in relation to media plurality raised by this merger”

- **30 June 2011** – [Second consultation](#) launched by the Culture Secretary

Phone Hacking Scandal

- **June / July 2011** - Phone Hacking scandal warms up

Two female journalists (one NOTW; one Press Association) arrested. Emerges that the voicemails of missing schoolgirl Milly Dowler may have been hacked, as well as the phones belonging to Iraq war widows and families of 7/7 bomb attack victims. Advertisers withdraw from NOTW. Andy Coulson and Clive Goodman arrested



- **6 July 2011** – Ofcom, Statement on **fit and proper**
“In the light of the current public debate about phone hacking and other allegations, Ofcom confirms that it has a duty to be satisfied on an ongoing basis that the holder of a broadcasting licence is ‘fit and proper’”
- **7 July 2011** – [FT](#): “News International announced that it was **closing the News of the World** and that the last issue of the tabloid would be published on Sunday.”
- 11 July 2011 – [The Guardian](#): News Corp withdraws the proposal to spin off Sky News

News Corp's BSkyB bid referred to Competition Commission

End of the story

- 13 July 2011 – [BBC](#):
News Corp withdraws bid for BSkyB



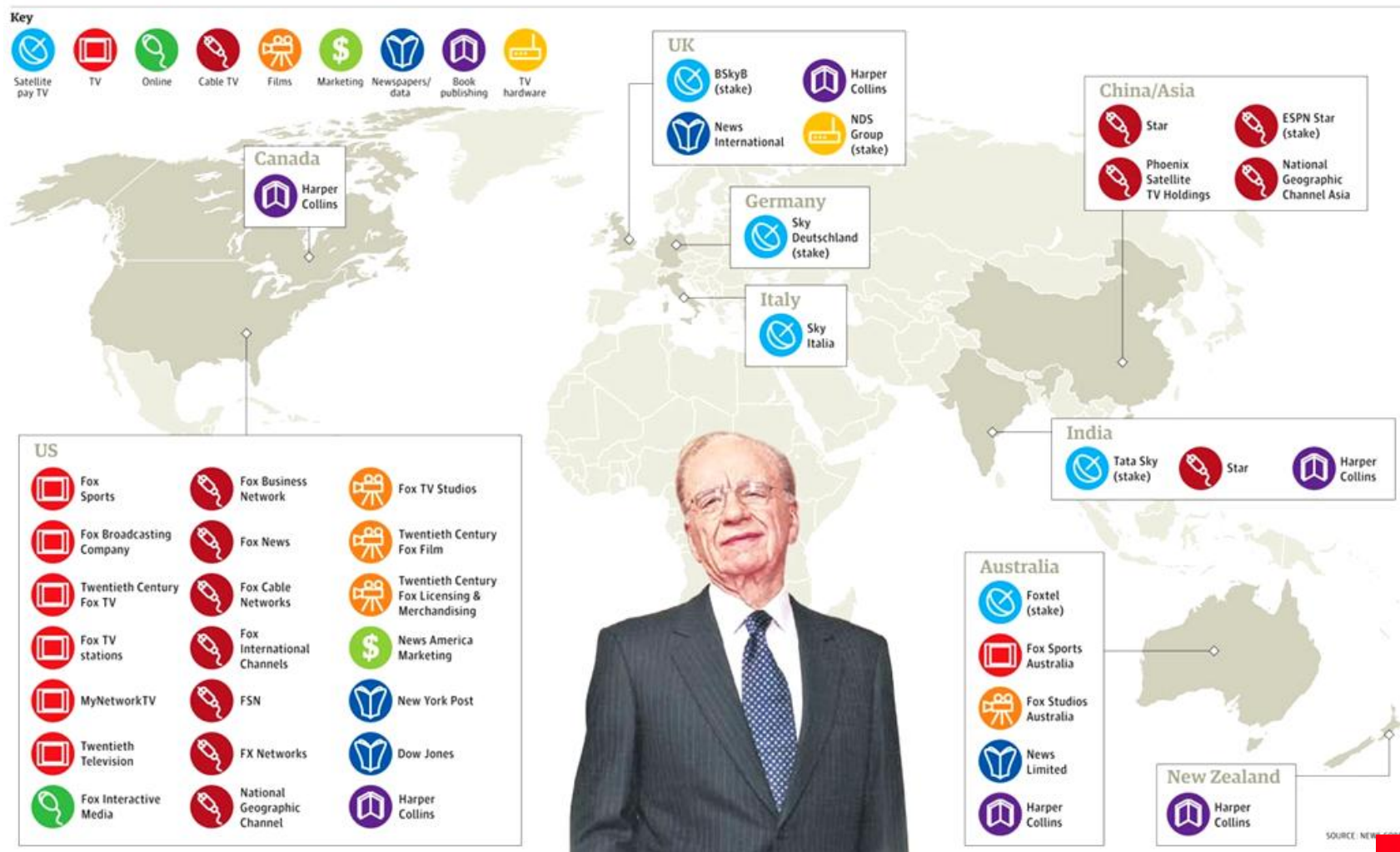
“it is too difficult to progress in this climate“

(News Corp deputy chairman and president Chase Carey)

The move came just before MPs debated a motion supported by all major parties calling on Mr Murdoch to scrap the bid. The motion was approved without a vote.

3. Murdoch's empire

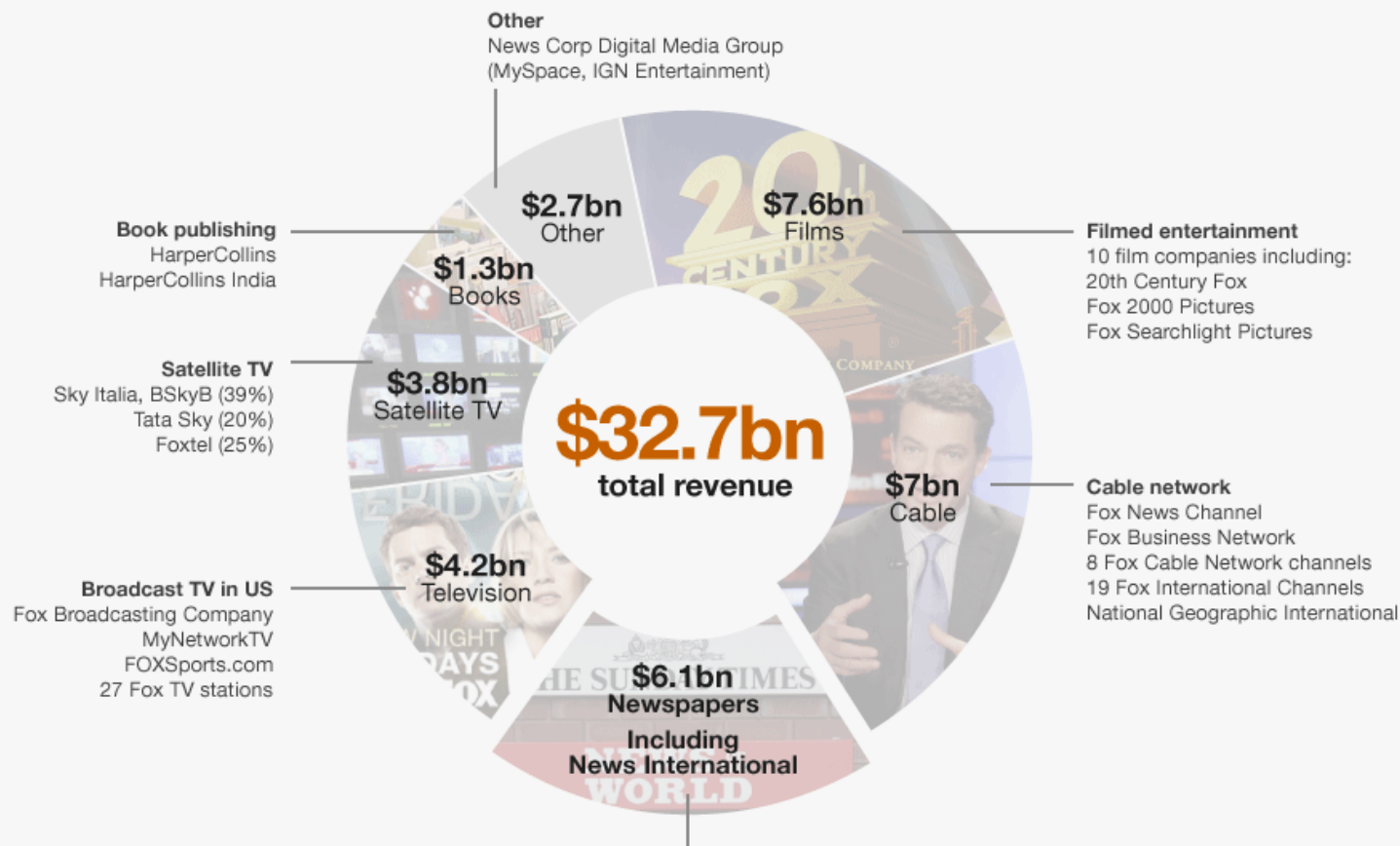
Rupert Murdoch's global empire What News Corporation owns



Source: The Guardian / Enders Analysis



Murdoch's empire / 2



UK/Europe	US	Asia	Australia
The Times The Sunday Times The Sun News of the World Revenue: \$1.61bn*	The Wall Street Journal New York Post Barron's Community Newspaper Group Dow Jones Local Media Group 7 news information services	The Wall Street Journal Asia	Approx 150 titles including: The Australian The Daily Telegraph Herald Sun The Advertiser
eFinancialNews The Times Literary Supplement The Wall Street Journal Europe			

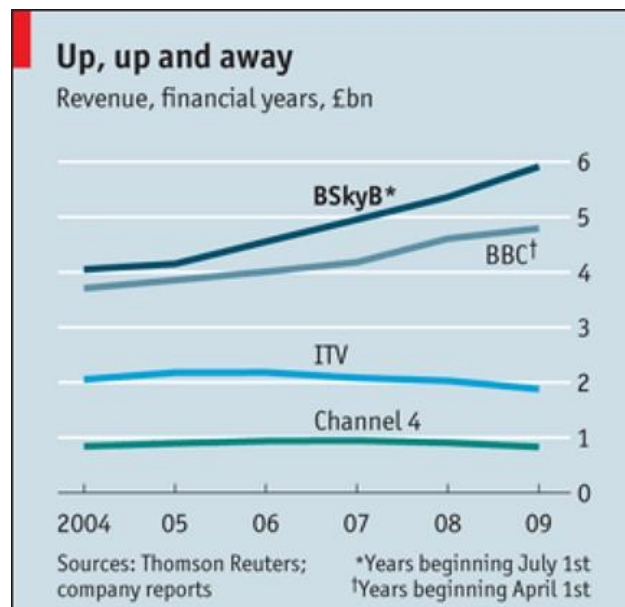
Source: News Corporation annual report, year to June 2010, *Guardian/Companies House, PA, AP, Reuters



The rise of Sky in the UK

How Murdoch's operations compare in the UK

Total revenues, 2010 or latest available

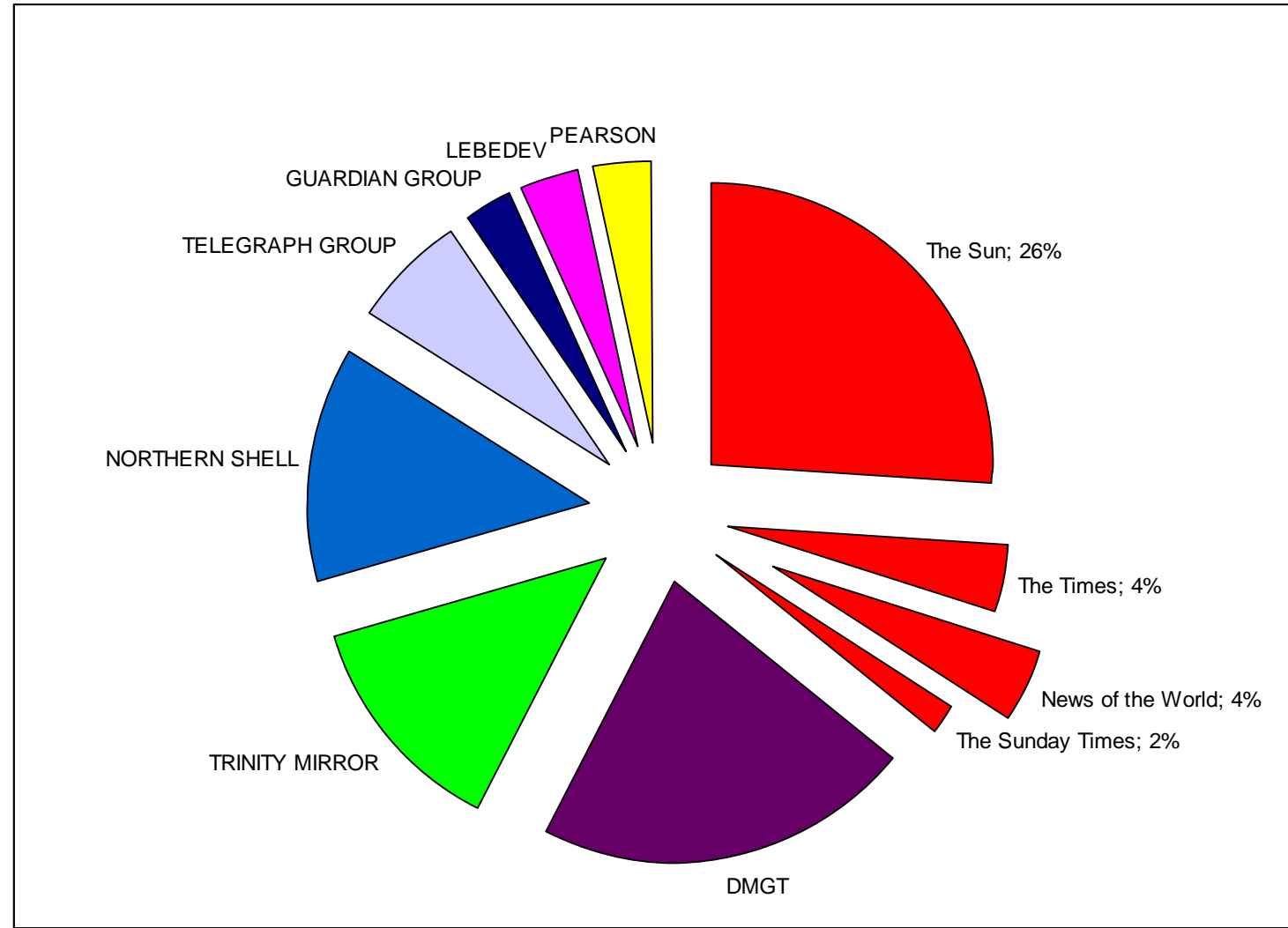


Source:
The Guardian / Enders Analysis /
The Economist

News International

UK national newspapers circulation (May 2011)

News Corp accounts for 36% of the total newspapers' market

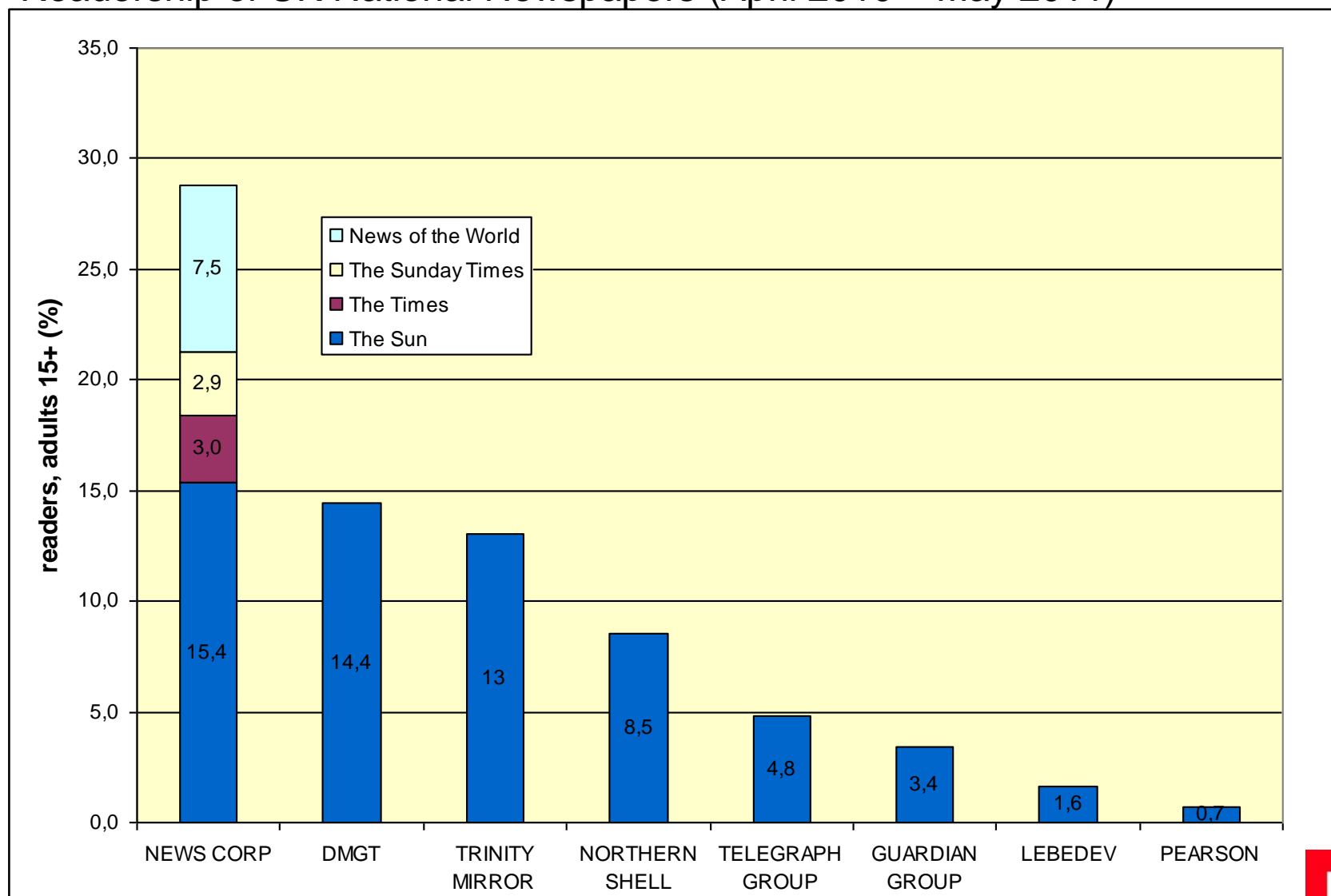


Source: ABC, figures are average circulation



News International/2

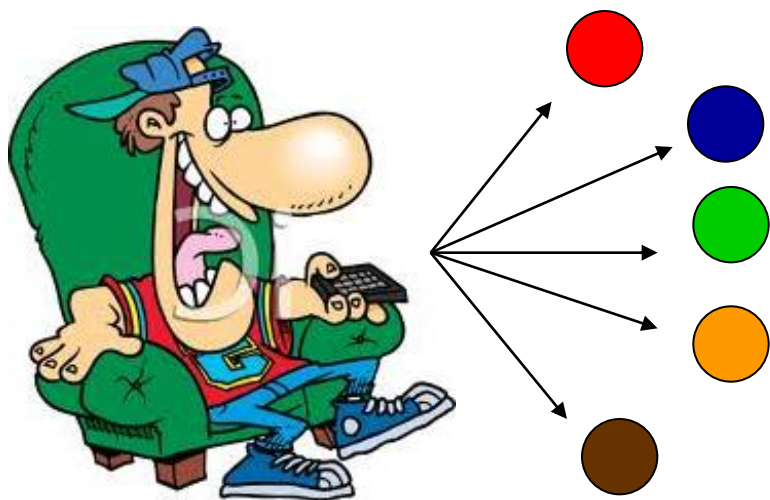
Readership of UK National Newspapers (April 2010 – May 2011)



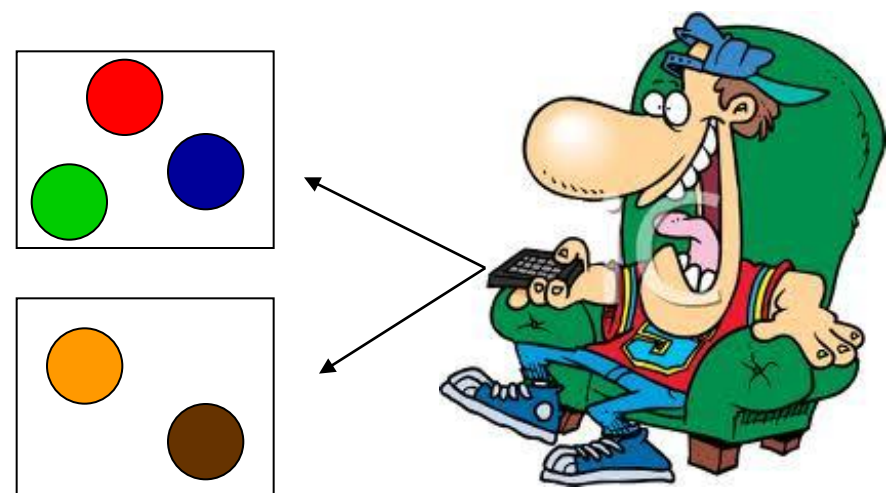
4. Assessing media plurality: the role of Ofcom

How to assess the ability to influence public opinion

External plurality = the number and range of views across different media enterprises.



Internal plurality = the range of views *within* media enterprises



Assessing media plurality / 2

Relevant Audiences: United Kingdom audiences for **cross-media news and current affairs** including **TV, radio, newspapers and the internet**

“The main effect of the transaction is in relation to cross-media audiences”

Effects on plurality:

Static effects

immediately after the transaction
in terms of **range and number of persons controlling media enterprises** including their **ability to influence opinions**



Dynamic effects - issues that may arise over time, within a forward view of how plurality may develop

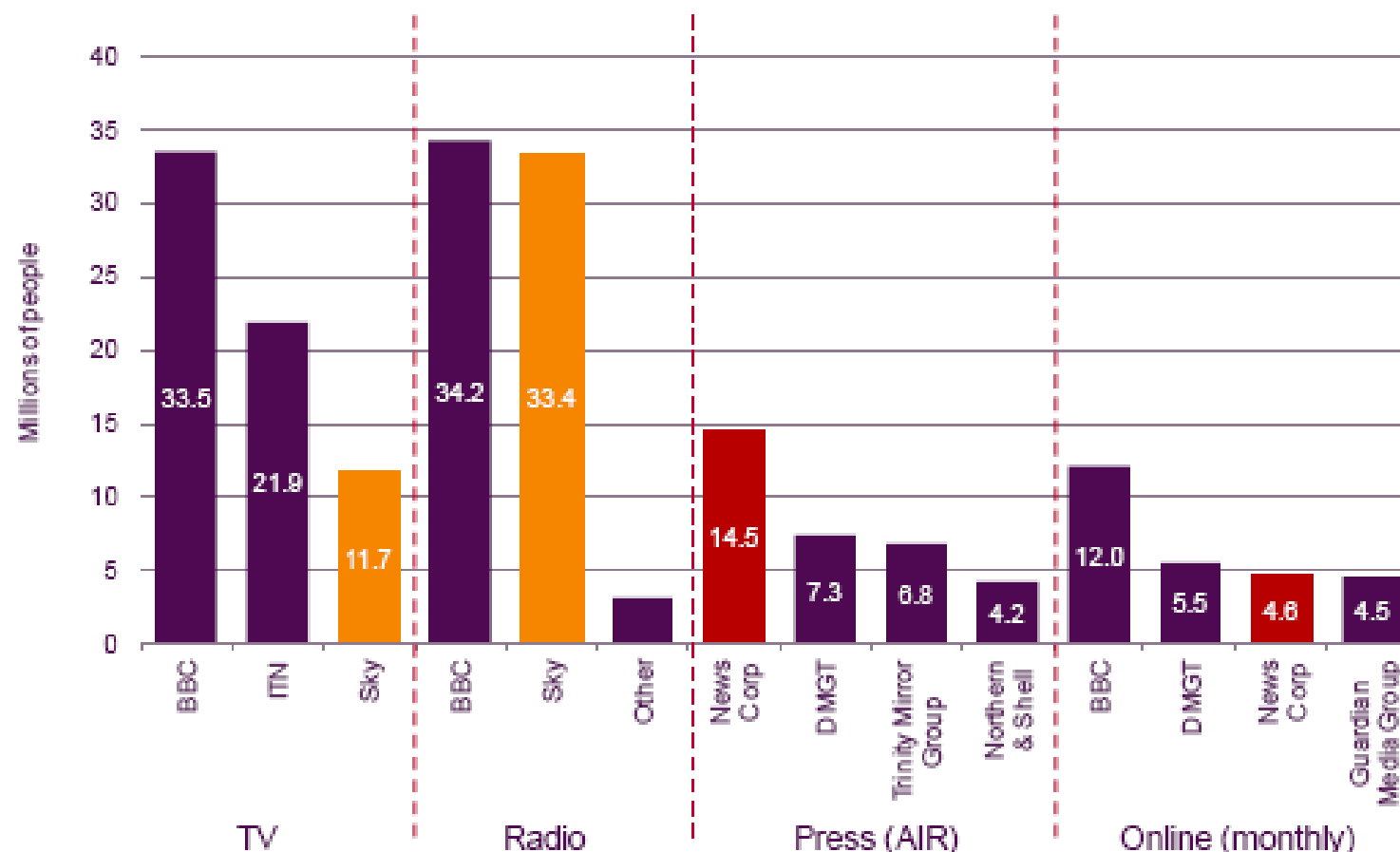
“there is no single standard industry measure which can be used consistently across-media platforms.”
(Ofcom report, 2010)

Assessing cross-media mergers

Source: Ofcom report, 2010: 40

1. Audience reach within individual platforms

Figure 15 - Reach across platform (millions of people) at wholesale level



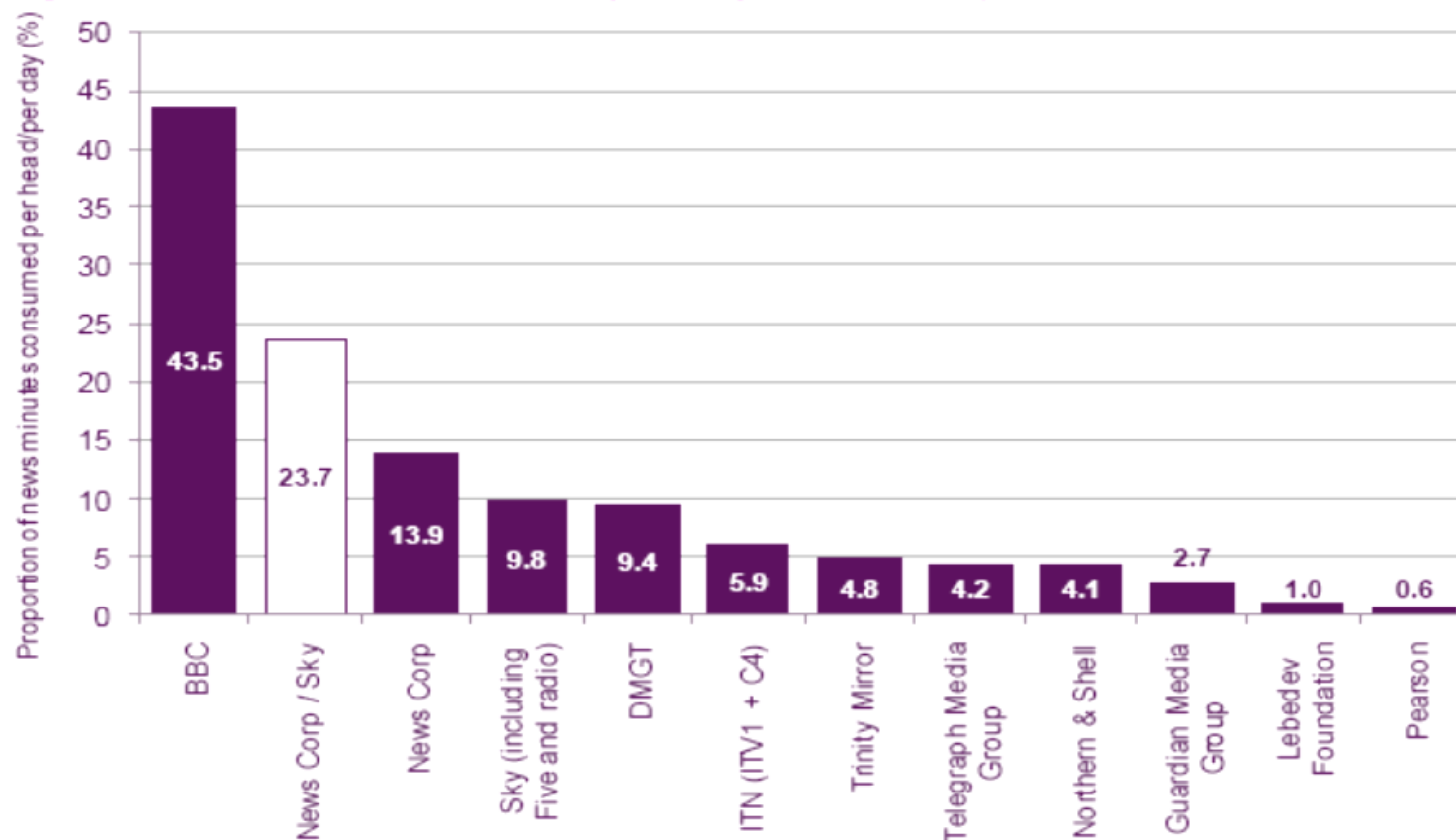
Source: TV: October 2010, BARB, All Adults (16+), Radio: Q3 2010, RAJAR, All Adults (16+), Press: Kantar Media/NRS, all adults (16+), Online: October 2010, Nielsen / UKOM⁸⁴, all 2+. Methodologies for data collection differ by industry.

Assessing cross-media mergers

Source: Ofcom report, 2010: 58

2. Analysis of consumers' consumption of news

Figure 25: Share of news consumption by media enterprise at the wholesale level



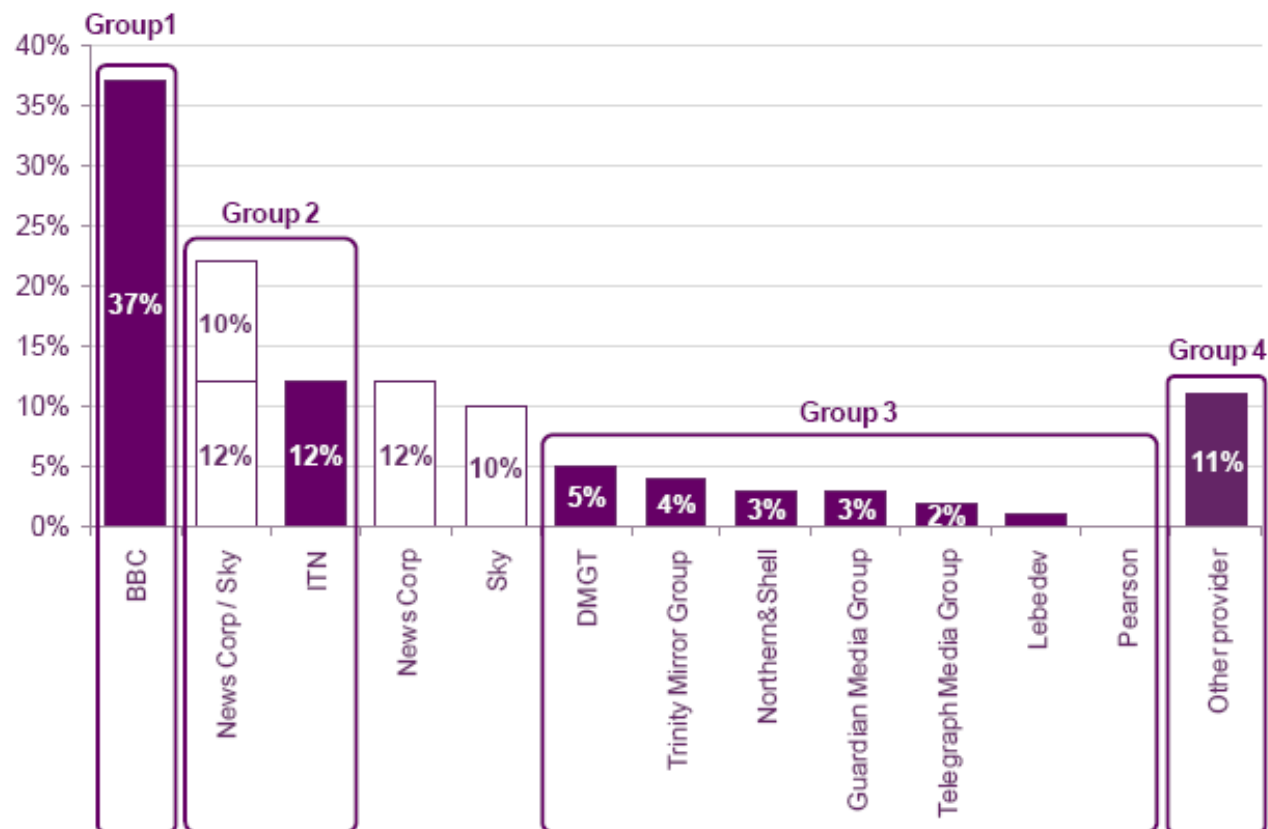
“The average person spends approximately one hour per day consuming news content across media platforms”

Assessing cross-media mergers

Source: Ofcom report, 2010: 61

3. Share of references

Figure 29 - Share of references for all news sources, at wholesale level (post –transaction) (Base – all regular news users)



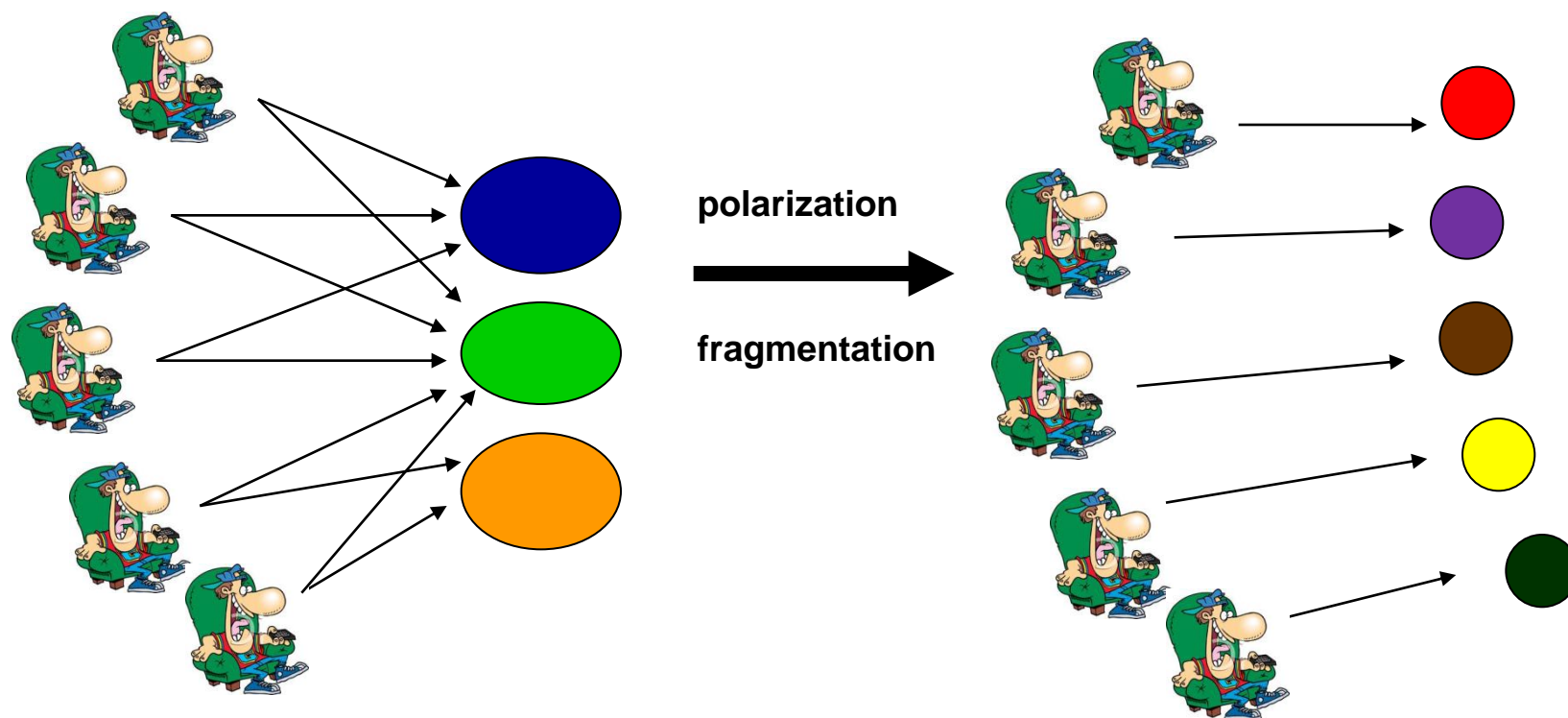
“a **reference** is a news brand/title that is cited by a consumer as a source of regular UK or international news or current affairs”

(Ofcom report, 2010: 40)

Final thoughts...

Need for further research on **news consumption** and “**exposure diversity**” (Napoli, 1999)

Implicit assumption: audiences provided with a diversity of content options consume a diversity of content. But this is not always true...



Thanks for your attention

For more information:

LSE Media Policy Project:
blogs.lse.ac.uk

Dossier on NewsCorp/BSkyB:

<http://blogs.lse.ac.uk/mediapolicyproject/resources/dossier-media-plurality/>

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