Consumers or citizens?

Re-regulating communications

Julian Petley

At a seminar on the recent Communications Bill in Britain, the UK Culture Secretary, Tessa Jowell, began her speech by asking, 'What is the point of government?' A reasonable question. The answer, however, was less so – at least to those who gasped in audible surprise on hearing that, 'A not bad answer is this: promote competition where we can, and regulate if we have to, to protect the public, the consumer.' It is this spirit which animates a measure likely to change utterly and for ever the face of British broadcasting over the next few years, the Communications Bill 2003. As the policy document accompanying the draft bill bluntly states: 'across the economy, deregulation brings benefits for consumers and businesses … unnecessary regulations need to be removed wherever possible'.

One of the main reasons for this is to attract inward investment; as the document explains, deregulation will be a key means whereby 'the UK reinforces its position as one of the most attractive places for communications companies to do business'. It is also argued, however, that these changes will benefit media users too: 'by eliminating undue burdens on business we can drive innovation, increase investment, raise employment and bring better services to consumers'.

Even these introductory remarks raise a number of profound issues. First, in general terms, many would argue that deregulation does *not* necessarily bring benefits to consumers and businesses alike; whilst business interests are indeed prone to condemn all regulations as 'red tape' and 'bureaucracy', many citizens may well regard these as highly necessary and desirable safeguards, such as health and safety regulations. In particular, those forced to work long or 'flexible' (often erratic) hours, or, conversely, those who have lost their jobs through 'downsizing', may well thoroughly dislike the fact that Britain has the most deregulated labour force in the EU. Similarly, those now quite unable to afford to buy a house, or who find that their pensions look set to be entirely inadequate in retirement, may well curse the day that the financial services industry was deregulated.

Second, in terms of broadcasting, it is by no means clear that the best way to 'drive innovation' is to reduce regulation. This strategy may have worked well in the telecommunications sector, but the broadcasting ecology is different. Here, deregulation all too easily leads to relentless competition for the mass audience and a corresponding homogenization of programming. Why? Because of the economics of broadcasting, which is not a marketplace like any other. In the first place, it is far cheaper to import ready-made programmes from America than to invest in original UK production, even though most viewers prefer home-grown programmes. The reason why American programmes are so cheap to import is that many of them have already covered their production costs via sales to their vast home market and can thus be sold abroad at rock-bottom prices – a form of cultural 'dumping'. Then, in respect of domestically produced programmes, it is much less of a financial risk to keep on exploiting the same well-known star names, familiar formats and current successes than to invest in untried new talent and challenging, innovative programming. And, finally, intense competition for ratings – brought about in the commercial sector by the need to attract advertisers, and in the case of the BBC by the need to justify the existence of the licence fee, especially in face of the unremitting campaign against it in the Murdoch press – tends to narrow the diversity of what is broadcast.

This has been amply demonstrated by studies of the television schedules of those countries which have surrendered to the deregulatory impulse, such as Italy, New Zealand and, of course, the UK itself. For although Thatcher's revanchist scheme to dismember public-service broadcasting, and in particular to tear the hated BBC limb from limb, was finally defeated by saner counsels, British broadcasting was nonetheless submitted to a considerable degree of deregulation by the 1990 Broadcasting Act. The consequences have been generally disastrous: a narrowing of the broadcast agenda; the ascendancy of the safe, formulaic and proven over the innovative, daring and risky; the virtual destruction of the Channel 3 regional network, which is now dominated by just two companies, Carlton and Granada; the increased casualization and shedding of staff; and the significant loss of studios and facilities.

Clearly, there is a contradiction between the Communications Bill's aim of bringing better services to media audiences and the means chosen to fulfil this aim, namely deregulation. This contradiction becomes even more acute when we examine the bill's most controversial deregulatory measures, those pertaining to media ownership.

A share of the action

The problem with the existing ownership rules, according to the aforementioned policy document, is that 'they are not flexible enough to respond to the rapid change we have seen in media markets' and that they appear 'directed at particular media interests'. It might be thought that as the rapid changes of the past decade have included global merger-mania of the most ill-thought-out and rapacious kind (witness the disastrous AOL/Time Warner tie-up), and as the 'interests' referred to are clearly those of Murdoch, then perhaps the existing rules actually have a good deal to commend them. But no: 'the Government proposes to deregulate. UK companies have to be allowed to grow, to find new opportunities to reduce costs and attract new investment, if they are to bring better products to consumers.' Thus the government intends to retain 'only the minimum level of media ownership regulation necessary to ensure that a wide range of voices will always be heard'.

In terms of Channel 3, this means that Carlton and Granada will finally be allowed to merge. In all likelihood the resulting single company will then be bought by a US conglomerate such as Disney or Viacom because, as the policy document announces: 'we will abolish all rules on foreign ownership'. Why such a drastic – and unpopular – measure? Because 'the Government wants to encourage inward investment from non-EEA [European Economic Area] sources, to allow the UK to benefit rapidly from new ideas and technological developments, aiding efficiency and productivity'. And as for Murdoch, he will be freed to buy Channel 5 if he so desires, although the rule preventing any company which controls more than 20 per cent of the national newspaper market from holding a licence for Channel 3 will be retained, thus denying him that particular prize. In that case, of course, it would be perfectly possible for Tony Blair's friend Silvio Berlusconi to buy it instead. Or maybe, like much of Britain's rail system, it could go to a French water company. Meanwhile, since it's perfectly possible that a Murdoch-owned Channel 5 could rapidly wipe the floor with Channel 3, not being allowed to buy it may not worry him too much anyway.

The government appears unshakeable in its belief that what British broadcasting needs more than anything else is an injection of investment so great that it can come only from overseas. And this in spite of the fact that the Independent Television Commission's *Review of the UK Programme Supply Market*, which was published at around the same time as the Communications Bill, noted that the UK has one of the most powerful domestic television production sectors in the world and that it spends more on indigenous television programming (new and repeat) per head than any other developed market – including the USA. Its export performance is second only to the USA. Meanwhile broadcast revenues have been steadily growing over the past five years, reaching almost £7.7 billion in 2001. No wonder the global media giants have been lobbying so fervently for a share of the action.

And no wonder too that we've heard so little about such a far-reaching measure, since media self-interest has led to a virtual conspiracy of silence on the matter. The chief executives at Carlton and Granada must be eagerly anticipating the riches awaiting once their merger has allowed them to flog off the resulting company to the highest transatlantic bidder. The BBC is terrified of raising its head above the parapet for fear of further fuelling the daily campaign waged against it by the Murdoch press; whilst the papers themselves – and not only Murdoch's – are salivating at the thought of the profits to be made from their expansion into the broadcasting sector at both national and local levels. Given such self-seeking, any idea that the further deregulation of broadcasting might not actually be in the public interest is clearly too marginal to merit more than the most cursory consideration.

And, of course, the media can always claim, just like the government itself, that public service principles will be safeguarded by the new super-regulator OFCOM, which will combine the functions of the Independent Television Commission, the Broadcasting Standards Commission, OFTEL, the Radio Authority and the Radiocommunications Agency. However, given that the current regulator, the Independent Television Commission, has been largely unable to halt the decline of public-service values – on Channel 3 in particular, as evidenced by the fiasco over *News at Ten* and the steady decline in regional production – then how on earth is an even 'lighter touch' regulator going to do so in the ever *more* competitive environment which the Communications Bill will most certainly engender? OFCOM's responsibility to safeguard public service broadcasting is quite at odds with its overall remit, which is a thoroughly deregulatory one. As the policy document puts it, the arrival of OFCOM means that 'red tape and the frictional cost of regulation will be reduced'; its very function is 'to minimise regulatory burdens' and it will be required to 'ensure that regulation is kept to the minimum necessary'. All this, of course, is in line with the Better Regulation Task Force's stipulation that economic regulators should withdraw from competitive markets when regulation is no longer 'necessary'.

Government supports business

There are at least two fundamental questions here. First, whose interests will be uppermost for OFCOM, the public's or the communications industry's? Second, will viewers and listeners be regarded primarily as consumers to be entertained (and, of course, sold to advertisers), or as citizens with specific communicative rights? In spite of the bill's elisions and weasellings, these are two quite separate and distinct ways of conceptualizing media audiences, from which flow very different conceptions of what forms broadcast content should take.

Whatever the case, however, it is neither the market nor technological changes nor OFCOM that will play the key role in the future shaping of communications, but *the government itself*, as it has done all along. The notion of 'deregulation' is, in fact, little more than a convenient smokescreen behind which the government is remoulding the communications landscape into a corporate playground. As chair of the Campaign for Press and Broadcasting Freedom, I have been involved in lobbying on this bill from the start, namely the 1998 Green Paper, *Regulating Communications: Approaching Convergence in the Information Age*. It has been an instructive experience, and never more so than when, just after the Joint Committee to scrutinize the draft bill had been formed, I was told by one of its senior members that the impetus for the bill came 'straight from No. 10'. In the months that followed, Tessa Jowell's lamentable public performances in promoting the bill made it abundantly clear that it certainly hadn't come from her. Indeed, it was soon to become common knowledge that the major driving force behind the measure was Ed Richards, Senior Policy Advisor at No. 10, closely followed by Bill Bush, Special Policy Advisor to Tessa Jowell. Never mind that a hundred-plus Labour MPs signed an early day motion highly critical of the bill, and that I never found a Labour MP who supported it: 'New Labour' believes, profoundly and passionately, in the virtues of deregulation, and was no more likely to be swayed by public or backbench opinion on the deregulation of communications than on the war against Iraq.

It is altogether unsurprising, therefore, that the idea that deregulation, competition and other neoliberal totems are inherently beneficial, in communications as elsewhere, runs like a mantra through the bill; although in the acres of print to which it has given rise over the past four years there is absolutely nothing offered in the way of demonstration. The by now considerable, empirically detailed literature on the negative consequences of the deregulation of broadcasting is simply ignored. There is no room for the Institute of Public Policy Research report *They Have Been Watching…*, which showed that, in terms of programming for children and young people, imported content on the public service channels rose from 5.7 per cent in 1972 to 28.6 per cent in 2002, and that in 1997, before the welcome advent of Children's BBC and CBeebies, imported content accounted for a staggering 91.9 per cent of children's programming on the non-terrestrial channels. There is no room, either, for the seven reports on television coverage of international affairs produced by the Third World and Environment Broadcasting Project, whose most recent report, *Losing Reality*, starkly concluded that 'the international documentary is virtually dead. The realities of life for the majority of the world's people, who live in developing countries, are receiving less attention from mainstream UK television than at any time in the last thirteen years.' There is no room, finally, for the research published by the ITV Network Centre in January 2003 which showed that, in the increasingly competitive broadcasting environment ushered in since the 1990 Broadcasting Act, the amount of current affairs programming across the four main terrestrial channels fell by 35 per cent, the number of arts programmes more than halved, and religious programmes were cut by nearly 75 per cent. In peak time there has been a 133 per cent increase in shows devoted to hobbies and leisure, and a 125 per cent increase in soaps.

The idea that markets work properly as long as they are left alone ignores the inconvenient fact that governments are central to the modern capitalist system, and that big business relishes, indeed begs for, many of their interventions. Here, finally, we come to the nub of the matter: what this bill is really all about is not deregulation but *re-regulation*. That is, regulations designed to protect and enhance citizens' communicative rights are, under the patronising guise of 'giving people what they want', and allied to a particularly crude form of technological determinism, being replaced by those designed to further the economic interests of vast global media corporations.