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Economic, political and socio-cultural welfare in media merger control: An analysis of the Belgian and Dutch competition authorities' reviews of media mergers

Miriam Van der Burg (corresponding author)

PhD student

University of Antwerp

Department of Communication Studies

Media, Policy & Culture Research Group

Stadscampus – Sint-Jacobstraat 2

2000 Antwerp, Belgium

miriam.vanderburg@uantwerpen.be

+32 (0)3 2655142

Hilde Van den Bulck

Prof. Communication Studies

University of Antwerp

Department of Communication Studies

Media, Policy & Culture Research Group

Stadscampus – Sint-Jacobstraat 2

2000 Antwerp, Belgium

+32 (0)3 2655267

hilde.vandenbulck@uantwerpen.be

Bio notes

Miriam van der Burg is a PhD student at the Media, Policy and Culture research group of the Department of Communication Studies, University of Antwerp (B).

Hilde Van den Bulck is Full Professor of Communication Studies, head of the Media, Policy and Culture research group of the Department of Communication Studies and dean of the Faculty for Political and Social Sciences at the University of Antwerp (B).

Highlights

- NCA's media merger reviews are evaluated against the width of consumers' interests.
- Theoretical insights from competition law and media policy are brought together.
- A claim analysis is applied on NCA's reviews of eight media mergers.
- NCAs pay limited attention to non-economic interests of consumers and remain vague.
- It is argued that the potential of the concept of consumer welfare can be increased.
- To this end, the media's political and socio-cultural role should be considered.

Economic, political and socio-cultural welfare in media merger control: An analysis of the Belgian and Dutch competition authorities' reviews of media mergers

Abstract: The premise of consumer welfare in competition law entails that National Competition Authorities (NCAs) weigh both economic and non-economic interests of consumers against those of producers. This contribution distinguishes between economic, socio-cultural and political welfare to evaluate whether NCAs examine a merger's impact against the width of consumer interest. A claim analysis is conducted of the NCAs' formal decisions on eight selected cases of proposed media mergers. The analysis shows that, in recent years, these NCAs pay attention to non-economic interests of consumers, but remain vague as to, first, what interests in particular are at stake; second, who the stakeholders are; and, third, how these interests are weighed. The results suggest potential to maximise consumer welfare by safeguarding the media's political and socio-cultural role in particular. To this end, first, the perspective of individuals as citizens must prevail; second, specific test must review the impact of media mergers on political and socio-cultural welfare; and, third, NCAs and Media Regulatory Authorities (MRAs) must bundle strengths.

Keywords: media mergers, consumer welfare, public interest, competition law, national competition authority, small media markets

JEL codes: G34 (mergers, acquisitions), L82 (entertainment, media), K21 (antitrust law), D62 (externalities), P16 (political economy).

1. Introduction

Both the research field of competition law and of media regulation acknowledge that, beyond economic interests, there can be non-economic interests at stake in media mergers (Stucke & Grunes, 2009; Baker, 2006). Economic interests refer to fair competition and prices, amongst other factors (Motta, 2005). Non-economic interests include the safeguarding of content diversity, access to content, and (editorial) independence from owners, from commercial influences and from the state (Meier, 2007). In media policy, this is referred to as the public interest (Freedman, 2008). The primary goal of competition law is to safeguard consumer welfare. This entails the trade-off of consumer's interests over any producers' interest in evaluating the consequences of a (proposed) merger (Buttigieg, 2009; Van Rompuy, 2012). Therefore, in their merger reviews, National Competition Authorities (hereafter: NCAs) must carefully consider the economic and non-economic interests of consumers. But do they? The question is highly relevant in an era in which technological developments and deregulation push a further consolidation in the media industry (hereafter: media or ownership concentration) (Iosifidis, 2014), especially in countries like Belgium and the Netherlands with small geographic markets (Puppis, 2009). For these reasons, the question is: *to what extent are economic as well as non-economic criteria taken into account by National Competition Authorities (NCAs) in reviewing media mergers?*

The debate about the need for restrictions to media ownership is complex and characterised by divergent interests and a lack of consensus amongst stakeholders (Komorek, 2013). Most fundamentally, the concepts of consumer welfare and of public interest lack conceptual clarity (Stucke, 2012; Feintuck, 2010). Both are vague about who has what interests, and if and how they should be safeguarded in one way or another. Competition law is said to provide insufficient guidance for the trade-off of consumer and producer interests (Drexl, 2011). Furthermore, there is empirical uncertainty about the assumed causal relationships. For example, the relationship between diversity of content and media ownership concentration is not necessarily linear nor systematically proven (Karppinen, 2013). The impact of competition in audience and advertising markets (i.e. two-sided markets) on the accuracy of news coverage is also not straightforward (i.e. media bias, cf. Gentzkow, Shapiro & Stone, forthcoming).

There is a need for further clarification of consumer interests to better understand what interests are potentially at stake. To this end, we use Van Cuilenburg and McQuail's (2003) concept of the public interest. It distinguishes between economic, socio-cultural and political welfare as sub goals of total welfare. This approach is different from the understanding of

welfare in economics. First, it focusses on what welfare instead of whose welfare. Second, it aims to be more specific regarding what total welfare entails. Central values in economic welfare include, for example, competition, consumerism and innovation. Political welfare includes freedom of expression and publication, access, and diversity. Values resulting in socio-cultural welfare include choice and quality, amongst others. Van Cuilenburg and McQuail's approach thus allows for an analysis of consumer's interests that goes beyond fair prices.

These three welfare perspectives guide this contribution's analysis of economic and non-economic interests in the Belgian and Dutch NCAs' formal decisions or merger reviews (hereafter used interchangeably). The analysis uses a claim analysis (Koopmans, 2002) which aims to explore what arguments are weighed by NCAs in their formal decisions about a selection of merger cases and what type of welfare they reflect. This claim analysis provides a perspective on merger cases that differs from most economic (e.g. Budzinski & Wacker, 2007; Chandra & Collard-Wexler, 2009; Crawford & Yurukoglu, 2012) and legal analyses (e.g. Castendyck, Dommering & Scheurer, 2008).

The results shows that a majority (92.3%) of claims in merger reviews exclusively reflects economic welfare in their topics (e.g. definition of relevant market, competition and market power). A minor share (0.7%) of the claims contains exclusively political and socio-cultural welfare topics (e.g. consumer choice, editorial control, content diversity). These non-economic welfare topics occur mostly in combination with economic welfare topics (7.1%) and tend to argue against more than in favour of a merger case.

This contribution concludes that NCAs pay attention to the non-economic interests of consumers but are not specific enough about the interests at stake, about who the stakeholders are, and about how these interests are weighed. It is argued that the concept of consumer welfare has greater potential to safeguard the media's political and socio-cultural role than it currently does. To this end, first, primacy must be given to the perspective of individuals as citizens; second, specific tests must review the impact of media mergers on political and socio-cultural welfare; and, third, NCAs and Media Regulatory Authorities (MRAs) must join forces. This contribution thus supports a call for a more comprehensive review of media mergers that takes both economic and non-economic interests into account.

2. Literature review

2.1 Business as (un)usual

The academic and public debate on the potential (dis)advantages of media mergers, and the approach to media mergers they evoke, roughly shows two lines of thinking. On the one hand, media constitute a business like any other and there is no need, therefore, to treat media mergers differently from other mergers. Market mechanisms and competition law safeguard diversity of suppliers, outlets and content. The latter here refers to the diversity of issues, viewpoints or opinions and actors in media coverage (Napoli, 1999). This viewpoint fits more general economic theory, in which (sector specific) regulation in addition to competition law is in principle considered undesirable (Veljanovski, 2010). This market approach argues that the public policy approach, which dominated media regulation for a long time (McQuail, 1992; Iosifidis, 2011), is outdated in light of recent media industry developments. First, digitisation generates a plethora of platforms through which media content can be distributed. This makes the traditional spectrum scarcity argument obsolete (Compaine, 2000). Second, the Internet makes an abundance of information and voices accessible to all (Baker, 2007). Third, contemporary media users have an individual responsibility to develop skills to access, select, process and review information (Valcke, 2011). Fourth, the use of ownership caps restricts benefits from positive externalities and economies of scale and scope, and is therefore too static and backward-looking (Hope, 2007). These arguments have led to persistent and successful calls from the industry for deregulation (Komorek, 2013) and to the conviction that competition law can be applied to media mergers as it aims to safeguard competition and to prevent abuse and/or creation of dominant positions in any industry (De Streel, 2008).

On the other hand are those that claim that media can only partly be treated as a business like any other because of their dual interests: media are economic entities with a certain exchange value but also socio-political entities with a certain use value (Van Gompel, Van den Bulck & Biltreyst, 2002). This implies that media perform simultaneously in an economic market and in a marketplace of ideas (Stucke & Grunes, 2001). From the perspective of media as economic entities, the general concern regarding ownership concentration is that media firms can abuse their dominant position, either to raise prices for their products and services above the competitive level, or to increase profits by cutting costs which results in the deterioration of product quality, for instance the homogenisation of content through editorial cooperation or standardisation of the production processes. There is further concern that certain (not profitable) genres, ideological groups, minorities and geographical areas (e.g. local communities) can be underrepresented (Iosifidis, 2014; Meier, 2007; Ungerer, 2014). The latter can undermine the media's role in democratic societies:

media constitute a public sphere where a plurality of voices is heard, where information is freely disseminated and discussion aids to opinion formation (Dahlgren, 1995). This refers to the media's socio-cultural and political use value for citizens and wider society, referred to as the public interest (McQuail, 1992). From this point of view, competition law is insufficient to address the impact of media mergers because it is concerned with the dominant positions of firms in economic (media) markets but not in the market place of ideas where users' exposure to a media firm's products results in a dominance of ideas and opinions expressed in these products (this is also referred to as the concept of opinion power) (Baker, 2007; Komorek, 2013). The issue of access to content and platforms gained considerable attention within the practice of competition law (cf. section 2.4.2), yet this in itself does not guarantee content diversity (Ungerer, 2014). As a result, various regulatory solutions are forwarded to safeguard the media's non-economic interests (e.g. Baker, 2007; Levi, 2008).

2.2 Concept of consumer welfare

A potential bridge between proponents of the market approach and proponents of the public interest is the concept of consumer welfare. This recognises consumer interests as an important goal of competition law, which aims to prevent 'increases in consumer prices or restrictions of output due to the exercise of market power by dominant firms or colluding firms' (Van Rompuy, 2012: 43-52). The consumer is seen as 'the weaker party acting outside his trade or profession who needs protection against economic power or market failures' (Buttigieg, 2009: 1-3). Consumer welfare is now widely adopted in competition law (Stucke, 2012). Nevertheless, economists traditionally prefer total welfare because this generates the most for society as a whole. It wants to reach efficiency by allocating resources through the price system to those users who value them most. From this point of view, it is irrelevant whether surplus that results from efficiencies, is captured by producers or consumers (Motta, 2005; Van Rompuy, 2012).

In merger control, consumer welfare emphasises consumer interests, whatever they are: fair prices, product variety, or product quality (e.g. Berry & Waldfogel, 2001; Fan, 2013; Gentzkow, Shapiro & Sinkinson, 2014; George, 2007; Rennhoff & Wilbur, 2012). The notion of public interest can be incorporated into this concept by thinking of media products as merit goods that generate positive externalities for which consumers do not pay (Baker, 2006; Bush & Zimmerman, 2010). In this context, diversity is considered 'instrumental for good citizenship: a better informed citizen generally confers benefits on her fellow citizens, which presumably benefits all' (Levy, 2015: 278). An individual's ability to access various media

outlets, to gain critical and diverse information, to form an opinion, to take part in public debate, and to cast a vote, all affect wider society. Therefore, issues such as diversity of content or exposure diversity (i.e. distribution of audience's preferences for media outlets (Napoli, 1999)) are essential by-products of every television or newspaper subscription and should be taken into account in merger reviews.

However, a lack of conceptual clarity regarding consumer welfare leaves much room for interpretation (Van Rompuy, 2012; Stucke, 2012). For example, NCAs hold different definitions of whom the consumer is considered to be. It is clear that looking at the consumer as an individual or rather as anyone who uses economic goods (e.g. firms) has implications for the definition of consumer interest (Buttigieg, 2009). A broad definition of consumers implies total welfare instead of consumer welfare because no distinction is made between different beneficiary groups (Stucke, 2012). A view on consumers as individuals is equally complex, considering that consumers can have concurring interests (Drexler, 2011), whereas seeing them as individuals demands that one take into account their possibly conflicting interests with respect to their different roles in society as citizen, consumer, employee, etc. (Livingstone, Lunt & Miller, 2007; Vanberg, 2011). These conflicting interests, also referred to as the consumer welfare paradox (Orbach, 2010), refer to – amongst others – the fair prices the consumer wants to benefit from versus the citizen's demand for diverse and high quality media content, which is expensive to produce and therefore requires a higher consumer price.

For the purpose of this contribution, the most important shortcoming of the concept of consumer welfare is that it focusses on who benefits but does not make explicit what specific benefits are aimed for. This contribution's primary focus is not to determine the interested parties (beneficiaries/victims), but the interests (benefits/disadvantages) of media mergers.

2.3 Welfare perspectives

We start from Van Cuilenburg and McQuail's (2003) approach to the public interest to define the different interests at stake in media mergers. They distinguish between political, socio-cultural and economic welfare as three main goals, each with their own distinct values and criteria, which together make up the public interest. The distinction between these three welfare perspectives is thus based on different interests (i.e. what welfare), whereas the focus in the concept of consumer welfare lies on beneficiaries (i.e. whose welfare).

Van Cuilenburg and McQuail associate political and socio-cultural welfare goals primarily with individuals' interests as citizens. Political welfare's key values include freedom of expression and publication, access, diversity, information, and control or

accountability. These are conditions for equality and participation. Values leading to socio-cultural welfare include choice, identity, interaction, quality and cohesion. Socio-cultural welfare is thus interpreted differently from economists' understanding of social welfare – as public aid to the needy in society.

Economic welfare goals from Van Cuilenburg and McQuail's point of view are related primarily to corporate interests and those of individuals as consumers. Central to attaining economic welfare are competition (i.e. efficiency and profitability), development, employment, consumerism, innovation and interconnection. Van Cuilenburg and McQuail's interpretation of economic welfare differs from how it is generally used. In economics, economic welfare (or shortly: welfare) is a measure for the performance in an industry, i.e. total welfare generated by economic activity (Motta, 2005). The authors view total welfare as political, socio-cultural and economic welfare together, and hence, interpret economic welfare more narrowly than it is generally understood in economics. With the three welfare perspectives, Van Cuilenburg and McQuail take a broad view because, as they point out: 'a matter of public interest is one that affects the society as a whole (or sections of it)'.

2.4 Regulatory background

2.4.1 Trend towards deregulation

Against this theoretical background, this section zooms in on how things were and are arranged in practice. In the past decade, the number of European countries that regulate media ownership concentration has dropped (Meier, 2011). As of 2013, a majority of EU-Member States, including the Netherlands and Belgium, have no specific or very limited rules for media mergers (Komorek, 2013). Frequently cited examples of countries where specific rules within competition law exist and/or where media mergers are subject to media regulation are the USA (Napoli & Gillis, 2007), the UK (Crauford-Smith & Tambini, 2012), Italy and Germany (Iosifidis, 2010; Just, 2009). Authorities in these countries test the possible economic impact of mergers but also evaluate the potential effect of a merger from a non-economic perspective. Examples include the US' diversity index and the UK's plurality test. These tests have come under methodological criticism (cf. Hill, 2006; Barnett, 2013) but are praised because they approach a merger's impact from a comprehensive point of view and take into account both economic and non-economic aspects.

In countries with small geographic and highly concentrated media markets like Belgium and the Netherlands (VRM, 2014; CvdM, 2014), general competition law applies to mergers but no rules (any longer) exist with regard to media ownership concentration

(Lefever, Wauters & Valcke, 2012; CvdM, 2011). The economic characteristics of media, such as economies of scale and scope (cf. Doyle, 2013), make small geographic markets particularly susceptible to high levels of media ownership concentration (Puppis, 2009). As a consequence of the legal framework, the non-economic impact of media mergers is not assessed by any specific means. The next section zooms in further on this framework in the Netherlands and Belgium, especially on the (formal) responsibilities and practices of NCAs and Media Regulatory Authorities (MRAs).

2.4.2 Regulatory authorities' remit

The *Belgische Mededingingsautoriteit* (Belgian Competition Authority, hereafter: BMA), named *Raad voor de Mededinging* (RvdM) until 2014, verifies compliance with competition law in all Belgian administrative communities, including Flanders (the Northern, Dutchspeaking part of Belgium). In the Netherlands, this is done by the *Autoriteit Consument en Markt* (Authority for Consumers and Markets, hereafter: ACM), named *Nederlandse Mededingingsautoriteit* (NMa) before it merged in 2013 with the regulator for post and telecommunications and with the authority for consumer protection. Cross-border mergers are reviewed by the *European Commission* (hereafter: EC) (Motta, 2005). Both in Belgium and the Netherlands, ex post monitoring of media concentration is left to the MRAs: the *Vlaamse Regulator voor de Media* (Flemish Regulator for the Media, hereafter: VRM) and Dutch *Commissariaat voor de Media* (Dutch Media Authority, hereafter: CvdM) respectively. They monitor media concentration and advise the media minister in this regard but have no binding competences (Lefever et al., 2012).

In recent years, the notion of consumer welfare became a topic of NCAs' discussions regarding the goals of competition law (Parret, 2009). It became an explicit goal of the Dutch and Belgian NCA in 2008 and 2009 respectively (NMa, 2009; OECD, 2009). Today, consumer welfare is part and parcel of their strategy and priorities. Both NCAs explicitly stress the importance of merger effects on product quality and public interest (BMA, 2015; ACM, 2013b). With regard to the public interest, ACM points out that collaboration can be conditionally approved if it guarantees certain positive externalities such as innovation.

The EC's competition policy is widely acknowledged for its inclusion of consumer welfare (e.g. Van Rompuy, 2012). Its merger guidelines, used as a frame of reference by NCAs, stress the importance of merger effects on pricing, quality of goods and services, access, and innovation, amongst other things (EC, 2004b; 2008). The EC formulated several priorities of its competition law in media industries, including the prevention of gatekeepers'

control over bottlenecks and the safeguarding of access to content and platforms (Ungerer, 2014; Van Rompuy, 2012). The EC treats media mergers differently by using narrow market definitions and imposing behavioural remedies to ensure access to content and platforms (Komorek, 2013; Ungerer, 2014). Moreover, in recent years, the EC has created direct and indirect opportunities to bring non-economic issues into competition law. First, the legitimate interest exception in the *EC Merger Regulation* (EC, 2004a) allows Member States to prohibit or impose remedies to media mergers which are considered detrimental for pluralism (Komorek, 2013). Second, and more fundamentally, Article 2 of the *Treaty on the Functioning of the European Union* (TFEU) explicitly mentions pluralism as one of the values in Member States' societies (Drexler, 2011).

In the Netherlands, regulation of media ownership was repealed in 2011 (CvdM, 2011). Under the *Temporary Act Media Concentrations* (2007-2011), the Dutch MRA advised the NCA on seven merger cases based on post-merger audience shares. It gave a positive recommendation in each case (Schreuer et al., 2012), whilst the Dutch NCA imposed structural remedies in at least two of these cases. The process of deregulation happened more gradually in Flanders, which has media policy as an exclusive competence (De Bens & Raeymaekers, 2010).

3. Research design

3.1 Method and operationalisation

The analysis of arguments used in the Belgian and Dutch NCAs' decisions in a sample of proposed mergers (for sampling, see below) is based on (part of) Koopmans' claim analysis (2002), a particular form of content analysis (Krippendorff, 2013). An instance of claim-making, or a claim, is defined as a unit of strategic action in the public sphere (Koopmans, 2002). It consists of the expression of an explicit opinion by some form of physical or verbal action, regardless of the form this expression takes (e.g. a formal decision or via a market interrogation) and of the nature of the actor (e.g. a political or economic actor, or agent). The unit of analysis, a claim, can consist of one or more sentences. Koopmans (2002) identifies seven elements of a claim: who makes the claim (subject actor), how the claim is made (form), whom the claim addresses (addressee), what the claim is about (issue), at whom the claim is directed (object actor), and why the claim is made (justification). This study used three of the seven elements: the actor, the issue, and the justification of the claim. Additional variables include Koopmans' variable for a (presumed) causal relationship in a claim's justification and a variable that addresses the source or sponsor used by an actor to underpin a

claim (cf. Entman, 2004). The categories of Koopmans' selected variables are adjusted to the specifics of merger reviews and to the actors and sponsors that occur in them. These adjustments are based on merger guidelines (EC, 2004b; 2008), national procedures (ACM, 2013a; Favart & Bailleux, 2014; De Pree & Evans, 2014) and the literature (e.g. Björkroth & Grönlund, 2015; Filistrucchi et al., 2010; Neven, Nuttall & Seabright, 1993). The categories were refined during the coding process. The categories of the variables 'issue' and 'justification', and of 'actor' and 'sponsor' are identical.¹

Descriptive variables that aim to explain variation in the nature of the claims include welfare perspective (cf. *infra*), integration (i.e. horizontal, vertical, diagonal), product market (publishing, audio-visual, distribution), dual market (audience and advertising market), and evaluation (pro merger, against merger, neutral/ambivalent). Next to variables at the level of the claims, three decision-level variables are included: the merger case, outcome of decision or recommendation (law not applicable, approval, conditional approval (behavioural or structural), second phase investigation, prohibition, positive recommendation, negative recommendation), and the responsible NCA or MRA.

The NCAs' formal decisions and MRA's recommendations were analysed by one coder between June and September 2014. All legal-technical parts of the decisions (e.g. legal quotes, summary of correspondence) and identical texts were excluded from analysis. Descriptive analyses were performed using statistical package SPSS (version 22). Variables for actors, issues, justifications and sponsors were regrouped into overarching categories. Issue and justification variables were also regrouped based on Van Cuilenburg and McQuail's (2003) definitions of economic, political or socio-cultural welfare (i.e. the norms and values they relate to the respective welfare goals) with one exception: employment in this paper is considered as a socio-cultural rather than economic welfare value because of the impact of lay-offs on the journalistic quality of media products. Additionally, an aggregate variable is created to indicate whether a claim's issue(s) and justification(s) reflect exclusively one or a combination of welfare perspectives.

3.2 Sampling

Two main selection criteria were used to guide the sampling of cases reviewed by the Flemish and Dutch NCAs. The first selection criterion is a target firm's (i.e. the acquired or merged firm(s)) business activities and distinguishes between publishing, i.e. (sub) markets for

¹ The analytical tools can be provided by the authors upon request.

publishing and distribution of (online) newspapers, excluding books and magazines, and audio-visual media, i.e. (sub) markets for radio and television broadcasting and content production. Distribution is excluded as a selection criterion for target firms because it is considered a different, though closely related, domain. However, one case involves distribution markets (e.g. telecom, cable) due to the acquirer's activities. The second selection criterion of the sampling refers to the integration strategy and distinguishes between horizontal and vertical integration. Diagonal integration, or cross-media mergers, was not included.

To select eight cases, all merger reviews in the relevant sectors carried out by the Dutch and Belgian NCAs were mapped out over a twenty year period from the establishment of the authorities (BMA: 1993, ACM: 1998) until 2013. The Dutch ACM and Belgian BMA reviewed 28 and 15 cases respectively. The EC reviewed one case (before NMa was established). This list of merger reviews was compiled based on information from the NCAs' annual reports, sectorial reports provided by MRAs and the literature (e.g. Ysewyn & Camesasca, 2008).

The eight selected cases as well as the 13 formal decisions and recommendations are displayed in table 1 (cf. appendix). In addition to the cases' fit with the theoretical sampling criteria, some practical criteria were taken into account. First, a level of data richness is required to enable a claim analysis. Therefore, formal decisions of NCAs should be available and include substantive considerations. Decisions with a short description of the notified merger or just a final conclusion were excluded from the sample because there was no overlap in these cases between the activities of the target firm and acquirers (and hence no concentration). Second, when multiple cases fit into the same quadrant, the degree of overlapping business activities, impact or significance of a case (from a legal point of view, as indicated by NCAs upon the author's request), and recentness were taken into account.

4. Results

The decisions of the NCAs and EC ($N=11$), and the recommendation of the Dutch MRA ($N=2$) with regard to the selected eight cases, consist of a total of 1048 claims. The majority (54.8%) of claims relates to a rather long review of the Mediahuis case, which included an economic analysis that was much more extensive than in other cases. This was the result of legal adjustments leading to organisational changes within the Belgian NCA in 2013 (cf. Ysewyn et al., 2013) and may further be explained by the fact that the merger led to a duopoly in the newspaper market (cf. appendix, table 2).

First, the argumentation in the NCAs' reviews is analysed (section 4.1), providing a general exploration of the claims in the sample (section 4.1.1), their welfare perspectives, and the claimants or actors (section 4.1.2). The subsequent sections zoom in on claims in which economic consequences of a merger are addressed (section 4.1.3) or political and socio-cultural consequences (section 4.1.4). Who (actors) claims what (issues) in favour or against the merger under review is discussed for each of these welfare perspectives. Next, the (presumed) causal relationships expressed in claims are explored further (section 4.1.5). The final results section zooms out again and looks at the structure of the analysed merger reviews (section 4.2); whether particular welfare perspectives occur in the context of particular relevant markets, integration strategies (section 4.2.1), mergers cases (4.2.2), decision outcomes, and responsible authorities (4.2.3).

4.1 Argumentation in merger reviews

4.1.1 Exploring the sample of claims

The nature of the claims in NCA's merger reviews is used to refer to who says what and why. The actors or claimants in the sample ($N=1465$, mean of 1.40 actors per claim) can be divided into four general groups: authorities (i.e. NCAs, MRA, EC) (33.4%), notifying parties (i.e. acquiring and target firm(s)) (39.9%), market players (e.g. competitors) (24.7%) and scientists (1.9%). The last two groups are consulted through the market interrogation held by the NCA. Consumers as individual stakeholders are absent or, at least, their role in the reviewing process is not explicit. About a quarter of all claims (24%, $N=251$), relies on jurisprudence and the EC's merger guidelines (31.1%). 'Sponsored' claims consist of opinions of notifying parties (20.6%), market players (14.6%) and (academic) research reports, literature, and facts and figures (21.7%). Like actors, multiple sponsors ($N=350$) tend to occur in one sponsored claim (mean of 1.39 sponsors per claim). In some cases, reference is made to authorities (8.6%), especially in Belgian cases where the NCA's board refers in the formal decisions to the findings and opinions of the 'Auditor'. However, the board of the Belgian NCA and the Auditor's findings and conclusions are not necessarily in agreement.

Authorities (53.4%) and notifying parties (46.0%) together are responsible for (almost) all sponsors or sources ($N=502$). Scientists and market players rarely refer to sources to justify their opinions in a (written) interrogation, whilst notifying parties and authorities quote academic research (classified as 'sources') to defend their claim. Authorities and notifying parties frequently cross reference each other.

Both issues ($N=1460$, mean of 1.39 issues per claim) and justifications ($N=1259$, mean of 2.02 justifications per claim) in the analysed claims address a wide range of topics (cf. *infra*). Of all claims in the sample, 59.4% are justified ($N=623$), another 9.4% are supported by means of jurisprudence or another type of sponsor. The remaining 31.1% of the claims are not justified or sponsored.

Topics of the issues and justifications clearly reflect the structure of merger reviews, and the reviewing procedure and are regrouped accordingly.² First, the merger case and the notifying parties and described, for example motives to merge (grouped in ‘market and developments’ and ‘strategic’), business activities, and ownership structure. Followed by the definition of and selection of relevant markets. Then, for each separate market, a proxy of market power is calculated based on market shares and the potential merger effects are explored: impact of the merger for competing firms or customers (grouped in ‘merger effects’), pricing (‘financial’), consumers (‘consumer and citizen’), and the internal organisation of the target firm (‘organisation’). In their conclusions, NCAs state whether the merger proposal complies with competition law, whether a second phase investigation is needed, or remedies are imposed (‘reviewing process’). The largest topics groups are ‘merger effects’ ($N=782$), ‘relevant market’ ($N=454$), ‘products and services’ ($N=357$), ‘reviewing process’ ($N=264$), and ‘strategic’ ($N=201$).

4.1.1 Welfare perspectives and actors

The different welfare perspectives in the investigated claims reveal mainly exclusively economic welfare perspectives, both in terms of issues (96.5%) and justifications (91.5%). Combinations of welfare perspectives occur relatively more in claims’ justifications (6.6%) than in issues (2.2%). An exclusive focus on political or socio-cultural welfare in a claim is rare: 1.3% and 1.9% in terms of issues and justifications respectively. Although the composition of claims’ issues and justifications differ somewhat, the distribution of the various (combinations of) welfare perspectives shows a similar pattern. For subsequent analyses, therefore, issues and justifications are taken together and referred to as ‘topics’. As a result, fewer claims reflect only one welfare perspective (economic: 92.3%, political: 0.5, socio-cultural: 0.2%) and more combined welfare perspectives (7.1%) appear with economic-political welfare claims occurring most frequently (3.9%) (cf. appendix, table 3).

² A detailed overview of all topics that are assigned to one of the three welfare perspectives can be found in appendix A (table I).

Looking more closely at the claims that reflect one or multiple welfare perspectives, a distinction is made between claims that either reflect just one of the three welfare perspectives and those reflecting any possible combination of perspectives. Results show that notifying parties' and authorities' claims are mainly economic (42.5% and 52.2% of all claims respectively) or a mix of welfare perspectives (3.8% and 3.6%). Market players (1.4%) and scientists (0.5%) make mixed welfare claims to a lesser extent. Claims reflecting either political or socio-cultural welfare are stated by authorities (0.4%), market players (0.2%) and scientists (0.1%), but not by notifying parties (cf. appendix, table 3).

The largest share of the claims takes a neutral (or ambiguous) stance (45.6%), 31.9% are classified as pro merger whilst 22.5% argue against the merger under review. Whereas more economic welfare claims argue for rather than against the merger (29.2% and 19.6% respectively), the opposite pattern is found in mixed welfare claims (2.8% pro versus 2.3% con). Interestingly, the small number of political or socio-cultural welfare claims argue more frequently in favour of (0.4%) rather than against the merger (0.2%) (cf. appendix, table 4).

Authorities (64.2%), together with market players (35.0%), are responsible for almost all claims arguing for prohibition, whilst notifying parties (61.9%) are found at the other side of this spectrum, arguing for merger approval. Arguing against a merger, authorities are found to use the most mixed welfare perspectives in their claims (8.5%). Interestingly, notifying parties (6.0%) are responsible for the largest share of mixed welfare perspectives in claims advocating a merger. Market players use political and socio-cultural welfare claims to argue for prohibition (0.8%) and authorities to defend approval (0.7%). Scientists use mixed welfare claims both to argue against (0.4%) and advocate the merger (0.3%), but they mostly apply an economic welfare perspective pro merger (1.9%). In sum, relatively more economic welfare perspectives are found in claims that favour merger approval rather than prohibition (91.4% versus 87.4%). Claims in which also non-economic welfare perspectives occur (i.e. political or socio-cultural and mixed), tend to argue more often against than in favour of a merger (12.6% versus 8.6%).

4.1.3 Economic welfare claims

The claims reflecting economic welfare contain mostly issues about merger effects (76.6%, $N=967$), such as the level of competition in the post-merger situation, whether competitors will be able to encounter the market power resulting from the merger, and all sorts of coordinated and non-coordinated effects (cf. appendix, table 5). Further, claims are made about the level of concentration in a relevant market based on audience shares. It is repeatedly

stressed that these are a proxy, not a proof, for market power. This concurs with the EC's merger guidelines and with theoretical insights (cf. Motta, 2005).

The second largest group of topics in economic welfare claims (45.9%) involves the definitions of the relevant market(s) and the selection of those that will be reviewed (the Belgian NCA applies a threshold) (cf. Ysewyn, et al., 2013). These definitions of the relevant market(s) strongly rely on jurisprudence in neighbouring countries and the EC.

The third largest topic category in economic welfare claims involves (advertising and consumer) pricing, product characteristics, content and product demand (36.9%). References to content should be understood in the context of discussions about relevant markets (i.e. media products are heterogeneous and therefore not substitutable) or discussions about access to content.

The fourth category of topics in economic welfare claims involves the reviewing procedure (24.6%). This includes statements about market analyses, competition rules, whether or not remedies should be applied and if applied, how it should be done, and the final decision of the NCA.

4.1.4 Political, socio-cultural and mixed welfare claims

Claims addressing either political or socio-cultural welfare ($N=7$) are grouped in 'consumer and citizen' (71.4%) and in 'policy and regulation' (57.1%). All other political or socio-cultural welfare topics occur in combination with economic welfare topics ($N=74$). These non-economic topics, which are categorised in 'organisational' (47.3%), 'consumer and citizen' (63.5%), and 'products and services' (77.0%), occur predominantly in combination with (economic) merger effects (55.4%) (cf. appendix, table 5).

Claims typified as reflecting political welfare are those that claim influence of the merger under review on content or content diversity, consumer access and universal provision, opinion formation and power, editorial control and independence, and autonomy from the parent firm. Although these issues correspond to some of the theoretical concerns (cf. Meier, 2007), it is seldom discussed in length how exactly the merger under review will influence the issue of concern and how it can be safeguarded. Diversity of outlets and content are often used interchangeably, whereas they are essentially different (cf. Napoli, 1999), and it is easily presumed that a plurality of media outlets automatically guarantees plurality of ideas and opinions. The presumed relationship is, however, not self-evident (cf. Iosifidis, 2014). The claims regarding opinion power and ownership thresholds are those of the Dutch MRA's assessment as commissioned by law (until 2011).

Socio-cultural welfare claims are classified as such if the claimant addresses possible influence of the merger under review on product quality, consumer choice, culture, and employment or human resources related issues. The review of Mediahuis is the only case in which the need for journalists and editors is emphasised in order to maintain a certain product quality – which is in none of the cases described in greater detail than journalistic product quality. In other words, it is claimed that a merger may have a negative impact on product quality, but it is not made clear what that quality entails, or, should entail after the merger.

In all cases (i.e. seven) to which competition law applied (cf. section 4.2.3), there is in one way or another attention for non-economic risks of media ownership concentration. Though this attention is very limited, the attention for product quality (including content diversity) and access is in line with (some of) the priorities of the Belgian and Dutch NCAs (cf. BMA, 2015; ACM, 2013b). Concerns that are seldom or not at all addressed are independence, for instance from owners, potential homogenisation of content, and the representation of political or ideological groups and minorities (cf. Iosifidis, 2014; Meier, 2007).

4.1.5 Presumed causal relationships

In some claims, actors justify their claims by linking topics to each other in a causal relationship ($N=43$).³ As these relationships are not always substantiated, these are referred to as presumed causal relationships. About one quarter of these relationships includes (at least) one non-economic topic which appears mostly in claims against the merger under review. Although there is great variation amongst the presumed causal relationships in the analysed claims, similar lines of argumentation are used both against (32.6%) and in favour of a merger (55.8%) (the remaining 11,6% are neutral). The most frequently used (economic) argument points out that price increases are unlikely because they would keep customers away, and hence, decrease income ($N=8$). The economic crisis is mentioned as a reason behind the decreasing (advertising/consumer) sales and as an argument to maximise economies of scale. These economies of scale are also seen as necessary to finance investments. High entry barriers are justified by the sunk costs and minimum optimal scale that naturally hinder entrants. The last three arguments relate to the specific economic characteristics of media business (cf. Doyle, 2013). A considerable number of presumed causal relationships in favour

³ An overview of the presumed causal relationships can be found in appendix A(cf. table II).

of the merger address (in different ways) the impact on or causes of changes in (consumer or advertising) pricing.

Claims against the merger are found to argue that synergy or any other standardisation strategy as well as impediment of editorial autonomy (in any way) all lead to less content diversity and consumer choice (i.e. a reduction of media outlets) ($N=5$). These claims concur with critiques with regard to the (in)effectiveness of synergies (cf. Jin, 2011) and the conclusions of some empirical (case) studies on a newspaper's news coverage after it merged (e.g. Wagner & Collins, 2014). Advocates, conversely, argue that synergies create new opportunities for journalism, allow to cut costs, and thus mergers safeguard consumer choice by taking over a media outlet that would not survive on its own (i.e. rationale of the failing firm defence, cf. Polo, 2007). It is further argued that the target firm will not benefit from reducing the product quality after the merger, as consumers would not accept such indirect, de facto price increases, thus putting the firm's income at risk. Two other, not fully economic, lines of argumentation found against a merger are the claim that ownership of print media tends to influence the general orientations of the media (despite existence of editorial statutes), and the implication that a decrease of content diversity means less choice for consumers. The presumed causal relationships mostly seem to be experience-based, whilst only a few are supported by, for example, literature or another source.

4.2 Structure of and differences across merger reviews

4.2.1 Differences across relevant markets and integration strategies

Next, we analysed if the occurrence of welfare claims differs for various product markets, audience versus advertising markets, and integration strategies (cf. appendix, table 6). First, the distribution of claims across product markets is highly skewed due to the size of the review of merger case Mediahuis, with about three quarters of all claims relating to a (sub)market for publishing. Although political or socio-cultural claims only occur in publishing markets, mixed welfare perspectives occur more often in audio-visual markets (11.6%) than publishing markets (4.4%). This can be explained by the fact that diversity issues are more prominent in publishing and access issues in audio-visual merger cases. Consumer's access to content can be at stake or competitor's access to platforms or markets (i.e. input or output foreclosure) (cf. Ungerer, 2014). Opposed to the former, the latter is related to economic welfare.

Second, an economic welfare perspective occurs relatively more often in claims addressing an advertising market (98.9%) than an audience market (89.2%). A reversed

pattern is found for non-exclusively economic claims, which mostly relate to audience markets (10.8%) and hardly to advertising markets (1.1%).

Third, claims more often address horizontal integration (60.7%) than vertical integration (30.8%) in general, also due to Mediahuis. Political or socio-cultural welfare claims occur exclusively in the context of horizontal integration and mixed welfare claims show a rather even distribution between horizontal integration (8.1%) and vertical integration (9.0%).

4.2.2 Differences across merger cases

With regard to the 8 selected cases, it transpired that political or socio-cultural welfare claims in recent years occur exclusively in publishing cases: Wegener and PCM in the Netherlands and Mediahuis in Belgium with the largest number of welfare perspectives (4.0%) occurring in the latter. In the merger cases HMG (15.7%), Canal+ (10.3%), and Mediahuis (7.3%) the most mixed welfare claims, and hence, less exclusively economic claims compared to other cases are found (cf. appendix, table 7).

4.2.3 Differences across decision outcomes and responsible authorities

Four merger cases are approved under the condition of behavioural remedies (i.e. HMG, Canal+, Tijd, and Mediahuis), all Belgian cases with the exception of HMG. All merger cases approved under the condition of structural remedies are Dutch (i.e. Wegener, PCM, and SBS). This concurs with the NCA's preference for structural remedies over behavioural remedies (cf. NMa, 2007). In NCAs' decisions, political or socio-cultural welfare claims occur exclusively in conditional approvals whilst mixed welfare claims occur most frequently in decisions announcing a second phase investigation (14.7%) and in conditional decisions imposing behavioural remedies (6.6%). In the case of Videohouse, the Belgian NCA concluded that competition law does not apply because the market share threshold is not met in the relevant markets under review. The remaining political welfare claims derive from the Dutch MRAs' positive recommendation with regard to merger cases Wegener and PCM.

As said, all cases are conditionally approved. The remedies give an indication of what merger effects are considered harmful but possible to safeguard. Most remedies directly protect competitors' interests. The Dutch NCA imposed a structural remedy to prevent abuse of the target firm's dominant position (e.g. price increase or deterioration of product quality) (PCM), to prevent information asymmetry resulting from a strategic minority share in a competing firm (SBS), and a behavioural remedy to limit a firm's position in local advertising

markets (Wegener). The Belgian NCA imposed behavioural remedies to prevent exclusion of producers, to prohibit bundling of products and services (Canal+), and to prevent discriminatory practices (towards producers) (De Tijd). In two merger cases (Mediahuis, HMG), NCAs aim to safeguard consumer interests that could be typified as political and socio-cultural welfare. In the case of Mediahuis, the Belgian NCA aims to safeguard the occupational representation in a newspaper's editorial board and the geographical distribution of that same newspaper. The EC required exclusion of one of the notifying parties for reasons of foreclosure and exclusion, and imposed a behavioural remedy to ensure genre diversity (HMG). The latter is a typical example of protection of access to platforms (cf. Komorek, 2013).

Merger reviews of the EC (15.7%) and Belgian NCA (7.1%) contain relatively more mixed welfare claims compared to the Dutch NCA (2.4%). However, claims with an exclusively political or socio-cultural welfare perspective do not show up in the ECs' decisions about HMG (because access to platforms is considered an economic issue), only in decisions of the Dutch and Belgian NCA, as well as of the Dutch MRA (i.e. CvdM) (0.2%) (cf. supra). The large share of claims in decisions of Belgium's NCA compared to other authorities is caused by the size of merger case Mediahuis (cf. appendix, table 7).

5. Conclusion and discussion

The premise of consumer welfare in competition law entails that NCAs weigh both economic and non-economic interests of consumers against those of producers (Buttigieg, 2009; Van Rompuy, 2012). Elaboration on the public interest provides three welfare perspectives that help to clarify which interests can be at stake when media firms merge: economic, political, and socio-cultural welfare (Van Cuilenburg & McQuail, 2003). In this, a different perspective on welfare is applied than generally used in economics. The analysis provides evidence that, in recent years, the Belgian and Dutch NCAs indeed pay attention to non-economic interests of consumers, but remain vague as to, first, what particular interests are at stake, second, who the stakeholders are and, third, how these interests are weighed.

First, findings show that the great majority (92.3%) of claims in merger reviews exclusively reflect economic topics. This is largely and quite self-evidently explained by the reviewing process and the examined merger effects on competition. A minor share (0.7%) of the claims exclusively addresses political or socio-cultural welfare topics such as a merger's impact on access to content, consumer choice and editorial control. More often (7.1%), non-economic welfare topics occur in combination with economic topics in claims that argue

against a merger case or that justify remedies. In accordance with the NCAs' priorities, the reviews refer to merger effects on product quality, access to content, and public interest (BMA, 2015; ACM, 2013b; EC, 2004b, 2008). In some cases, it is recognised that these issues need to be safeguarded by means of remedies. In most cases, however, it remains unclear what exactly the notions of content, diversity and quality entail, and how they should be safeguarded.

Second, in their formal decisions, NCAs pay considerable attention to consumer welfare but consumers are absent from the actors (i.e. claimants), or, at least, their role in the reviewing process is not made explicit. This implies that consumer interests are presumed or estimated and that they are approached as a homogeneous group without divergent interests (Drexler, 2011; Vanberg, 2011). In particular, the distinction between an individual as consumer and an individual as citizen is crucial to understand the media's political and socio-cultural responsibilities, yet this distinction is rarely made in the reviews.

Third, the study results do not allow us to draw conclusions regarding how NCAs negotiate trade-offs between (merger effects on) consumer interest and (on) firm interest. Some indications are provided by the remedies NCAs have imposed. In most cases, the remedies safeguard economic welfare of competitors. In two of the seven investigated cases, consumer interests that reflect political and socio-cultural welfare are safeguarded: i.e. genre diversity, occupational representation in an editorial board and geographical distribution. This reflects a recent trend at the European level as the EC approved most media mergers under the condition of remedies (Komorek, 2013).

The concept of consumer welfare in competition law is promising because it gives primacy to the interests of consumers over those of producers, regardless of what these interests are (Buttigieg, 2009; Van Rompuy, 2012). The distinction between economic, socio-cultural and political welfare, as derived from the public interest, helps to evaluate whether NCAs examine a merger's impact on the full width of consumers' interests. Considering these three welfare perspectives, the results suggest that NCAs neglect crucial aspects or approach issues in a rather simplistic fashion.

This can be explained, first, by the fact that regulation, and competition law in particular, is founded in economics (Hope, 2007). As such, national governments define the framework in which NCAs work within an economic tradition. Second, compared to well-developed mathematical models of merger effects on, for example pricing, there is relatively little agreement on what the public interest entails, how it can be delineated and, crucially, how it can best be measured (Feintuck, 2010). This conceptual and empirical ambiguity

hampers a more prominent place in merger reviews for the safeguard of political and socio-cultural welfare (Hewitt, 2003).

Notwithstanding these conceptual and practical issues, the example of the UK shows that there are tools available for a sophisticated measurement of a merger's impact on political and socio-cultural welfare (Komorek, 2013; Whish, 2008). The German collaboration between NCAs and MRAs (*Bundeskartellamt* and KEK respectively) brings sector specific knowhow into the process of reviewing mergers (Berg, 2014). Other examples of specific tests for media mergers occur in countries that have converged their regulatory authorities. These regulators control compliance with competition law and sector regulation, for example the US' FCC, UK's OFCOM and Italy's AGCOM.

In other words, maximisation of consumer welfare is likely to be generated when regulatory authorities join forces. This observation suggests that countries should ensure a more comprehensive review of media mergers which accounts for both economic and non-economic interests. The cases suggest this is particular urgent in small countries like Belgium and the Netherlands. More generally, it is urgent for small geographic markets for several reasons, regardless of whether these are nations, regions or local communities. First, media markets in these countries are small and already highly concentrated (VRM, 2014; CvdM, 2014). Second, there are examples of small European countries – like Ireland – that have managed to develop a specific legal framework for reviewing media mergers (Komorek, 2013). Third, the EU's recent recognition that media pluralism is of vital importance for society at large (Drexler, 2011) and that mergers can be prohibited on this ground (Komorek, 2013), further emphasises the legitimacy of taking non-economic interests seriously. These arguments further underline the desirability to expand the remit of NCAs and MRAs to ensure that media merger reviews help safeguard economic as well as non-economic interests.

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Appendix

Table 1. Sampling of media mergers

Integration strategy	Business activities of target firm	
	Publishing	Audio-visual
Horizontal	Joint venture <u>Mediahuis</u> by Corelio N.V. and Concentra N.V.* <i>(national and regional newspapers)</i>	Take-over of ENG <u>Videohouse</u> N.V. by Nederlands Omroep Bedrijf* <i>(content production)</i>
	Take-over of <u>PCM</u> Holding B.V. – De Persgroep N.V. <i>(national and regional newspapers)</i>	Joint venture Holland Media Group (<u>HMG</u>) by RTL 4 S.A., Vereniging Veronica Omroeporganisatie, and Endemol Entertainment Holding B.V. <i>(television and radio broadcasting, content production)</i>
Vertical	Take-over of Uitgeversbedrijf <u>Tijd</u> N.V. by De Persgroep N.V., Rossel and Cie N.V.* <i>(link business information to national newspapers strengthened)</i>	Take-over of <u>Canal+</u> N.V. by Telenet Bidco N.V.* <i>(television broadcasting linked to distribution)</i>
	Take-over of Koninklijke <u>Wegener</u> N.V. by Mecom GroupPlc. <i>(link publishing to distribution strengthened)</i>	Take-over of <u>SBS</u> Broadcasting B.V. by Sanoma Corporation WSOY and Talpa Holding N.V. <i>(content production linked to television broadcasting)</i>

Note: The flagged mergers are Belgian (i.e. Flemish) mergers and the remaining merger cases are Dutch.

Table 2. Analysed decisions and recommendations

Merger case	Decision/recommendation				
	Authority*	Reference no.	Outcome	Date	Pages***
Mediahuis	BMA	BMA-2013-C/C-03	Conditional approval	25-10-2013	116
PCM	NMa	6666/76	Conditional approval	1-7-2009	23
	CvdM	17724	Positive recommendation	23-4-2009	2
Tijd	RvdM	97-C/C-38	2 nd phase investigation	17-7-2005	6
		97-C/C-47**	Conditional approval	26-9-2005	34
Wegener	NMa	6114 /230	Conditional approval	24-10-2007	41
	CvdM	B&P-004037-sv	Positive recommendation	3-7-2007	2
Videohouse	RvdM	97-C/C-15	Law not applicable	10-7-1997	2
HMG	EC	96/346/EC	2 nd phase investigation	20-9-1995	20
		96/646/EC**	Conditional approval	17-7-1996	4
Canal+	RvdM	2003-C/C-78	2 nd phase investigation	1-10-2003	6
		2003-C/C-89**	Conditional approval	12-11-2003	7
SBS	NMa	71826	Conditional approval	17-7-2011	37

* The original name of the authority is displayed.

** Second phase decision.

*** Excluding appendices.

Table 3. Composition of claims in terms of welfare perspective(s) based on their issues, justifications separately and all topics together.

Welfare perspective(s) in claim	Issue		Justification		Topic	
	N	%	N	%	N	%
Economic	1011	96.5	570	91.5	967	92.3
Political	8	0.8	8	1.3	5	0.5
Socio-cultural	6	0.6	4	0.6	2	0.2
Economic + political	12	1.1	27	4.3	41	3.9
Economic + socio-cultural	7	0.7	8	1.3	19	1.8
Economic + political + socio-cultural	4	0.4	6	1.0	13	1.2
Political + socio-cultural					1	0.1
Total (claims)	1048	100.0	623	100.0	1048	100.0

Table 4. The evaluation of different welfare claims by various actors.

Evaluation of the claim	Actor	Welfare perspective(s) in claim			Total
		Economic	Political or socio-cultural	Mixed	
Against merger	Authorities	55.7		8.5	64.2
	Market players	31.3	0.8	2.8	35.0
	Scientists			0.4	0.4
	Unknown/unspecified	0.4			0.4
	Total (%)	87.4	0.8	11.8	100.0
	Total (actors)	215	2	29	246
	Total (claims)	205	2	29	236
Neutral/ ambivalent	Authorities	32.7		1.7	34.4
	Notifying parties	29.4		0.5	29.9
	Market players	32.4		1.1	33.5
	Scientists	1.7	0.2	0.3	2.2
	Total (%)	96.2	0.2	3.6	100.0
	Total (actors)	615	1	23	639
	Total (claims)	456	1	21	478
Pro merger	Authorities	17.1	0.7	1.4	19.1
	Notifying parties	61.9		6.0	67.9
	Market players	10.5		0.2	10.7
	Scientists	1.9		0.3	2.2
	Total (%)	91.4	0.7	7.9	100.0
	Total (actors)	530	4	46	580
	Total (claims)	306	4	24	334
Total (actors)		1360	7	98	1465
Total (claims)		967	7	74	1048

Note: Percentages are based on claims ($N=236$, $N=478$, $N=334$).

Table 5. Topics occurring in different welfare claims.

Topic	Welfare perspective(s) in claim			Total	
	Economic	Political or socio- cultural	Mixed	(%)	(N)
Merger effects	76.6		55.4	74.6	782
Relevant market	45.9		28.4	44.4	465
Products and services	36.9		77.0	39.5	414
Reviewing process	24.6		35.1	25.2	264
Strategic	17.8		39.2	19.2	201
Consumer and citizen	13.8	71.4	63.5	17.7	185
Financial	13.8		13.5	13.6	143
Market and developments	7.1		12.2	7.4	78
Merger case	6.8		5.4	6.7	70
Organisational	0.7		47.3	4.0	42
Market players	3.0			2.8	29
Acquirer and vendor (or shareholder)	2.6		4.1	2.7	28
Policy and regulation		57.1	18.9	1.7	18
Total (%)	249.6	128.6	400.0	259.4	
Total (topics)	2414	9	296		2719
Total (claims)	967	7	74		1048

Note: Percentages are based on claims (N=1048).

Table 6. Welfare claims related to different product, audience or advertising market, and types of integration.

		Welfare perspective(s) in claim			Total	
		Economic	Political or socio-cultural	Mixed	(%)	(N)
Product market	Publishing	95.2	0.5	4.4	100.0	643
	Audio-visual	88.4		11.6	100.0	198
	Distribution	100.0			100.0	6
	Multiple markets	85.7		14.3	100.0	7
	Total (%)	93.6	0.4	6.1	100.0	
	Total (claims)	799	3	52	854	854
Dual market	Audience market	89.2	0.9	10.0	100.0	351
	Advertising market	98.9		1.1	100.0	374
	Both markets	95.8		4.2	100.0	24
	Total (%)	94.3	0.4	5.3	100.0	
	Total (claims)	706	3	40	749	749
Integration	Horizontal integration	91.4	0.5	8.1	100.0	396
	Vertical integration	91.0		9.0	100.0	201
	Diagonal integration	94.5		5.5	100.0	55
	Total (%)	91.6	0.3	8.1	100.0	
	Total (N)	597	2	53	652	652

Note: For several claims, the product market (N=854), dual market (N=299) or type of integration (N=396) could not be identified.

Table 7. Welfare claims related to merger cases, decision outcome and responsible authority.

		Welfare perspective(s) in claim			Total	
		Economic	Political or socio-cultural	Mixed	(%)	(N)
Merger case	HMG (1995-6)	84.3		15.7	100.0	89
	Videohouse (1997)	100.0			100.0	6
	Canal+ (2003)	89.7		10.3	100.0	116
	Tijd (2005)	97.9		2.1	100.0	95
	Wegener (2007)	93.1	3.4	3.4	100.0	58
	PCM (2009)	93.1	6.9		100.0	29
	SBS (2011)	97.5		2.5	100.0	81
	Mediahuis (2013)	92.2	0.5	7.3	100.0	574
Decision outcome	Conditional approval (behavioural)	93.0	0.4	6.6	100.0	724
	Conditional approval (structural)	96.4	1.2	2.4	100.0	166
	2nd phase investigation	85.3		14.7	100.0	150
	Law not applicable	100.0			100.0	6
	Positive recommendation		100.0		100.0	2
Authority	BMA	92.5	0.4	7.1	100.0	791
	ACM	96.4	1.2	2.4	100.0	166
	EC	84.3		15.7	100.0	89
	CvdM		100.0		100.0	2
Total (%)		92.3	0.7	7.1	100.0	
Total (N)		967	7	74		1048

Appendix A

Table I. Topics assigned to the different (combinations of) welfare perspectives in claims (N).

Topic (main and sub category)	Welfare perspective(s)			Total (topics)
	Economic	Political or socio-cultural	Mixed	
Merger effects	741	0	41	782
Advertising price elasticity	1			1
Bundling strategy	42		3	45
Collusive behaviour	1			1
Competition	184		8	192
Conglomerat effects	11			11
Consumer price elasticity	9			9
Coordinated effects	41			41
Countervailing buyer power	47		4	51
Customer foreclosure	8		1	9
Durability concentration	7			7
Exclusion	28			28
Exclusive contracts	21		2	23
Failing firm (defence)	1		1	2
Input foreclosure	16			16
Leverage effects	5			5
Market entry	54		7	61
Market power	89		6	95
Market share or level of media concentration	98		3	101
Market structure	24		2	26
Market/customer information or network	8			8
Non-discriminatory vs. Preferential access	13		3	16
Non-coordinated effects	5			5
Tying arrangements	27			27
Unilateral effects	1		1	2
Relevant market	444	0	21	465
Product substitution	65		6	71
Relevant geographic market	130		3	133
Relevant market under review	30			30
Relevant product market	219		12	231
Products and services	357	0	57	414
Advertising pricing	45		1	46
Broadcasting rights	10		1	11
Consumer pricing	60		10	70
Content (as product characteristic)	50		10	60
Content diversity (P)			13	13
Decoder/decoding	4			4
Distribution	1			1
Geographic scope/footprint	25		3	28
Medium types	22		2	24
Price reductions	13			13
Product characteristics	52		5	57
Product demand	31		4	35
Product quality (SC)			5	5
Product supply	28		2	30
Product variety	6		1	7

Window	10			10
Reviewing process	238	0	26	264
1st phase decision	18		2	20
2nd phase decision	5			5
2nd phase investigation	12		3	15
Behavioural remedies	50		11	61
Fine	2			2
Joint control	5		3	8
Market analysis	53		3	56
Market interrogation	13			13
Procedure merger review	16			16
Remedy compliance	3			3
Remedy conditions	1			1
Review (of 'Auditeur')	7			7
Rules and regulations of mergers	29		1	30
Structural remedies	13		2	15
Timespan remedy	11		1	12
Strategic	172	0	29	201
Business models	6			6
Collaboration	18		1	19
Diagonal integration/diversification	7		1	8
Economies of scale	13		2	15
Economies of scope	3			3
Efficiency	6		2	8
Horizontal integration	15			15
Image			1	1
Marketing strategy	5		1	6
Product innovation	9		4	13
Strategic interest	20		1	21
Strategic positioning/survival	34		9	43
Synergy/interconnection	10		3	13
Uniformisation	2			2
Vertical integration	24		4	28
Consumer and citizen	133	5	47	185
Audience share	1			1
Consumer access and universal provision (P)			5	5
Consumer choice (SC)		2	19	21
Consumption/consumerism	3			3
Customer loyalty	17		2	19
Democratic role of the media			1	1
Media use	5		2	7
(National) culture (SC)			4	4
Opinion formation (P)		1	8	9
Opinion power (P)		2		2
Reach	45		1	46
Target group	62		5	67
Financial	133	0	10	143
Advertising income	31		3	34
Advertising sales	16		1	17
Consumer income	1			1
Consumer sales	19			19
Costs	9		3	12
Income	27		1	28
Investment and capital accumulation	6		1	7

Invoices	2			2
Launch costs	3			3
Profit or dividend	13		1	14
Sales	4			4
Sponsoring	1			1
Transaction costs	1			1
Market and developments	69	0	9	78
Commercialisation	2			2
Convergence	2			2
Economic crisis	3			3
Ecosystem	2		1	3
Globalisation	10		1	11
Market saturation	6			6
Market size	2			2
Market transparency	4			4
'New'/other media	15		4	19
Piracy/plagiarism	1			1
Scarcity	1		1	2
Technology	11		2	13
Two-sided market	10			10
Merger case	66	0	4	70
Business activities of target firm	30			30
Control of target firm	2		2	4
Financial situation of firm	10		1	11
Stakes of acquirer in firm	11			11
Type of merger	13		1	14
Organisational	7	0	35	42
(A)symmetry of firms	2			2
Autonomy of parent company (P)			6	6
Editorial control (P)			13	13
Editorial independence and autonomy (P)			2	2
Employment (SC)			7	7
Human resource management (SC)			3	3
Internal organisation	4		4	8
Professionalisation	1			1
Market players	29	0	0	29
Competitor	27			27
Customer	2			2
Acquirer and vendor (or shareholder)	25	0	3	28
Business activities of acquirer	17		2	19
Collaborations/participations of acquirer	4			4
Financial situation of acquirer	2		1	3
Type of acquirer	2			2
Policy and regulation	0	4	14	18
European policy			3	3
Market share threshold (P)		4		4
Rules and regulations of media policy (P)			11	11
Total (claims)	967	7	74	1048
Total (topics)	2414	9	296	2719

Note: (P) = political welfare perspective, (SC) = socio-cultural welfare perspective, no indication = economic welfare perspective.

Table II. Presumed causal relationships by evaluation of the claim.

	Total
Pro merger	24
Advertising income (-) and media use (-) → consumer pricing (-)	1
Reach (+) → advertising income (+)	1
Competition (+) → advertising pricing (-)	1
Ruinous competition (+) and sunk costs (+) → contestability monopoly (-)	1
Economic crisis (+) → economies of scale (+)	1
Economic crisis (+) → sales (-)	1
Economy of scale (+) → investments (+)	1
Entry barrier (+) → market entry (-)	1
Launch costs (+) → market entry (-)	1
Pricing (-) → customers (+) → add/sales income (+)	1
Pricing (-) → entry (-) and ruinous competition (+)	1
Pricing (+) → sales and customers (-)	8
Financial situation of target firm(-) → consumer choice and content diversity (-)	*1
Journalistic product quality (-) OR consumer pricing (-) → advertising income (-)	*1
Synergy (+) → journalism (+)	*1
Synergy and efficiency (+) → costs (-)	1
Technology (+) → convergence (+)	1
Against merger	14
Access to customer/market information (+) → competition (-)	1
Content diversity (-) → consumer choice (-)	*1
Economies of scale (+) → marginal costs (-)	1
Market power (+) or competition (-) → advertising prices (+)	1
Ownership (+) → strategic positioning/editorial autonomy (-)	*1
Pricing (+) → market entry (-)	1
Substitution (+) → consumer pricing (+)	1
Synergy (+) → market entry (-)	1
Synergy/uniformisation (+) OR editorial autonomy (-) → content diversity and consumer choice (-)	*5
Synergy/rationalisation (+) → product innovation (+)	1
Neutral/ambivalent	5
Circulation free dailies (+) → circulation paid dailies (-)	1
Economies of scale (+) → consumer choice (+)	*1
Pricing (+) → sales and customers (-)	2
Reach (+) → advertising income (+)	1
Total	43

* Presumed causal relationships that includes at least one issue which is classified as reflecting socio-cultural or political welfare.

Note 1: the arrows (→) should be read a → b = a is a precondition for b, either in the form of ‘a leads to be’, ‘a makes b necessary’, or ‘a must be fulfilled in order to achieve b’ (Koopmans, 2002).

Note 2: the evaluation (pro, con or neutral/ambivalent) is based on the claim, the context in which it is used. Hence, it does not imply that a given relationship argues per definition in favour or against a merger.