

# **Twenty-First Century Fox Inc and Sky plc**

## **European Intervention Notice**

### **Commitment to Broadcasting Standards**

RESPONSE FROM THE CAMPAIGN

FOR PRESS AND BROADCASTING FREEDOM



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## 1. INTRODUCTION

The Campaign for Press and Broadcasting Freedom is pleased to take the opportunity to comment on the proposed buyout of Sky plc by Twenty-First Century Fox (21CF). We are confining ourselves to the referral by the Secretary of State on the ground of commitment to broadcasting standards. While the whole of Sky's output is covered by Ofcom's broadcasting code, it is inevitable that most of the analysis will be of the potentially contentious area of news. It is also inevitable that there will be some comment on the conduct of individuals, but there are particularly prominent individuals in this case.

To consider this requires determining the current commitment of both Sky and 21CF to the Ofcom broadcasting code, in particular section 5, Impartiality and Accuracy, and the likely difference to Sky operations as a result of the acquisition. In our view this is an important decision with wider implications than the narrow parameters of the transaction involved might indicate. To approve the takeover would signify a fundamental change to the ecology of British broadcasting; in our view, for the worse.

It is clear enough what the worry would be: that 21CF, the owners of the Fox network in the USA, would set out to apply Fox News's approach and modus operandi, in a process defined as "Foxification". Fox News's output is in frequent breach of section 5, so the question becomes: can the owners of 21CF be trusted not to?

## 2. SKY NEWS: COMPULSIVE SCOOPMONGERING

At present Sky News is highly regarded in professional circles and has won the Royal Television Society news channel of the year award eight times in the last 16 years. This recognition is due to its dynamic and distinctive style. Sky News has become a byword for rapid and reliable reporting, used by everybody from politicians and businesses to the fire and ambulance services as "the place to turn to for breaking news", in Head of News John Ryley's phrase.

*Being able to bring breaking news to viewers in real time has been a breath of fresh air for us journalists. It has brought with it an entirely new way of working and of approaching an emerging story.(a)*

This "new way" is a culture of compulsive scoopmongering that is actually closer to that of newspapers than traditional broadcasting; for all its modernity there is something of the competitiveness of old Fleet Street about the glittering Sky News Centre in west London.

When Sky launched in 1989 many of its reporters came from newspapers rather than broadcasting and the beat-the-competition ethos took hold. Managing editor Simon Cole said:

*Number One is to beat the BBC. There's a cheer in the newsroom when we beat the BBC. If there is a story breaking we will go with it and stay with it. The BBC's newsgathering is still centred round their big bulletins. They will decide something is the top story and that stays, but we will run with another if it breaks.*

The key concept is “rolling news”, which tells stories a bit at a time, as fresh angles come in. Sky neither invented nor even initiated the concept in Britain; it was pioneered by Ted Turner’s Cable News Network in the US in 1980. But it certainly shook up TV news. As John Ryley puts it:

*Sky News was in the vanguard of this onslaught on the broadcasting status quo: its mission was to disrupt television’s formula for presenting news.*

It also claims to be more liberal than the “establishment” BBC in its range of political contact. In pre-referendum times it gave a lot of time to the Tory Eurosceptics in Parliament. Its former political correspondent Adam Boulton says:

*The BBC used to say we were following Murdoch’s agenda, but we were covering them because they were tearing the Tory party apart and that was the story. The same with the Greens. The BBC would never have them in the studio, but we did, and now the BBC does as well.(a)*

### 3. WHAT THE ACQUIRERS SAY

But it is the intentions of the putative future owners that matter, and there is plenty of information that makes those clear. The chairman of 21CF, Rupert Murdoch, who is also currently chief executive of Fox News, in 2007 told a House of Lords Committee that Sky News would be more popular if it were more like Fox. The minutes of the session read:

*He believed that Sky News would be more popular if it were more like the Fox News Channel. Then it would be “a proper alternative to the BBC”. One of the reasons that it is not a proper alternative to the BBC is that no broadcaster or journalist in the UK knows any different. Mr Murdoch stated that Sky News could become more like Fox without a change to the impartiality rules in the UK. For example Sky had not yet made the presentational progress that Fox News had. He stated that the only reason that Sky News was not more like Fox news was that “nobody at Sky listens to me” (b).*

This often-quoted remark may have been tongue-in-cheek but there is a clear message that relates to the whole ecology of news media in Britain. As one history of journalism put it:

*There are two kinds of journalism in Britain, as different as soccer and rugby football .... The two codes are not, as some might first think, tabloid and broadsheet, but print and broadcast. Newspapers have for 300 years been fiercely independent of the state and even in their declining condition are so strong that no government can touch them. They are outspoken, outrageous, irresponsible and generally over-the-top. They operate in a free market, unrestrained except by their own restrictive practices. Broadcasting on the other hand operates in a controlled market; it has been licensed and regulated by the state since its inception and been much more susceptible to government pressure.*

*Journalists working under the two codes approach their work in a different way, with different aspirations. Newspaper journalists ... have a free hand in the methodology they use, and push at the boundaries of law, custom and taste to produce the most spectacular results they can. Broadcast journalists on the other hand are conscious of providing a public service of reliable and authoritative*

*information. Their labours are circumscribed by mountains of regulation and subject to scrutiny by statutory bodies. (c)*

In a sentence, Rupert Murdoch, a press baron at heart, wants broadcasting to conduct itself like a newspaper. If it is allowed to, this crucial ecological balance will be lost and the losers will be the whole of Britain's media and political cultures.

### 3.1 The First MacTaggart Lecture

There is more substantial evidence of Rupert Murdoch's intentions to hand than off-the-cuff remarks at a Parliamentary Committee. In 1989 he was invited to deliver the prestigious MacTaggart Lecture at the Edinburgh International Television Festival. He defined the regulated broadcasting environment in the following terms:

*For 50 years British television has operated on the assumption that the people could not be trusted to watch what they wanted to watch, so it had to be controlled by like-minded people who knew what was good for us... a service run for the benefit of the people who provide it, rather than the people who watch it, sometimes under duress, because there is nothing else to watch.*

*Much of what is claimed to be quality television is no more than the parading of the prejudices and interests of the like-minded people who currently control British television... This public service system has had debilitating effects on British society by producing output which is so often obsessed with class, dominated by anti-commercial attitudes and with a tendency to hark back to the past. My own view is that anybody who, within the law of the land, provides a service which the public wants at a price it can afford is providing a public service.*

*We see ourselves as destroyers of monopoly power ... as creators of choice ... I believe that a largely market-led television system, with viewers choosing from a wide variety of channels financed in various ways, will produce a better television system.(d)*

Sky TV was just six months old when Murdoch spoke. Since then much of his wish list has come to pass: there are hundreds of channels, many of them advertising-funded and free-to-air thanks to the public service-initiated Freeview system. But the runaway winner of the expansion has been Sky TV, a huge commercial success that runs satellite services in four countries in Europe and others around the world. It makes immense profits -- £1.5 billion last year -- with 12 million UK subscribers and revenues of £8.3 billion, well over double the BBC's £3.7 billion. The dreaded public monopoly seems to have done neither Murdoch nor competition much harm.

But Sky subscribers, despite the cost of its packages, watch BBC programmes more than any others. Overall, despite big cuts in its real income, the BBC holds 32.8 per cent of viewing – nearly four times Sky's 8.4 per cent. Consumer choice has been freed but has not wandered far.

### 3.2 The Second MacTaggart Lecture

In 2007 Rupert's son James Murdoch was asked to deliver the MacTaggart. He was, and is again now, chairman of Sky TV. He took the anti-regulation, anti-BBC message even further, in more paranoid and brutal language and with none of his father's vision or panache:

*Dumping free, state-sponsored news on the market makes it incredibly difficult for journalism to flourish on the internet. We seem to have decided as a society to let independence and plurality wither. To let the BBC throttle the news market and then get bigger to compensate. The threat to independent news provision is serious and imminent.*

*Google has a higher percentage of advertising spending in the UK than anywhere else in the world: it is a consequence of a tightly restricted commercial television sector. A heavily regulated environment with a large public sector crowds out the opportunity for profit, hinders the creation of new jobs, and dampens innovation in our sector. And yet the authorities in the UK continue to seek more control and greater intervention. The UK and EU regulatory system also tightly controls advertising: the amount of advertising per hour, the availability of product placement, the distinction between advertising and editorial and so forth. The latest EU-inspired rules on scheduling of advertising restrict the number of ad breaks permitted in news programming.*

*In addition, the system is concerned with imposing what it calls impartiality in broadcast news. It should hardly be necessary to point out that the mere selection of stories and their place in the running order is itself a process full of unacknowledged partiality. The effect of the system is not to curb bias – bias is present in all news media - but simply to disguise it. We should be honest about this: it is an impingement on freedom of speech and on the right of people to choose what kind of news to watch. The only reliable, durable, and perpetual guarantor of independence is profit. (e)*

And he asked:

*Would we welcome a world in which The Times was told by the government how much religious coverage it had to carry? In which there were a state newspaper with more money than the rest of the sector put together and 50% of the market?*

Obviously nobody has suggested anything of the kind, but James Murdoch seems not to comprehend the rationale for broadcast regulation and the distinction between print and broadcast. The world he describes is barely recognisable; for one thing the BBC had significantly less money than Sky even then – Sky’s revenues in 2009 were £5.3 billion.

But both father and son made clear, on the most prominent public platform in the industry, their scorn for the rich and mature tradition that has developed over nearly a century a formula for protecting a high-quality and trusted service. It is a broadcasting environment that has been flexible enough to happily embrace the Murdoch’s own very distinct “tabloid” television output and heap it with awards – and which has enabled them to prosper.

Now they are seeking clearance to control outright the second main 24-hour TV news channel in the UK. What would they do with it?

#### 4. PRESENTATION IS EVERYTHING

In Rupert Murdoch’s 2007 interview with the House of Lords committee, he said

*Sky News could become more like Fox without a change to the impartiality rules in the UK. For example Sky had not yet made the presentational progress that Fox News had. (d)*

In this context the word “presentation” is significant. It means presenting current affairs, not in conventional bulletins, but in politically-charged talkshows with a strongly opinionated host and a panel of like-minded experts or activists, plus often a solitary opponent for balance. This is what Fox News in the US does every evening from 7pm to 11pm. On the face of it, it would breach practically every clause of Section 5 of the Ofcom code.

The presenters are not called “hosts”, which a UK talkshow would have, but “anchors”. An anchor is the presenter of a current affairs programme, holding the varied elements together. So the show is presented as current affairs, which would be subject in Britain to due impartiality and accuracy requirements, but is actually a chat show, where opinion can be more freely legitimised. Fox then puts what the pundits say into bulletins and calls it news. (*see section 9.2*). That is how it works. That is what Murdoch has in mind for Sky.

There is no question about this. Commentator Julian Petley wrote 14 years ago in *Index on Censorship*:

*Murdoch is absolutely itching to turn Sky News into a British version of his rabidly populist Fox News which, even before its post 9/11 transformation into a cheerleader for war, was dubbed by Freedom and Accuracy in Reporting (FAIR) ‘the most biased name in news’.* (f)

Murdoch confirmed it when asked by the *New York Times* back in 2003 whether Sky would be imitating Fox, Murdoch replied:

*I wish. I think that Sky News is very popular and they are doing very well, but they don't have the entertaining talk shows - it is just a rolling half-hour of hard news all the time .... It is 'BBC lite' .... with a 'liberal bias'.* (g)

Whether a UK audience would want it is another matter. For Sky News has actually tried it; twice, from 1994-95 and 2003-04 and both times a flop. The presenter both times was journalist Richard Littlejohn, formerly of the *Evening Standard*, LBC Radio and the *Sun*, now with the *Daily Mail*, an aggressive right-wing controversialist. He was hired by former *Sun* editor Kelvin MacKenzie, who ploughs the same field and whom Murdoch made managing director of Sky in an attempt to make it more aggressively right-wing. Both appointments were failures. The show, called *Richard Littlejohn*, was pulled after a year.

Perhaps unsurprisingly, the failure was put down to regulation. Littlejohn said:

*We'd never been able to make the programme we intended. If Sky News could emulate its US sister Fox News, which has wiped the floor with CNN with opinion-driven 'fair and balanced' coverage, ratings would soon shoot past the Astra satellite. But the regulators won't allow it.* (h)

In early 2003 he returned to present *Littlejohn*, four nights per week. The programme was dropped in July 2004 and replaced with regular rolling news.

Fox journalists do not like the idea. John Ryley was quoted in *Television* magazine in 2010:

*Although it has my admiration, I know that the Fox News model would not be right for Sky News. For some, opinion will be the right path to follow. For us, it is impartiality.*

And Adam Boulton, the influential and well-connected former political editor said:

*It would not be to our advantage to go with one side or the other. If we became a party-supporting channel, like Fox is with the Republicans, the others would just tell us to fuck off.” (a)*

The risk, however, is real. The BBC’s political editor Nick Robinson wrote in a book on contemporary politics that before the 2010 election Rupert Murdoch had lobbied the Conservatives hard to get rid of Ofcom. He noted:

*A senior Tory minister has told me that had the party secured a majority it was his expectation that the regulator would have been weakened, the Murdoch company News Corp would have taken full control of BSkyB and James Murdoch would have got his way and turned Sky News into a channel to challenge what he saw as the BBC’s innate liberal bias.” (i)*

## 5. CROSS-PROMOTING MURDOCH MEDIA

There are other categories of content where the acquisition could have a hazardous effect on compliance with the broadcasting code. The cross-promotion of each other’s output by the various media in a cross-sectoral group is usually considered a competition question, as an abuse of monopoly or a threat to media plurality, but it is a content issue too. It can distort editorial standards, with its inclusion not impartially selected, and supplanting other material.

The Murdoch press has done this for years, not just with direct advertising but with the insertion of favourable references into editorial copy. It is prevalent in the tabloid titles but happened on The Times as well. In 1989 the Times’s arts editor Tim de Lisle quit his job in protest after a promotional panel advertising a readers’ competition -- “Win a satellite dish” – was inserted across the top of the page for which he was responsible without his agreement. It is rare for journalists to give up their jobs on principle, not because they are unprincipled but because before they start work on a title they know what it is like and accept the conditions, whatever they think of them. Tim de Lisle wrote in 2012:

*Seeing it, I felt physically sick. It wasn’t really a matter of principle – I had, after all, agreed to run the damn thing [on a listings page], and I had freely joined a Murdoch paper. It was more a matter of taste, and feeling exploited. Charlie Wilson [the editor] didn’t see this: his idea of sympathy was to make macho noises like ‘welcome to the big bad world of newspapers’. He wouldn’t repeat his assurance that it wouldn’t happen, and I wouldn’t have believed him if he had. So I resigned.(j)*

At present, the opportunities for cross-media promotion between News Corp’s newspapers and Sky, while extensive, are restricted; Fox is not able to dictate policy without overall control of Sky. The presence of other shareholders and the role of independent board members places limits on them.

But as media business analyst Claire Enders wrote at the time of the 2010 bid:

*Having shareholders with no links to the Murdoch family prevents News Corp from using Sky to further its own business interests. Total ownership of Sky would however allow them to undertake far more extensive cross-promotion, benefitting from operational synergies and the absence of countervailing influences.*

## 6. BROADCASTING STANDARDS: THE US FOX EFFECT

Assessment of the possible threat to broadcasting standards, if 21CF were to gain full control of Sky, must take into account Rupert Murdoch's record in the US as he developed his print and broadcast media there.

In 2013, in the wake of the phone-hacking scandal, Rupert Murdoch split his global media group News Corporation into 21CF (satellite, cable TV and film) and News Corporation (print and online). However the division is not real. Both entities are still firmly under the control of Rupert Murdoch and his sons. James Murdoch runs Fox, and Rupert and Lachlan Murdoch are joint executive chairmen of both Fox and News Corporation.

When 21CF made a bid to take over Time Warner in July 2014 the move was quickly rebuffed by Time Warner chief executive officer Jeff Bewkes who cited three structural objections: Fox's dual class share structure, which hands effective control to the Murdoch family even though they are minority shareholders; "regulatory risks" arising from the corporation's recent history; and the questionable ability of Fox's management "to govern and manage" a merged company of this size.

For all their domination of the company, the Murdoch family had been through a rough patch after the phone-hacking scandal in the UK, and had to rely on a preferential share structure that gives the family just under 40 per cent of the voting strength, despite holding around 15 per cent of the equity. Institutional shareholders, alarmed at the collateral damage and particularly at the possibility of corporate corruption charges on both sides of the Atlantic, lobbied against the Murdochs at the News Corp 2011 AGM.

Such open attacks are rare in the corporate world, but Institutional Shareholder Services (ISS), a major investors' grouping, said the scandal had

*laid bare a striking lack of stewardship and failure of independence by a board whose inability to set a strong tone-at-the-top about unethical business practices has now resulted in enormous costs – financial, legal, regulatory, reputational and opportunity – for the shareholders the board ostensibly serves.*

In elections to the board, 67 per cent of shareholders objected to the re-election of James, and 64 per cent against Lachlan. When the family shares were counted, that was 35 per cent voted against James and 34 per cent against his brother. Even chairman Rupert himself received 14 per cent "no" votes. Were it not for the preferential structure, in other words, James Murdoch would not even have remained on the board, let alone been promoted to chief executive of 21CF.

In 2014 there was an attempt by News Corp shareholders to scrap the preferential share structure and replace it with "one share, one vote" that came close to success. (k) The proposal received 79 million shares voted in favour versus 87.6 million against. Bill Dempsey, chief financial officer of News Corp independent shareholder the Nathan Cummings Foundation, which sponsored the motion, said the dual-class structure gave the Murdochs an unhealthy level of control:

*This kind of governance structure may be what we would expect in Cuba or North Korea but it is at odds with good governance practices [in the US].*



## 7. THE US MEDIA REGULATORY ENVIRONMENT

President Ronald Reagan appointed Mark Fowler as chair of the Federal Communications Commission (FCC) in 1980 and he spearheaded deregulation of the telecommunications industry. Fowler said:

*Who are we in Government to dictate which (TV) program is good and socially desirable and which is bad and socially undesirable? We should let the marketplace decide.*

One focus from the start was to abolish the “Fairness Doctrine”. This principle for impartial and balanced reporting, introduced in 1949, required broadcasters to devote programming to potentially controversial issues of public importance and incorporate opposing views in those reports. They were further required to alert anyone subject to a personal attack in their programming and give them a chance to respond, and to balance the reporting of all candidates in elections.

In 1987 it was duly scrapped, allowing a corps of rampant conservative commentators to invent a new genre of broadcasting: aggressive, openly biased, and self-proclaimed as “balance” for a supposed liberal, left-wing bias in mainstream media. First were the radio “shock jocks”, the phone-in hosts who cultivated notoriety to bring audiences to radio threatened by other media, notably daytime cable TV. By 1992 their exemplar Rush Limbaugh had a successful television show as well as his national radio programme that held a listenership of nearly 14 million.

The other key factor reshaping US media was the sweeping changes in ownership limits in the 1996 Telecommunications Act. These enable Murdoch to expand his media holdings across hitherto-prohibited sectors, laying the groundwork not only for the Fox TV network and Fox News but the 2007 acquisition of the *Wall Street Journal*. It also enabled the rise of conservative talk channels that soon saturated the airwaves. A 2007 study of 257 news/talk TV stations found 91 per cent of the programming was conservative, an imbalance they concluded that was not market-driven but the result of “multiple structural problems in the US regulatory system.” (1)

These changes had a profound negative impact on US broadcasting. Rupert Murdoch has been a powerful voice challenging regulatory constraints, and supporting media consolidation, as he has also been in the UK. Murdoch advised Trump on naming a new chair for the FCC, and Ajit Pai, who was appointed, has quickly set about further deregulation, promising to take a “weedwhacker” to what he considers unnecessary rules. Pai has also declared he will scrap the “net neutrality” rules that guarantee the same internet service to all consumers, and cut the budget of the Corporation for Public Broadcasting (CPB), which provides funds for National Public Radio (NPR) and television (PBS).

## 8. RUPERT MURDOCH AND US POLITICS

Murdoch is closely associated with the Trump Presidency. The families are reported to be close and Fox gave Trump blanket coverage during the campaign -- including an apparently bitter feud between Trump and Fox presenter Megyn Kelly, who left the station in January, making rather more

convincing accusations of sexual harassment against chief executive Roger Ailes. He was forced to go as well – and became a top adviser to the new president. (m)

Rupert Murdoch became a US citizen in 1985. He had recently purchased 50 per cent of 20th Century Fox Film Corp and planned to purchase Metromedia, the nation's largest group of independent television stations, but federal regulations limited non-U.S. ownership of a broadcast license to 20 per cent.

His acquisition of the *New York Post* in 1976 had given him access to politics at the highest level. He actively supported Ronald Reagan in the 1980 Presidential race. In the campaign for a second term the Democratic nomination for Vice President was Geraldine Ferraro. In October 1984 ten issues of the *Post* featured negative front-page headlines about Ferraro. The most damaging was a story secretly supplied by Reagan's campaign that her parents had been arrested (but never convicted) for illegal gambling. These stories devastated Ferraro but more importantly, in a preview of the way Fox News was to operate, it led other media to focus on her background with the suggestion there might be something sinister there. (n)

In 1988 Murdoch was forced to sell the *Post* when he purchased Channel 5 TV in New York, which breached cross-ownership rules prohibiting ownership of a TV station and newspaper in the same town. But he was able to repurchase the paper in 1993. In 1995 he founded the *Weekly Standard*, based in Washington DC and a platform for neo-conservatism. When he set up the Fox network it did not have its own news division but bought in a feed from Ted Turner's Cable News Network (CNN). Murdoch regarded CNN as dangerously liberal and its inadequately belligerent coverage of the first Gulf War in 1990 spurred him to launch his own. (o)

## 9. FOX: HOW IT WORKS

Roger Ailes, a Republican political strategist, offered his services to launch the all-news cable channel and Fox News began broadcasting in October 1996. It has had a disruptive, negative impact on US broadcasting, journalism and politics. It is not, in fact, a news channel, in the way Sky News in the UK has been, but a TV version of talk radio with angry and articulate right-wing hosts. It abandons the notion of a professional, impartial news service in favour of one explicitly shaped to be a strident mouthpiece for its owner's political agenda. It could hardly be further from the model of national TV news services licensed by Ofcom.

It has two operating slogans: "Fair and balanced", and "We report, you decide". These have been widely mocked, understandably, but while undoubtedly cynical, to Fox's followers they do have meaning: "balanced" to right-wing Americans means a counter-weight to the perceived liberal bias of the other big corporate networks; "you decide" means, you decide in the light of this different way in which we present you with the facts.

### 9.1 A very recent case: Andrew Napolitano

Andrew Napolitano is described as Fox network's "senior legal analyst". On the morning show, *Fox & Friends*, on March 14, Napolitano said that GCHQ had wiretapped Trump on behalf of President Barack Obama during the election campaign. He said:

*Three intelligence sources have informed Fox News that President Obama went outside the chain of command. He didn't use the NSA. He didn't use the CIA. He didn't use the FBI and he didn't use the Department of Justice. He used GCHQ. What the heck is GCHQ? That's the initials for the British spying agency. They have 24-7 access to the NSA database.*

The story went round the world. Two days later, Trump's press secretary Sean Spicer repeated the claim from the White House podium, infuriating British GCHQ officials, who responded:

*Recent allegations made by media commentator Judge Andrew Napolitano about GCHQ being asked to conduct 'wiretapping' against the then president-elect are nonsense. They are utterly ridiculous and should be ignored.*

The next day Fox News was forced to disown Napolitano's remarks. Anchor Shepard Smith said on-air:

*Fox News cannot confirm Judge Napolitano's commentary. Fox News knows of no evidence of any kind that the now-president of the United States was surveilled at any time, any way. Full stop.*

Yet viewers would surely have understood Napolitano's statement as having the full authority of Fox News when it was made. Trump however refused to recant and praised Napolitano as "a very talented legal mind.

## 9.2 The Fox Effect and "Fake news"

This is the "Fox Effect" and how it works, with a wilful confusion between news and comment. A false story originates with some right-wing blogger or talk radio host or other conservative outlet, which Fox News then picks up and gives heavy coverage, while berating the main "liberal" media for ignoring it, who become obliged to follow suit. It is now a mainstream story and can even be formally withdrawn, if need be, but that doesn't much matter because it is circulating on social media, providing ammunition for conservative activists, and cannot be stopped.

It is also the principle origin of the currently debated phenomenon "fake news". There is a moral panic about the damage done by "fake news" to the honesty of public discourse, both in the US and in Britain. Conservative American blogs and other obscure websites are frequently held responsible; yet it is largely Fox that propels their fantasies into the mainstream.

It has happened time and again. Well-sourced examples include the 2015 story that Birmingham (England) is a "totally Muslim place where non-Muslims just simply don't go". This was hotly contested, obviously, in Britain, and was again formally corrected and apologised for; yet it persists, and Trump himself repeated it during his campaign. Polls in American still show substantial numbers of people convinced that Barack Obama is Muslim (despite being a practising Christian) and was not born in the USA (though the records are clear). Both lies began their mainstream careers on Fox News.

The three key hours of broadcasting on Fox News, the 8pm, 9pm and 10pm nightly shows, are anchored respectively by Bill O'Reilly, Tucker Carlson (appointed reportedly by Rupert Murdoch himself to take over Megyn Kelly's coveted slot) and Sean Hannity at 10pm, are all hosted by pro-Trump presenters.

It could be added that “fair and balanced” does not include “accurate” or “truthful”, and indeed truth hardly comes into it. This confusion between news and opinion is one way the channel has generated its political influence and built its audience. But the consequences of this relentless partial programming have damaged American media and politics, fostering fear, division and hatred. More importantly, this kind of broadcasting is in conflict with the requirement of broadcasters in the UK and Europe to provide impartial broadcast news.

#### 10. A DRY RUN IN AUSTRALIA

A similar exercise to 21CF’s bid for Sky in the UK has recently taken place in Australia, where Rupert Murdoch began to assemble his media domain more than 50 years ago. Sky News Australia, a 24-hour news station, owned, like Sky in Britain, by a consortium including a Murdoch company, was 100 per cent taken over in December 2016 by another, in this case News Corp, not 21CF. The previous owners with 33 per cent each were local channels Nine News and Seven News, and Sky Europe (formerly BSkyB). It is a cable channel broadcast on the Foxtel cable network, which is 50 per cent owned by News Corp. The takeover is already proving controversial.

Sky’s daytime schedule is a rolling news format and well regarded for its accuracy and professionalism, like Sky in the UK. But the night-time schedule is very different: like Fox in the US, a series of opinion-led programmes, unlike any other TV station in Australia, much of it is on the extreme right. The programmes are heavily populated with columnists from News Corp newspapers, often interviewing others.

These presenters line up very like their American counterparts, with at 7pm every evening Andrew Bolt, a far-right columnist on News Corp’s Herald Sun, Australia’s biggest-selling tabloid daily; at 8pm a variety of different presenters; and from 9 to 11pm daily, Paul Murray, a former radio shock jock Trump supporter with an aggressive right-wing style.

The format predated the takeover but there are still concerns. On the Conversation website, influential media commentator Denis Muller wrote:

*Sky has a kind of split personality. During the day, it runs a professional, no-frills TV news service. But when darkness falls, it becomes a different beast altogether. The Bolt Report is a nightly piece of right-wing punditry in which Andrew Bolt does his more-in-sadness-than-in-anger routine.*

*Yet he looks a model of reason by comparison with Paul Murray, a crass vulgarian who swaggers about the set unburdening himself of a string of grotesqueries ... Certainly its stable of commentators and panel chairs is skewed to the right ... but it also includes two former centrist Labor premiers ... and respected independent journalists. Such catholicity is not to be found on Fox News, and that is a significant difference between the two. It is too glib to say that Sky is just an Australian version of Fox News, but the Murdoch connection is a critical factor. (p)*

Columnist Mark Day, a respected and pro-Murdoch former editor, wrote in the Australian, Murdoch’s upmarket national daily:

*Sky's shift to full prime-time opinion programming — or 'engaging conversation' as insiders characterise it — broadly follows the highly successful Fox News format in the US, frequently criticised for its strong conservative leanings. Our Sky presenters generally lean towards conservative — sometimes disconcertingly so. Paul Murray, for instance, presents as far right by wearing his admiration for Pauline Hanson on his sleeve, yet he regularly tops the viewing numbers for all Foxtel channels at 9pm, proving that viewers will tune in to disagree as much as agree with a presenter.*

*Increasingly I have felt that opinion programming may have gone a step too far. Would it not be better to pull back to the core function of providing more news, at least part of the time?*

## 11. CONCLUSION: FOX IN THE UK

Fox News is available in the UK via a number of platforms, and is licensed by Ofcom. There have been occasional complaints about its content over the years, and Ofcom has seven times found breaches of the code since 2013 (q), but it is still deemed worthy of its licence despite the evident bias in its content.

The seven cases comprised the inadvertent live coverage of a suicide; two cases of product promotion in consumer programmes; a breach of electoral law in its referendum coverage; a heavily biased pro-Trump report on last year's presidential election; and two "fake news" stories: a sickening anti-abortion item by the egregious Andrew Napolitano (*see section 9.1*), accusing Planned Parenthood doctors of trading in the body parts of aborted fetuses; and the story, well publicised in Britain, that Birmingham is an all-Muslim city that non-Muslims don't go to.

Other overseas broadcasters have been deprived of their licences, but Fox remains "legit". The former chief executive, Ed Richards, told the same House of Lords committee inquiry in 2007 that interviewed Rupert Murdoch that foreign-based news channels such as al Jazeera and Fox are not subject to the impartiality regulations because, firstly, "they are targeted, very clearly and explicitly, at a different audience", and second, "they have extremely small audience shares". Sky TV, as we have seen, is more tightly regulated and has a good track record. The difference between these two stations is the issue at stake.

There has been in recent years a debate in the industry about the nature of broadcast news and current affairs. Some have argued that the traditional "due impartiality" requirements have been based on the notion that political affairs be presented in terms of equal time for the two main political parties, and that this is out of date and avoids the real political issues. The coverage of the EU referendum last year led many to point out that the existing rules reduced complex issues to "tit for tat" which served the electorate poorly. These are now familiar arguments and we do not need to go into details; but a reform suggested by many is that the current rules should apply only to the main national bulletins, with freer rein allowed to other broadcasters.

In a sense Ofcom is already moving in that direction with a more relaxed approach to niche broadcasts --- such as Fox News. But were Sky to become part of 21CF at the heart of the Murdochs' global media domain then it could not be considered anything other than a mainstream broadcaster to which the most rigorous standards should apply. As Julian Petley wrote in Index:

*Can anyone seriously believe that the shortcomings of British television news and current affairs programmes are really going to be remedied by injecting the kind of brutishly populist news values which make Fox such a disgrace to broadcast journalism?*

*A cash-drenched Sky News, plugging a relentlessly populist news agenda, adding its stentorian voice to the anti-BBC bias of the Murdoch press, and bolstered by massive cross-media promotion from elsewhere in the Murdoch empire would rapidly force its way into a dominant position in the broadcast news environment. (f)*

## NOTES

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