

Fox/Sky merger proposal:

Submission of evidence to Ofcom in
lieu of the public interest test

March 2017



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Executive summary and recommendations

We welcome the opportunity to submit new evidence related to the likely impact of the proposed merger between 21st Century Fox (21CF) and Sky Plc on news plurality in the UK. This submission builds on our initial report examining preliminary data which suggested:

1. Multi-sourcing of news at the wholesale level appears to have declined since 2011, when Ofcom conducted its last comprehensive plurality review
2. The market shares of both Sky and News UK within the platforms in which they operate remain relatively unchanged since 2011
3. The dramatic growth of TheSun.co.uk over the last 2 years has substantially increased News UK's online reach
4. The basis of Ofcom's change of approach in 2015 to assessing wholesale radio news is unclear
5. The 'share of references' measure should be treated with due caution given potential for recall/awareness bias among respondents
6. Ofcom's current measurement framework does not take account of Sky's presence on aggregators such as Yahoo and MSN.

Some of these points were challenged by 21CF in its representation to the Secretary of State, and we have published a response in turn. Both our initial report and response to 21CF critiques are included here as appendix I and II.

But it is worth elaborating at the outset on the particular point raised by 21CF regarding the Murdoch Family Trust's minority shareholding in the company (and hence the prospective merged entity). As Ofcom has recognised, control of media groups is not solely a function of majority shareholdings. In regards to 'de facto' control, Ofcom established guidance in 2006 as follows:

Even where a person does not have a majority interest, he is regarded as controlling a company where it is reasonable, having regard to all the circumstances, to expect that he would (if he chose to) be able in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of the body are conducted in accordance with his wishes.¹

This requires us to pay attention to the broad range of contextual factors that determine the power *behind* any given media organisation, which often extends beyond the formal voting rights attached to shares. In this case, James Murdoch's appointment as chairman of 21CF in 2015 is of particular relevance, as is his father's assumed role as CEO of Fox News since 2016 (following the departure of Roger Ailes over allegations of sexual harassment). Both appointments reflect the ability of the Murdoch Family Trust (MFT) to wield influence beyond its 39.1 percent shareholding, and the willingness of other shareholders as well as board members to accommodate their wishes. Under such circumstances, it is indeed difficult to see how the Murdoch Family could be considered *not* to wield de facto control over the merged entity.

There are legitimate questions raised as to whether the current structure already affords the MFT de facto control over both 21CF and Sky. However, 21CF's minority stake in Sky offers a decisive constraint on the reach of the MFT's influence, especially with regard to Sky News. The significance of the proposed transaction is that it will remove any remaining doubts about de facto control in respect of Sky and significantly diminish structural checks and balances on influence by the Murdochs.

¹ Ofcom (2006, 27 April). *Ofcom guidance on the definition of control of media companies*. Retrieved from http://stakeholders.ofcom.org.uk/binaries/consultations/media2/statement/media_statement.pdf

We expand in this submission on some of the key points made in both of our preceding submissions to the Secretary of State. In particular, we draw on new evidence collected as part of a collaborative on-going research project conducted by academics at City, University of London and Birkbeck, University of London, and supported by Avaaz.

In sum, our analysis supports and reinforces our preliminary position that the merger poses significant risks to the public interest on grounds of plurality and that, following the underlying logic of Ofcom's 2011 Report on the Public Interest Test ('the 2011 report') as well as the 2015 plurality measurement framework ('the 2015 framework'), intervention is warranted on plurality grounds.

This is not to detract from concerns raised in respect of the other areas covered in Ofcom's review (notably broadcasting standards and the Fit and Proper Test). Indeed, like much of those concerns, our focus here is on the merger's potential impact on Sky News. Given the Murdoch family's existing control of major and influential national newspaper titles, including one of the leading and fastest growing digital news brands, the deal risks an unprecedented consolidation of voice across all of the main platforms of news.

But the key recommendations we put forward here concern the approach taken to reviewing plurality, especially as regards wholesale provision and the role of intermediary platforms in amplifying particular news sources over others. As in the 2011 report and 2015 framework, this review provides an opportunity to refine approaches in light of the ever-changing media landscape and the emergent challenges and limitations in available data.

Specifically, we recommend:

1. **Ofcom should give due weight to plurality assessments at the wholesale level.** Whilst the power to select and 'brand' news at the retail level is still relevant to plurality concerns, it is not equivalent to the power of voice exercised by those who determine newsgathering priorities and thus define the range of topics and issues that receive attention in the first instance.
2. **Ofcom should re-examine Sky's wholesale input on radio news bulletins produced by Global and Bauer stations.** In classifying these groups as wholesale providers in their own right, there is a risk that a significant proportion of Sky's wholesale provision will be discounted, with knock on effects for cross-platform shares.
3. **The cross-platform 'share of references' measure should be treated with due caution in this review.** The lack of clarity surrounding Sky's wholesale provision on radio, coupled with the growing risk of recall/awareness bias in survey responses, suggests that the weight attributed to this measure should be reduced in overall plurality assessment.
4. **Major news aggregators (such as Yahoo and MSN) should not be classified as wholesale news providers** given that the majority of news content that they carry is produced by other brands. The significant presence of Sky News on these platforms should also be factored into the review.
5. **The comparative performance of leading news brands on both search and social media should be considered as part of the review.** Facebook, Twitter and Google are regularly cited as news sources in consumer market surveys and Facebook and Google in particular are playing an increasingly interventionist role in determining the news brands and content that achieve salience across their networks.

Evidence and analysis

The significance of wholesale news for media plurality

Ofcom recognises the distinction between wholesale and retail news as relevant to plurality concerns. But the particular ways in which wholesale news provision is defined and assessed may have profound implications for the overall picture of plurality derived.

Clearly, retail news channels may exercise a degree of editorial influence in the selection and prioritisation of particular stories. But the power of editorial voice – and thus the potential for any individual or group to dominate public conversation – rests primarily in the hands of wholesale providers who determine the range of available topics, issues, and frames that may surface in any given news offer.

It follows that plurality assessments at the wholesale level should carry relatively more weight in this review compared to retail. Though they are often broadly consonant, analyses at the wholesale and retail levels at times conflict. This is particularly the case in regard to multi-sourcing which, judging from Ofcom's news consumption surveys (2013-2016), appears to have increased at the retail level but decreased at the wholesale level since 2011. In other words, consumers appear to be sourcing their news from a wider array of brands that carry news content, but from fewer brands that actually produce original news. This casts doubt over assumptions that plurality (at the level of individual exposure) is increasing, based on the growing availability of multiple news sources.

The role of intermediaries in online news distribution

The importance of wholesale news provision is further underlined by the increasing disaggregation of news content, and the significant inequalities of voice that may surface in an ever more complex and dynamic media environment. This requires us to think beyond the availability of independent sources and to consider the various conditions that can result in some becoming vastly more prominent and accessible than others.

Intermediaries are also increasingly engaged in exercising editorial power in their own right, whether it be through hosting news content (such as Facebook's Instant Articles and Facebook Live feature), or incorporating various news 'quality' metrics in algorithms.

In this respect, the role of intermediaries in amplifying certain news sources over others warrants close scrutiny. What seems clear is that increasing editorial interventions by intermediaries does not in principle detract from the power of conventional news brands to shape the contours of public debate. Indeed, intermediary platforms can enable dominant brands to exert agenda influence beyond their own publications or outlets.

However, the relative strength of original news brands on intermediary platforms was not assessed in Ofcom's 2011 review. This is understandable given what amounts to an emergent blind spot in the available data. Nevertheless, it is now relatively straightforward to gather a range of *contextual* data which, following the logic established in Ofcom's 2011 report and 2015 measurement framework, ought to be factored into this review.

Aggregators as retail providers

In our previous report on this merger (see appendix I) we presented data collected from cached copies of Yahoo's UK news home page on a daily basis throughout February 2017. What we found was that Yahoo's own wholesale provision amounted to a mere 8 percent of the articles featured over the period. This compared to more than a quarter that were attributable to Sky News. Indeed,

Sky's was by far the dominant share and nearly double that of Reuters, the next most significant contributor. This dominance was even more striking when we considered headline news stories, with the broadcaster accounting for more than 60 percent of the top five featured headlines.







Considering that Yahoo is the largest UK news aggregator and one of the leading online news sources in its own right, this has significant implications for any plurality review. If Yahoo is considered a wholesale news provider (as it was in Ofcom's 2011 report), then we are left with what amounts to a black hole when considering the agenda impact of brands that account for the bulk of its news offer.

Sky News on search and social platforms

To supplement this analysis, we have also collected data for February 2017 which compares the presence and performance of select major news brands on Twitter. This data was sourced from a leading specialist market research agency and is based on the number of tweets produced by each brand, coupled with the rate of user engagement with those posts (as defined by numbers of shares, replies, 'likes', etc).

We restricted our sample to Sky News and the five biggest online news providers by unique visitors and browsing minutes (based on a recent 'key measures' report by Comscore): BBC.co.cuk/news, DailyMail.co.uk, theSun.co.uk, Mirror.co.uk and theGuardian.com. What is striking here is that Sky out-performs all of these brands except Daily Mail, despite not even featuring within the top 10 online news providers based on unique visitors and browsing minutes.² Whilst this data does not capture wholesale news content shared spontaneously by users themselves, it does provide a useful picture of the share of news 'voice' within and across such platforms.

Figure 1: Activity and engagement on Twitter for select leading news brands, February 2017

Company	Posts	Eng. Rate / Tweet
 1. Daily Mail	1.91k	0.005%
 2. Sky News	3.17k	0.003%
 3. Mirror	3.80k	0.002%
 4. BBC News UK	1.24k	0.002%
 5. The Guardian	7.85k	0.002%
 6. The Sun	5.57k	0.001%

Wholesale news on radio

The other key area in which the wholesale picture lacks clarity is commercial radio news. Ofcom's change of approach in 2015 had the effect of dramatically downgrading Sky's share not only of the wholesale radio news sector, but also the cross platform 'share of references' measure. It therefore has profound implications for the overall picture of plurality that may be derived from this review and, we believe, warrants close attention and caution.

² Based on Comscore Key Measures report, November 2016

Whilst it is undoubtedly true that many stations source, produce and broadcast their own journalistic content, the preponderance of this output in their overall news offer is not at all clear. In an attempt to probe this further, we conducted a qualitative content analysis of news output on five stations – Classic, Heart London, Magic, Smooth and KISS – which were simultaneously sampled on 22nd March looking at a peak morning bulletin (7am) and late morning off-peak bulletin (midday)³. Three of the stations were owned by Global, two by Bauer⁴ and, for comparison, we also monitored the top three stories in the Radio 1, Radio 2 and Radio 3 bulletins, as BBC music-led stations.⁵

Looking at the bulletins on the commercial stations as a whole, there appeared to be a wide number of stories covered. However, when it came to the lead headlines there was significant homogeneity among commercial bulletins, which diverged somewhat from the BBC's output. In particular, the latter placed relatively less emphasis on terror-related headlines and more on other BBC-led stories, and the news offer for on the BBC sample was notably more diverse compared to the commercial radio sample (see table 1). Divergence between the commercial and BBC stations was also apparent when we drilled down into *how* particular stories were covered, with commercial stations giving a relatively greater platform to government, police or other official voices compared to 'alternative' sources such as NGOs or experts.

Table 1. Top three stories on morning and off peak radio news bulletins, 22 March 2017

Station	Lead stories at 7am	Lead stories at midday
Heart	1. Laptop ban on flights from Middle East 2. Murder in East London 3. Government and childcare	1. Thames Water fine 2. Man arrested for 18 year bomb threat 3. Laptop ban on flights from Middle East
Classic	1. Laptop ban on flights from Middle East 2. EU security commissioner statement 3. Scottish Government referendum call	1. Explosive device found in Strabane 2. Thames Water fine 3. Laptop ban on flights from Middle East
Smooth	1. Laptop ban 2. Brussels terror attack anniversary 3. Murder in East London	1. Thames Water fine 2. Barry Bennell case 3. Laptop ban on flights from Middle East
Magic	1. Laptop ban on flights from Middle East 2. EU security commissioner statement 3. Brussels terror attack anniversary	1. Thames Water fine 2. Memorial for Brussels attack 3. NHS cap on locum doctors
KISS	1. Brussels terror attack anniversary 2. EU security commissioner statement 3. Laptop ban on flights from Middle East	
Radio 1	1. Schools funding formula dispute 2. Laptop ban on flights from Middle East 3. Calls to legalise drugs	1. Barry Bennell pleads not guilty 2. Brussels terror attack anniversary 3. Scottish referendum
Radio 2	1. Princess Anne's on genetic foods 2. School governors' budget concerns 3. Scottish referendum	1. Thames Water fine 2. Teachers' unions to merge 3 3. Labour on laptop ban
Radio 3	1. Rex Tillerson hosting anti-ISIS coalition 2. Iraqi forces in Mosul 3. Scottish referendum	1. Lord Chief Justice attack on Liz Truss 2. Thames Water fine 3. Explosion in Strabane

³ KISS's offpeak bulletin could not be sampled because it was not saved on its website. The bulletins sampled were all before the Westminster terror attack.

⁴ Global stations are Heart, Classic and Smooth; Bauer stations are Magic and KISS

⁵ The R1 bulletin was actually at 11.30. The following bulletin recorded at 12.45 was Newsbeat's main programme so I sampled the 11.30 bulletin instead, but BBC Breaking News tweet on the Thames water story was datelined 11.40am which accounts for its absence from the R1 offpeak bulletin. Radio 3 had no bulletins until 1pm so that one was sampled.

Of course, such patterns do not necessarily reflect a reliance by commercial stations on a common wholesale news source. Shared values or newsroom culture might also account for the kind of homogeneity observed, as well as divergence from the BBC's output. But these patterns must be considered in conjunction with another more significant point of difference concerning the degree to which bulletins included evidence of original newsgathering. Whilst this was clearly apparent in the BBC's output (through, for instance, persistent use of their own named reporters on the ground) it was much less apparent in the commercial bulletins. Only one of these stations (Smooth) used their own named reporter and Classic was the only station directly attributing clips to itself.

This suggests that we cannot assume that the news output of Global and Bauer stations is *predominantly* sourced from their own original newsgathering (which is the logical basis for defining wholesale news provision). Given the brevity of news bulletins on stations with music-based formats, coupled with the range of Sky's raw and packaged feeds made available to them, it is easy to see how commercial news output can be 'own branded' without departing significantly from the wholesale input of Sky.

Conclusion

This submission has presented new evidence illustrating some of the problems and complexities in measuring wholesale news provision. It has particular implications for the commercial radio and online news sectors, and for the overall picture of plurality that may be derived from Ofcom's current framework.

Our previous report raised question marks over the categorisation of online news aggregators – especially Yahoo News – as wholesale news providers. It is clear from our sample that Yahoo only produces a minority of the content featured most prominently on its home page, and that Sky has a dominant presence on the platform, especially within leading headlines.

New data presented in this submission also illustrates the limitations of standard metrics such as unique visitors and browsing minutes when it comes to assessing online plurality at the wholesale level. Although traffic to Sky's news website is relatively low compared to the leading providers, it out-performs several of them on social platforms, especially Twitter. This raises the prospect that Sky's share of voice – and potential to influence the wider media agenda – is not adequately reflected in the available data used by both Ofcom and the industry.

Our findings also cast doubt on the assumption that the two major commercial radio groups in the UK – Global and Bauer – rely *predominantly* on news that is independently sourced and produced. Variations between stations in story selection and even to some extent in the language used in news bulletins may be more cosmetic than a reflection of substantive original newsgathering.

This calls into question Ofcom's decision in 2015 consider both Global and Bauer wholesale news providers. At the very least, Sky's position as the exclusive contract supplier to the IRN network should be a significant qualifying and contextual factor. Given the uncertainty and the implications for the cross platform share of references, the weight attributed to this measure should also be appropriately downgraded in Ofcom's assessment.

Above all, our evidence further underlines Sky's uniquely wide penetration across television, radio and online news sectors, as well as intermediary platforms. Given the leadership role played by both Rupert and James Murdoch within 21CF coupled with the MFTs significant shareholding, the proposed merger seems highly likely to result in an unprecedented accumulation of wholesale news control. This matters irrespective of concerns regarding the potential impact of the merger on Sky's editorial output. Ensuring a plurality of independent news sources – especially at the wholesale level - is fundamental to democratic values in and of itself.

Appendix I – preliminary report (February 2017)

Consolidating Control: The Fox/Sky merger and news plurality in the UK

Executive Summary

In December 2016, 21st Century Fox announced its intention to buy out Sky Plc. This marked a renewed attempt by Rupert Murdoch and his family to consolidate their control of Sky, following an aborted attempt in 2011. Since the announcement, concerns have been raised both within and outside of Parliament regarding the potential impact of the merger on news plurality in the UK.

These concerns are linked to, but separate from, ‘fit and proper’ concerns against the backdrop of the phone hacking scandal embroiling Rupert Murdoch’s newsrooms (which prompted withdrawal of the first bid in 2011), and the string of public and police inquiries that followed. They are also linked to, but separate from, concerns about the editorial independence of Sky News, one of only two British television news channels with an average monthly audience reach of 10 million.

This report, produced by the Media Reform Coalition in conjunction with Avaaz, does not engage directly with those wider questions but focuses exclusively on the issue of plurality. In its submission to Ofcom in 2011, News Corp based its optimistic account of news plurality on the emergent phenomenon of multi-sourcing, suggesting that consumers increasingly use multiple sources for news and information both within and across platforms. But Ofcom data shows that, in fact, **there has been a marked decline in news multi-sourcing at the wholesale level**, with just 38 percent of consumers using 3 or more providers across platforms in 2015, compared to 53 percent in 2010.

The other key trend revealed in this report is that, since 2011, there has been no material change to the wholesale news market shares of both Sky and News Corp/News UK within the platforms that they operate. And whilst print circulation of News UK titles has declined in line with other newspapers, the overall reach of News UK has increased substantially as a result of online growth. **Since relaxing its paywall in 2015, the Sun has increased its traffic by more than 162 percent**, and is now the fourth biggest online news provider.

Finally, we reflect on recent research which suggests that **the available data used by Ofcom significantly understates the agenda influence of News UK over broadcasters and the reach of Sky News online**. Research by Cardiff University on coverage of the 2015 general election demonstrates the influence of national newspapers – and News UK titles in particular – over the issue agenda of broadcasters including the BBC. As for online news, research conducted for this report shows that Sky is by far the most widely featured news source on Yahoo’s UK news page (itself one of the leading online news websites), accounting for over 25 percent of articles in February 2017 and over 50 percent of headlines.

Ultimately, there is no singular or definitive yardstick for measuring plurality or the potential impact thereon of any given merger. The policy decision on whether to intervene must necessarily be based on an assessment of *risk*. In 2011, a decision was taken by the then Secretary of State to refer News Corp’s bid to Ofcom on plurality grounds, and Ofcom subsequently raised concerns with the deal based on their review. This report demonstrates that if we are to accept the logic of those decisions, then there are considerably more grounds for intervention in the current bid than there were in 2011.

We also know that Rupert Murdoch and his executives continue to enjoy unrivalled access to the most senior figures within government. Between April 2015 and September 2016, for instance, they

met with either the Prime Minister or Chancellor on at least 10 occasions⁶, a figure that dwarfed all other private sector companies or individuals. In his 2012 report into the ethics and practices of the press, Lord Leveson was especially concerned about these contacts between media executives and ministers, remarking that

*The media are highly skilled, at the level of some proprietors, editors and senior executives, at subtle and intuitive lobbying in the context of personal relationships and friendships.*⁷

The proposed deal will only exacerbate the risk to plurality and democracy posed by this kind of disproportionate access, as well as the existing market power and wider agenda influence wielded by the Murdoch family.

In summary, this report raises serious concerns that the proposed merger will undermine news plurality. It will result in the merged entity being the only news and media provider present on all four media platforms at the wholesale level, with a significant presence across them. In particular, the merged entity will effectively become

- The largest newspaper provider
- The third largest TV news provider
- The second largest provider of radio news content
- The fourth largest online news provider

These prospective rankings are no different to the situation in 2011 and if anything, the overall picture of news plurality has worsened since then (taking into account the decline in multi-sourcing).

This report demonstrates why, under the current legislative framework, there is an unprecedented case for intervention by both the Secretary of State and competition authorities on plurality grounds. And it strongly suggests that should the deal be allowed to progress, it will result in an unparalleled accumulation of media power in the hands of one family, posing a grave threat to media plurality in Britain for generations to come.

Methodology

Our analysis starts from Ofcom's two-pronged definition of why media plurality matters. As stated in its review of media ownership rules in November 2015:

Media plurality makes an important contribution to a well-functioning democratic society through:

- *informed citizens who are able to access and consume a wide range of viewpoints across TV, radio, online and print media from a variety of media organisations; and*
- *preventing too much influence over the political process or public opinion being exercised by any one media owner.*⁸

⁶ Media Reform Coalition (2017). Murdoch's lobbying efforts are increasing, new analysis finds. Retrieved from <http://www.mediareform.org.uk/featured/murdochs-lobbying-efforts-increasing-new-analysis-finds>

⁷ Leveson, B. (2012). *An Inquiry into the Culture, Practices and Ethics of the Press: Executive summary*. Retrieved from <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0779/0779.pdf>

⁸ Ofcom (2015). Media ownership rules review. Retrieved from https://www.ofcom.org.uk/data/assets/pdf_file/0027/51867/morr_2015.pdf

In line with Ofcom, our focus is also restricted to news and current affairs. This is not to negate the potential significance of other genres and other cultural industries. But the news is central to questions of media plurality because of its immediate connection to the way in which issues and problems that affect society as a whole are defined, and the extent to which they impact on the public or policy agenda.

We focus on national and international news since this is the market in which both Sky and News UK operate. And we focus on wholesale, as opposed to retail news provision⁹ on the basis that plurality concerns are ultimately about the power of voice – a concept that is mostly closely captured in media terms by the editorial control of news production. Accordingly, we also consider contextual research that sheds further light on the inter-media agenda influence of the press, and the reach of Sky news on third party platforms.

We have also modelled our approach partly on Ofcom's plurality measurement framework¹⁰, with an emphasis on consumption metrics (reach and market share) and drawing on data produced by standard industry auditors including the Broadcasters Audience Research Board (BARB); Radio Joint Audience Research (RAJAR); Audit Bureau of Circulations (ABCs) and Comscore. For each sector we compare data from 2010 (which formed the basis of Ofcom's report on the public interest test in 2011) with either 2015 or 2016, depending on the latest available data.

Finally, we consider the merged entity post-transaction to include News UK. Although 21st Century Fox and News UK were structurally disintegrated in 2013, Rupert Murdoch and his family retain control over both companies.

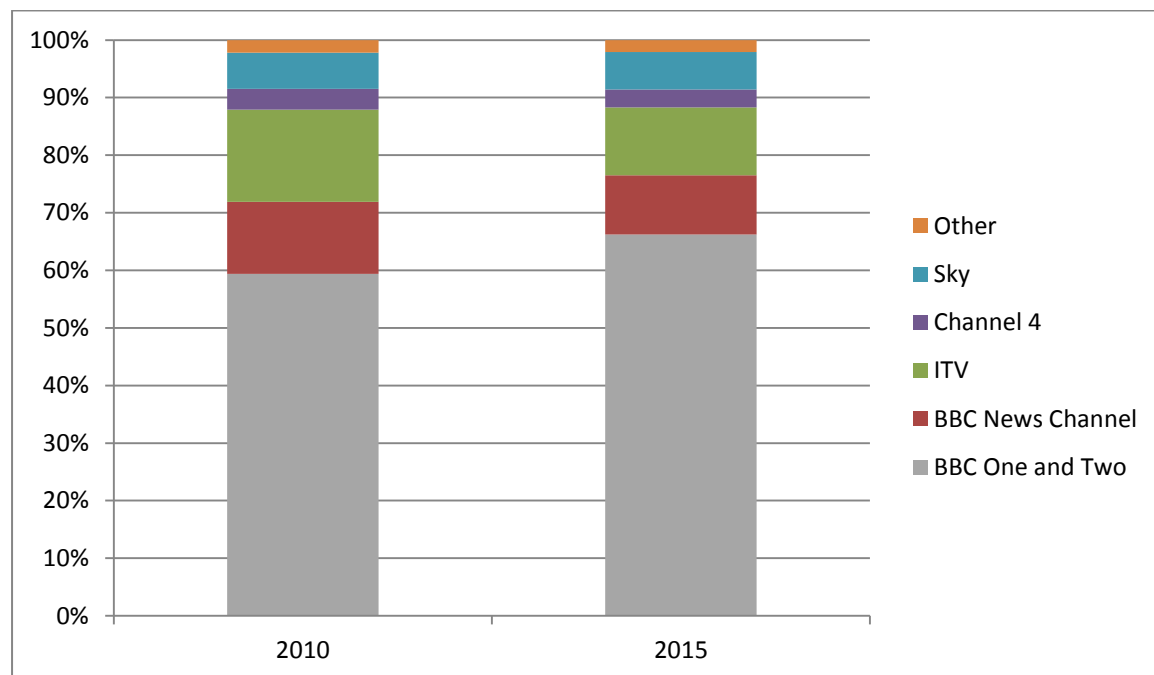
⁹ a distinction adopted by Ofcom to account for the difference between news producers and those outlets that merely carry news produced by others

¹⁰ Ofcom (2015). Measurement framework for media plurality. Retrieved from http://stakeholders.ofcom.org.uk/binaries/consultations/media-plurality-framework/summary/Media_plurality_measurement_framework.pdf

I. Television

As in 2011, television news remains dominant among the platforms, reaching 67 per cent of the general population. The audience of Sky News has declined marginally in line with other television news providers, from just under 10 per cent of the viewing population in 2010 to just under 9 per cent in 2016. But its share of national and international news viewing has remained constant, attracting 6.5 percent of viewing in 2015 compared to 6.3 percent in 2010.

Figure 1 - Proportion of viewing to national/international news by channel group



Source: BARB. Network programming based on 4+ area filter.

Although the BBC has seen a further increase in its dominant share of the television news market, this should be considered in plurality terms alongside what Ofcom call 'contextual factors'. These include the BBC's widely recognised internal plurality fostered by the editorial autonomy of different news programmes; its unique structure of governance; and its stated commitment to impartiality and diverse news programming that extends beyond the broadcasting code.

But more crucially, the BBC's dominance must also be considered in the context of inter-media agenda influence and especially the influence of the press. Television news has long been thought to play a subordinate role to newspapers in the news agenda but recent research by Cardiff University suggests this deference remains strong, even in a 24 hour news cycle.¹¹

The research focused on reporting during the build up to general election in 2015 and found that newspapers played a defining role in shaping the television news agenda, including the BBC. Although the BBC was considered less vulnerable to press agenda influence compared to Sky, ITV and Channel 5, over half of its news policy items within the sample were traced to prior publications in national newspapers.

¹¹ Cushion, S., Kilby, A., Thomas, R., Morani, M., & Sambrook, R. (2016). Newspapers, impartiality and television news: Intermedia agenda-setting during the 2015 UK general election campaign. *Journalism Studies*, 1-20.

Table 1 - Percentage of all television news policy items published in newspapers prior to being aired, 30 March to 6 May 2015

BBC	ITV	Sky News	Channel 4	Channel 5
51.6	60.9	63.3	51.6	56.6

Source: Cushion, S., Kilby, A., Thomas, R., Morani, M., & Sambrook, R. (2016). Newspapers, impartiality and television news: Intermedia agenda-setting during the 2015 UK general election campaign. *Journalism Studies*, 1-20

And of these, a greater proportion were attributable to News UK titles compared to any other publishing group.

Table 2 - Percentage of television policy items previously published in newspapers by title

	BBC	ITV	Sky News	Channel 4	Channel 5	TOTAL
News UK (The Times/Sunday Times/Sun/Sun on Sunday)	28	27.4	24.2	20.5	23.7	25.2
The Daily Telegraph/The Sunday Telegraph	18	19.5	24.2	25	19.7	20.8
The Independent/Independent on Sunday	14.7	14.2	13.2	15.9	14.5	14.5
The Guardian/Observer	11.3	10.6	13.2	15.9	15.8	12.9
Daily Mirror/Sunday Mirror	10	10.6	9.9	10.2	13.2	10.6
Daily Mail/Mail on Sunday	10.7	9.7	8.8	8	6.6	9.1
Daily Express/Sunday Express	7.3	8	6.6	4.5	6.6	6.8

Source : Ibid.

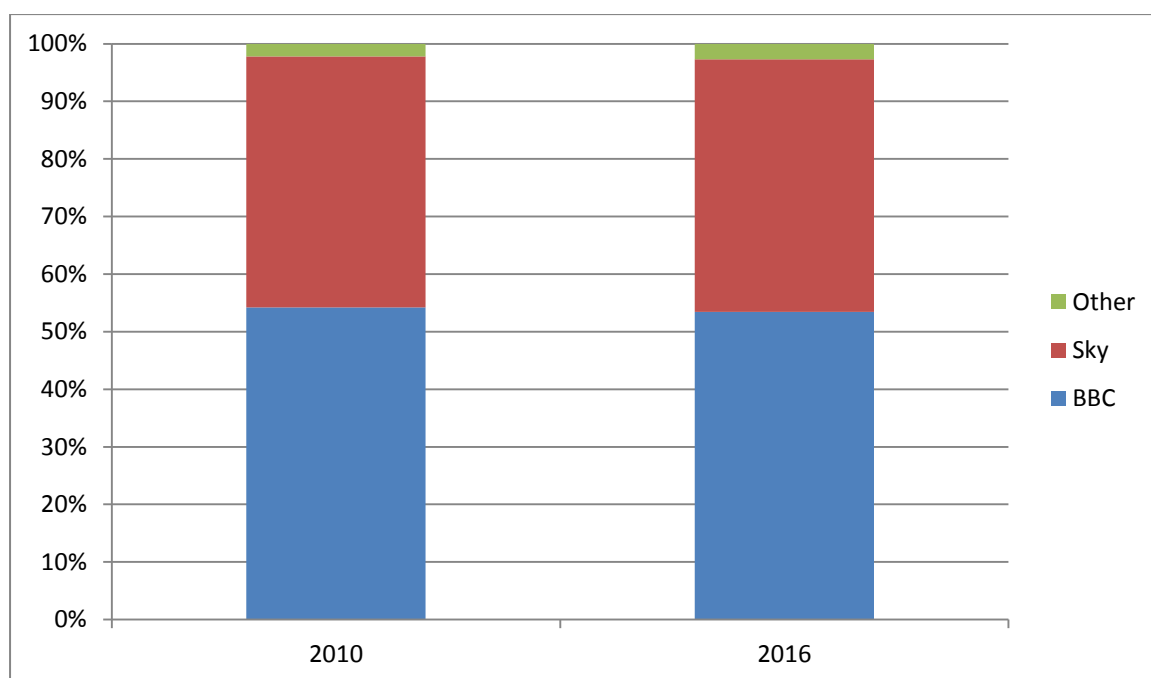
Qualitative research undertaken also suggested that most senior TV news editors were happy to share the news values of newspapers and acknowledged, at times, that broadcasters follow the agenda of newspapers. A typical quote came from the BBC's political news editor, Katy Searle:

Do I accept that we follow a newspaper agenda? Sometimes. I think it's true today as it would have been during the [general election] campaign. There is, as you'll know, the feeding off each other kind of mentality a little bit because if someone's going to get a story, if it stands up, you're going to look at it. But I hope that that is the same as the other way round.

II. Radio

Assessing news plurality on radio is particularly difficult given the variety of formats and radio's more ambient presence in daily routines compared to television, print or online. Most news on the radio is consumed not selectively by listeners but as relatively short bulletins in between music playlists or other programming. However, in its 2011 report on the public interest test, Ofcom attributed the listening audience reach and shares of commercial radio stations to Sky, as the wholesale provider of bulletins to the sector.¹² As with television, Sky's reach on radio remains unchanged on 2010, with 65 percent of the listening population tuning into commercial radio stations on a regular basis. Its market share is also unchanged with commercial radio stations attracting 43.6 percent of listening in 2010, and 43.9 percent in 2016.

Figure 2 - Market share of wholesale radio news in 2010 and 2016



Source: RAJAR all adults 16+ Q3 2010 & Q4 2016

In its 2015 news consumption report, Ofcom noted that “we no longer consider it appropriate to aggregate all use of commercial radio for news to Sky as a wholesale provider”. This reflects the added complexity that a number of commercial radio stations produce their own news as supplementary to the bulletins produced by Sky. Consequently, Ofcom now considers the two largest commercial radio groups – Global and Bauer – to be wholesale news providers.

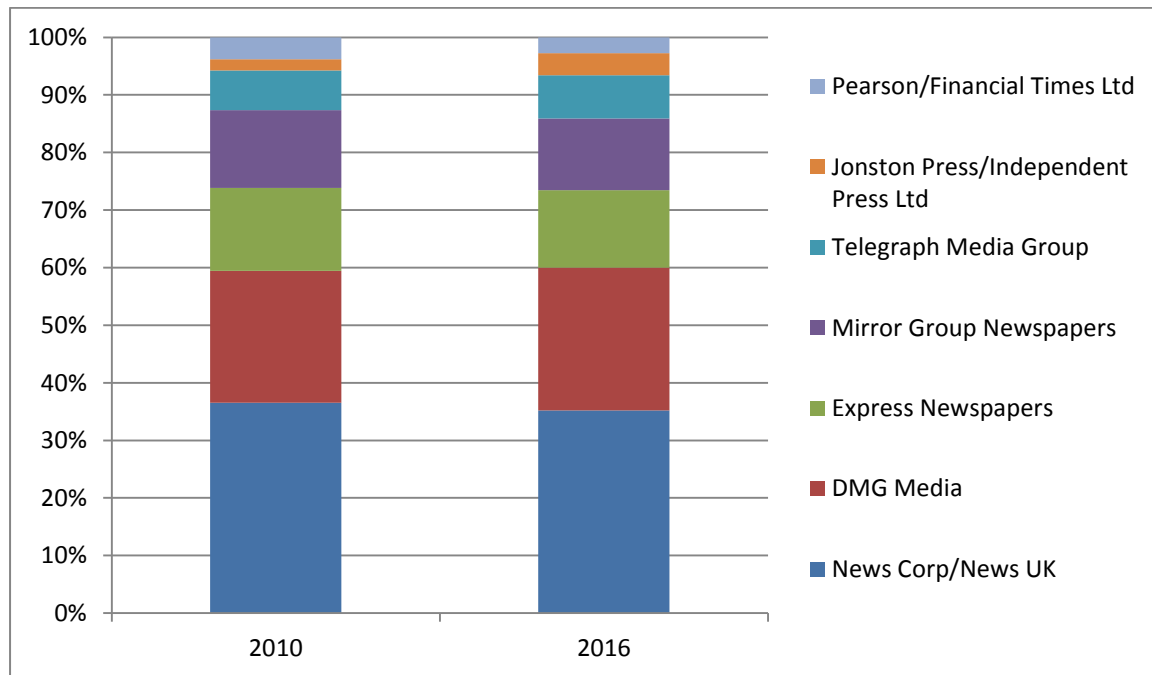
Based on this approach, a comparison with 2010 suggests that Sky's share of the wholesale radio news market has shrunk from 15.9 percent in 2010 to 9.2 percent in 2016. But this does not capture the enduring reach of Sky's news content on Global and Bauer stations.

¹² Ofcom (2011). Report on public interest test. Retrieved from https://www.ofcom.org.uk/data/assets/pdf_file/0017/81413/public-interest-test-report.pdf

III. Print and online

Since 2010, the print circulation of Rupert Murdoch's newspapers has declined by 35.8 percent which is just under the average rate for the market as a whole. However, they still have a weekly combined reach of over 14.5 million and a dominant market share of 34 percent.

Figure 3 - Shares of national newspaper circulation by publishing group



Source: ABCs average weekly circulation (dailies x6 +Sundays), October 2010 vs October 2016

The decline in print news circulation is more than eclipsed by the rapid growth of News UK titles online, especially since the Sun relaxed its digital paywall in 2015. In the year to September 2016, its online audience increased by a staggering 162 percent.¹³ It now claims to be the second biggest UK newspaper online.¹⁴

Calculating market shares of online news is considerably more difficult not least because of the vast numbers of news websites that are accessible. However, recent data has shown that despite the 'long tail' of online news distribution, the majority of news consumption is concentrated around a relatively small number of established news brands. In 2015, data collected by the market research agency Similarweb showed that the top 10 publishers accounted for more than two thirds of all online news consumption in the UK.¹⁵

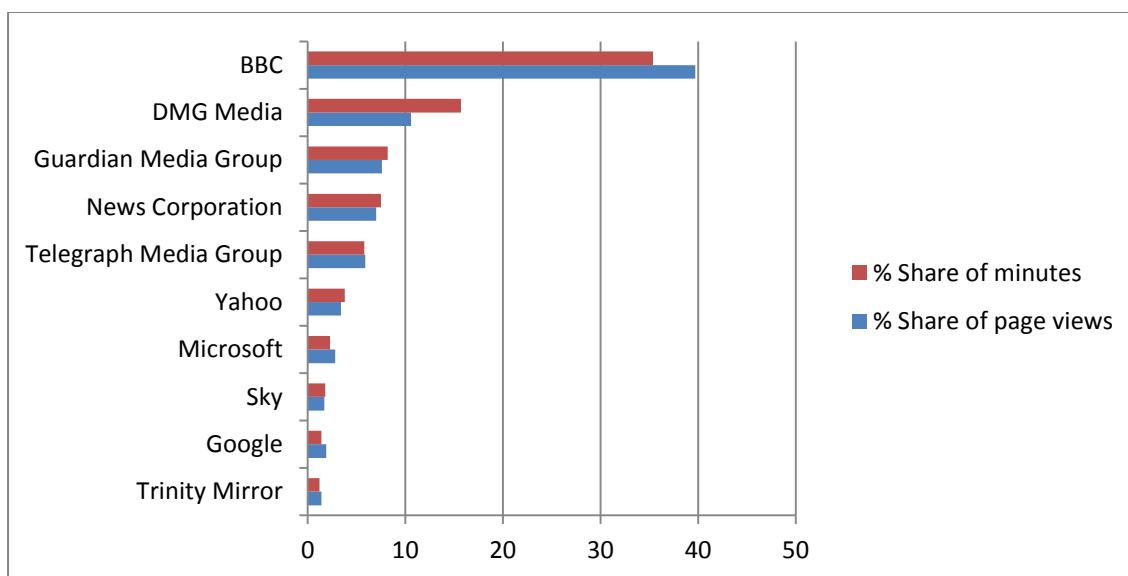
¹³ F. Mayhew (2016, 20 October). Digital ABCs: The Sun shines beyond the paywall with web traffic up 162 percent year on year. *Press Gazette*. Retrieved from <http://www.pressgazette.co.uk/digital-abcs-the-sun-shines-beyond-the-paywall-with-web-traffic-up-162-percent-year-on-year/>

¹⁴ D. Ponsford (2017, 20 February). The Sun cites Comscore data to say it is now the number two UK newspaper online. *Press Gazette*. Retrieved from <http://www.pressgazette.co.uk/the-sun-overtakes-mirror-to-become-number-two-uk-national-newspaper-website-comscore-data/>

¹⁵ Similarweb. Top UK media publishers and publications – ranked for 2015. Retrieved from <https://www.similarweb.com/blog/index-top-u-k-media-publishers-and-publications-of-2015>

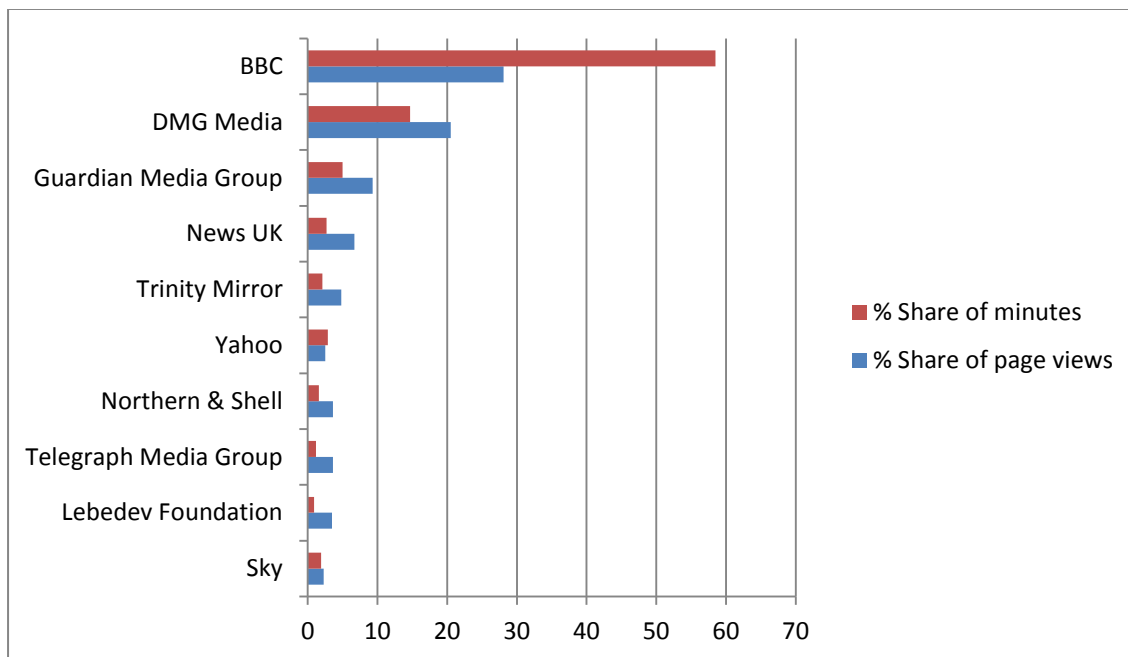
In its 2011 report on the public interest test, Ofcom calculated online news market shares based on the total UK page views and browsing minutes attributed to the top 50 news websites. We have taken a similar approach based on the latest available data from Comscore, and figures 4 and 5 show the top 10 wholesale news providers in 2010 and 2016 respectively. Although the comparison should be treated with caution (given changes in methodology and data collection agency), the figures indicate that the top four wholesale news providers by market share remain unchanged on 2010, as does News Corp/News UK’s ranking within them.

Figure 4 – Share of page views and minutes to top 50 websites by wholesale news provider, 2010



Source: Nielsen, home and work panel, applications included, all people aged 2+, October 2010

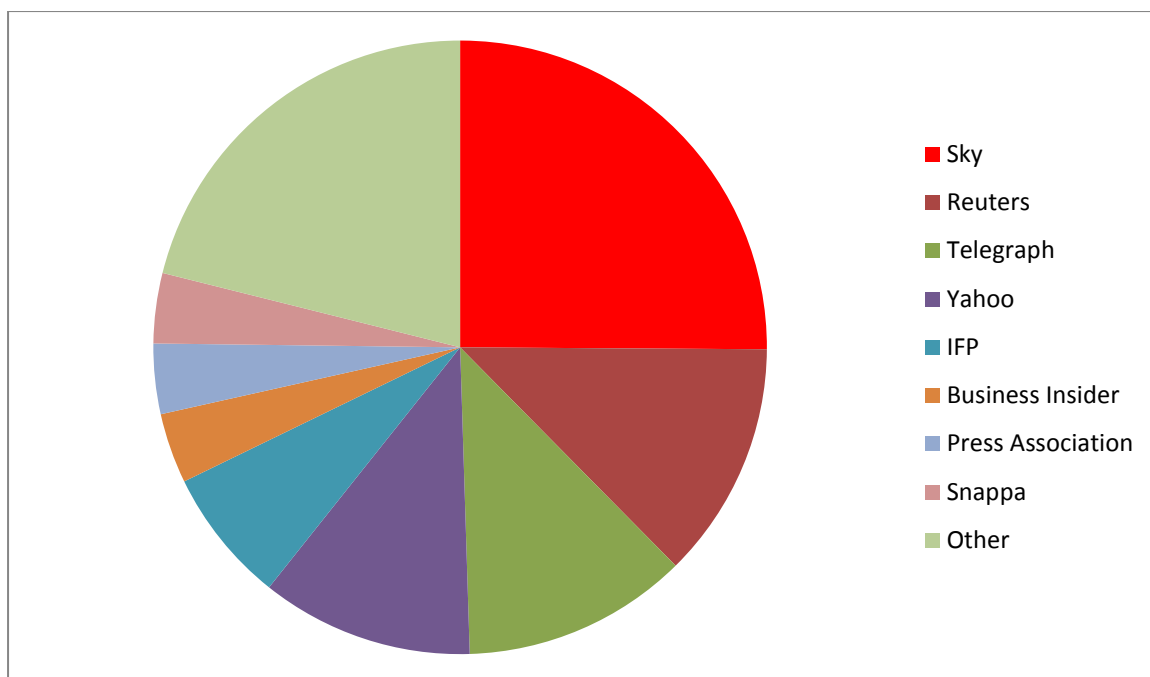
Figure 5 - Share of page views and minutes to top 50 websites by wholesale news provider, 2016



Source: Comscore Key Measures November 2016 (filtered to exclude specialist, consumerist and local/regional focused news sites in order to mirror Nielsen sample criteria).

However, these figures do not account for Sky’s reach on third party platforms such as Youtube where it has a considerable presence including a live news feed. It also produces a substantial proportion of news content on Yahoo which has the ninth biggest share of the market by page views and the fourth biggest by browsing minutes. According to research conducted for this report, more than a quarter of articles featured on Yahoo’s UK news page over February 2017 were produced by Sky, a significantly greater proportion than any other wholesale provider. Sky also accounted for, on average, more than half of the top five headlines.

Figure 6 - Share of articles on Yahoo UK News home page by wholesale news provider, February 2017



Source: Media Reform Coalition. Data collected from daily ‘snap shots’ either in real time or sourced from <https://archive.org/web> (includes all articles in main area and sidebar but not rotating articles in slider feature).

III. Cross platform

Since 2013, Ofcom has been measuring cross platform news consumption using consumer market surveys. One indicator that has particular resonance for plurality relates to multi-sourcing - a phenomenon frequently associated with the 'long tail' of online news where users have access to an ever-widening horizon of sources. In its submission to Ofcom's consultation following the first proposed merger in 2011, News Corp remarked that

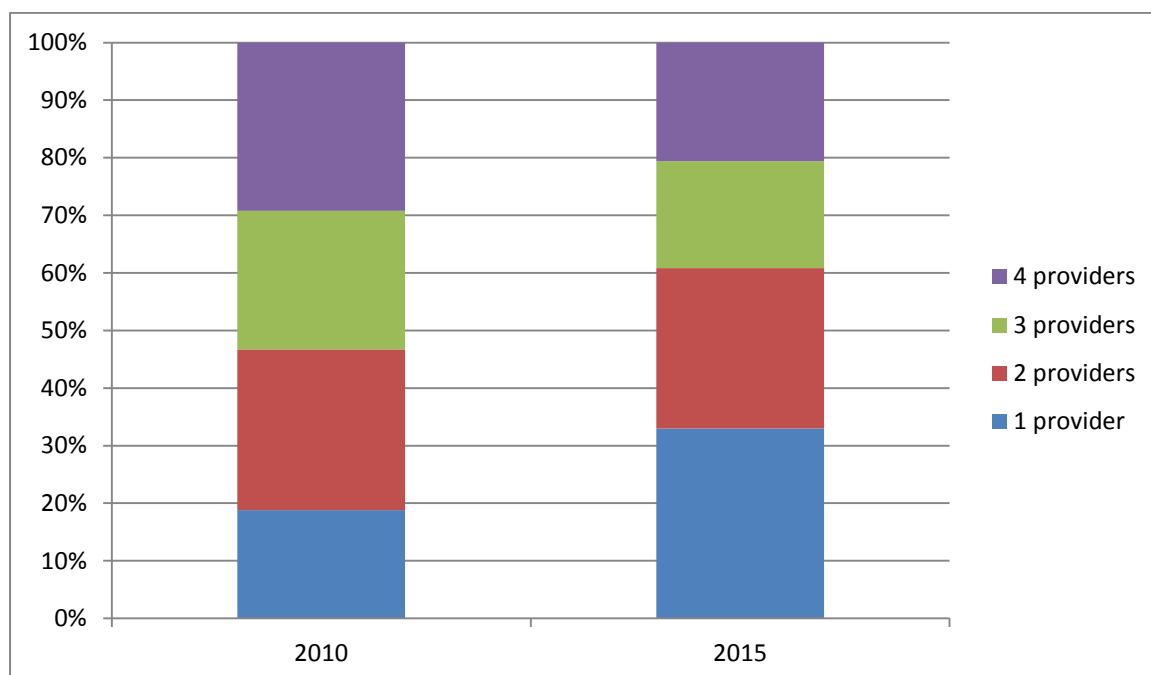
The dynamic media environment, in the UK and internationally, in particular the increasingly important role played by the internet, is leading to a much more plural media environment in which consumers can and do easily access a multitude of news sources.¹⁶

The government similarly remarked in its own response to a 2014 parliamentary inquiry that

Consumers actively multisource – such that the large majority of individuals consume a range of different news sources.¹⁷

However, such optimistic accounts have not been borne out by Ofcom's data which show a decline in multi-sourcing at the wholesale level. Only 38 percent of consumers were using 3 or more providers in 2015 compared to 53 percent in 2010. And whilst the proportion relying on just 1 or 2 sources was less than half in 2010 (47 percent), it was a clear majority in 2015 (59 percent).

Figure 7 – Distribution of multi-sourcing by wholesale news provider, 2010 and 2015



Sources: Ofcom (2011). Report on the Public Interest Test. Retrieved from https://www.ofcom.org.uk/data/assets/pdf_file/0017/81413/public-interest-test-report.pdf.

¹⁶ News Corporation (2011). Response to Ofcom Invitation to Comment on Measuring Plurality Across Media. Retrieved from <http://stakeholders.ofcom.org.uk/binaries/consultations/measuring-plurality/responses/news-corporation.pdf>

¹⁷ DCMS (2014). *Media ownership and plurality consultation report: Government response to the House of Lords Select Committee on Communications Report in Media Plurality*. Department for Culture Media and Sport. Retrieved from <http://www.parliament.uk/documents/lords-committees/communications/Mediaplurality/Governmentresponse.pdf>

Ofcom (2015). News Consumption Report 2015. Retrieved from <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/news-consumption-2015>

In terms of cross market share, Ofcom uses a bespoke measure based on the ‘share of references’ to news brands across platforms. The available data for this measure comes from the 2011 public interest report, and the three news consumption reports Ofcom has produced since 2013. As table 3 shows, although there has been little change in the shares attributed to both Sky and News Corp/News UK since 2013, there was a significant fall between 2010 and 2013. This may be attributable to changes in methodology and in particular, the inclusion of Bauer and Global as wholesale news providers. It is also worth noting that this fall in cross-market share is out of step with the data within platforms produced by the recognised industry auditors.

Table 3 – Ofcom’s share of references for wholesale news providers, 2013-2015

	2011	2013	2014	2015
BBC	37	44	43	44
ITN	12	14	12	11
Sky	10	7	7	6
Global Radio		4	3	4
DMGT	5	4	4	4
News Corp/News UK	12	4	4	3
Trinity Mirror	4	2	2	2
Guardian Media Group	3	1	1	2
Northern & Shell	3	1	1	1
Telegraph Media Group	2	1	1	1
Lebedev Foundation	1	1	1	1
Bauer		1	2	1
Other	11	15	19	22

Source: Ofcom News Consumption Reports, 2013-2015

There are a number of other reasons, in our view, why cross-platform measures should be treated with particular caution. For one thing, in their exclusive reliance on consumer market survey data,

they are bound to over-emphasise brands on television (still the dominant platform for news), as argued by Professor Steven Barnett in 2013.¹⁸

They are also acutely vulnerable to distortions that can result from social desirability bias (respondents emphasising brands that are considered more socially acceptable) and/or recall and awareness bias (respondents not accurately identifying the brands which they use regularly for news). The latter is especially significant in a digital news environment where content is increasingly disaggregated or co-branded (such as on Facebook's Instant Articles).

¹⁸ S. Barnett (2013). [Is Ofcom's "Share of References" Scheme Fit for Measuring Media Power?](http://blogs.lse.ac.uk/mediapolicyproject/2013/12/04/media-plurality-series-is-ofcoms-share-of-references-scheme-fit-for-measuring-media-power/) *LSE Media Policy Project*. Retrieved from <http://blogs.lse.ac.uk/mediapolicyproject/2013/12/04/media-plurality-series-is-ofcoms-share-of-references-scheme-fit-for-measuring-media-power/>

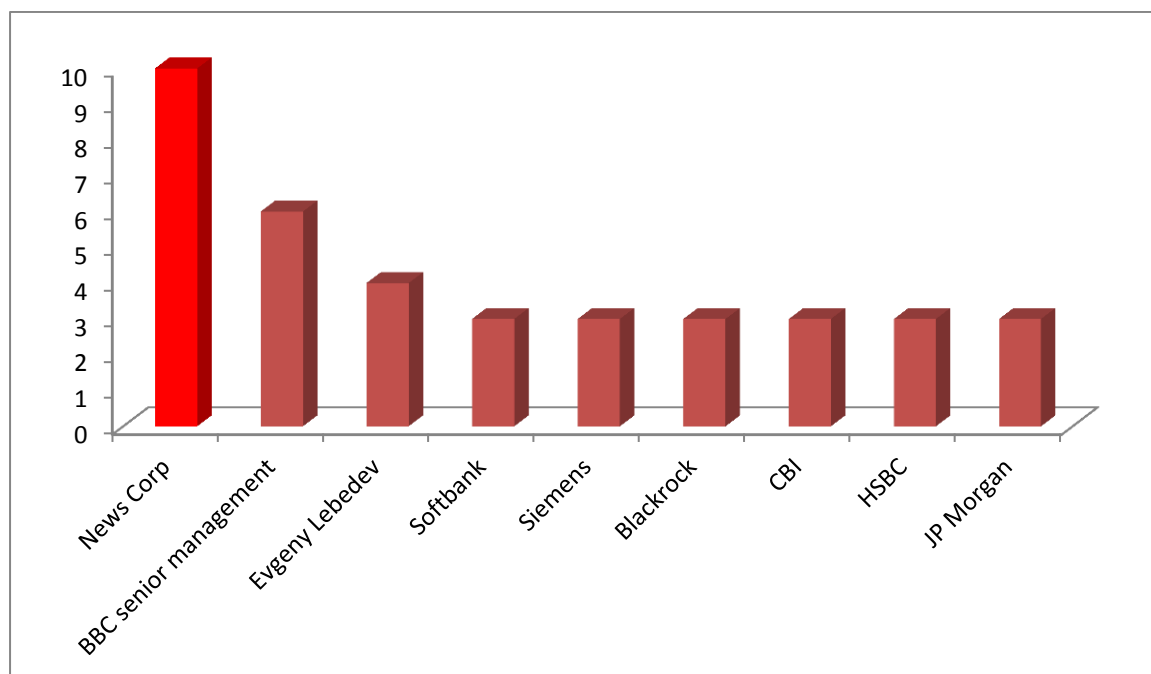
V. Conclusion

The wholesale news market shares within platforms attributable to both Rupert Murdoch and Sky remain materially unchanged since 2010. Like the News Corp/Sky bid in 2011, the current proposed merger via Murdoch's 21st Century Fox arm will make him the only person ever to control a substantial share of wholesale news provision on all the main platforms for news. Should the merger go ahead, he will effectively become the third biggest television news provider in the UK and the second biggest radio news provider, in addition to his present position as the largest and fourth largest provider of news in print and online respectively.

The wholesale reach of Sky online is also considerably greater than what is captured by available data, given its strong presence on leading third party sites and news aggregators like Yahoo. And the influence of News UK titles over broadcasting agendas – especially the BBC – has been demonstrated in recent research on the 2015 election coverage. This contextual evidence is especially prescient given Ofcom's stated concern in its 2011 review for "the range and number of persons having control of media enterprises in the context of their ability to influence opinions and control the agenda".¹⁹

At a time when consumers appear to be accessing fewer rather than more news sources, this kind of dominance can only be regarded as an acute concentration of media power. The risk is all the greater if we consider the second part of Ofcom's two-pronged definition of why plurality matters: *preventing too much influence over the political process being exercised by any single media owner*. Recent research has shown that Rupert Murdoch and his executives already enjoy unparalleled access to the most senior figures within government, meeting regularly with the Prime Minister and Chancellor at a rate that dwarfs all other individuals or private sector organisations.

Figure 8 - Most frequent visitors to 10/11 Downing Street, October 2015 to September 2016



Source: Media Reform Coalition, February 2017

¹⁹ This drew in turn on guidance provided by the Competition Commission's 2007 report on BskyB's purchase of 17.9% of ITV Plc, and the Court of Appeal's subsequent judgement in that case.

What matters here is not just the reality of media market dominance, but also the *perception* of that dominance by politicians and policymakers. It is a perception that is unlikely to dampen amid consolidated control of Britain's monopoly satellite platform and largest broadcaster by revenue.

In its 2011 report on the public interest test, Ofcom made particular reference to the significance of Sky as the third largest television news provider, noting that "it has a significant ability to influence public opinion and the news agenda in audience terms given its presence and reach on TV and having built a strong presence in retail and wholesale news provision". That condition still holds: though its overall reach has declined slightly, television remains the most widely consumed medium for news and, if anything, Sky's wholesale reach has extended further with the growth of news aggregators online.

There have also been no material changes to the broadcasting code since 2011, when Ofcom made clear that it was not a sufficient safeguard against plurality concerns in respect of Sky:

We recognise that the impartiality requirements of the Broadcasting Code may contribute as a safeguard against potential influence on the news agenda by media owners, but they cannot themselves necessarily ensure against it. In any event, there is a difference between the Broadcasting Code which provides the regulator with the ability to intervene on a case by case basis to ensure impartiality in terms of news presentation and the statutory need for there to be a sufficient plurality of persons with control of media enterprises.²⁰

As for News UK, the decline in national newspaper circulation has not resulted in a net decline in its reach across platforms. Indeed, the spectacular growth of the Sun online over the last 12 months suggests that the company is set to increase its market share on digital news platforms.

It is worth noting in closing that the proposed deal will not only consolidate control over a substantial share of wholesale news provision within and across all news platforms, but will also uniquely add control over a major internet service provider (ISP) and satellite television platform. Though must-carry and net neutrality rules restrict gatekeeping power at these levels, there are reasonable grounds for concern that they are not sufficient to prevent owners having a bearing over news distribution, and the relative prominence of particular news channels. For instance, outside of must carry rules relating to public service broadcasting channels, Sky has discretion over where to feature other news providers in its electronic programming guide (EPG). And whilst new EU rules on net neutrality came into force last year, critics have highlighted potentially loopholes that will enable ISPs to exercise significant control over traffic management in future. One example of this has already been tested by Virgin who announced late last year that its 4G network was to include 'zero-rated' content which allows selected services to be prioritised by not capping their data allowance.²¹

²⁰ Ofcom (2011). Report on the Public Interest Test.

²¹ N. Fildes (2016, 7 November). Virgin to test net neutrality rules with free Whatsapp access. *Financial Times*. Retrieved from <https://www.ft.com/content/31f48100-a2b4-11e6-82c3-4351ce86813f>

Appendix II – Response to 21CF critiques (9 March 2017)

1. 21st Century Fox has raised an objection with regards to what they called “the misattribution of consumption of news on commercial radio to Sky (which Ofcom has recognised is not the correct approach)”.

In fact our report (p.7) clearly acknowledges the change in Ofcom’s approach and cites comparable data on that basis. It also critiques that change on the basis that Sky still provides wholesale news services for Global and Bauer stations and it is not clear from Ofcom’s 2015 news consumption report why this provision is now not being considered.

2. 21st Century Fox have criticised what they call “the erroneous characterisation of News Corp as ‘the largest newspaper provider’”, adding that the largest newspaper provider is in fact DMGT in terms of circulation and Ofcom’s share of reference measure.

In regard to circulation, our report shows that if the analysis is based on Ofcom’s 2011 approach then News UK is still the largest newspaper provider based on the latest available data. This approach excludes regional titles and the Metro (which is a uniquely Monday-Friday title distributed for free). In its 2011 review, Ofcom argued that News Corp’s newspaper market share is most credibly assessed by focusing on national print circulation (as defined by paid-for daily and Sunday titles).

3. 21st Century Fox references what it calls “inaccurate claims that rising online readership has ‘eclipsed’ the dramatic decline in circulation of News Corp titles.”

This is itself misleading and the figures speak for themselves. The Sun’s combined online and offline reach by any measure is substantially greater today than it was in 2011 and the same holds if we consider The Sun and The Times combined. 21st Century Fox bases its objection on Ofcom’s cross-platform share of references measure which, as we make clear in our report, is inconsistent with more reliable market-specific data. This measure must in any case be treated with particular caution as argued by a number of independent experts, and not least due to its likely sensitivity to recall/awareness bias among survey respondents asked about media consumption habits.

4. Finally, 21st Century Fox object to the report’s inattention to what they call “the implications of the split between 21CF and News Corporation.”

This was not addressed in detail in the report because, relying on Ofcom’s 2006 definition of ‘de facto control’ in relation to media companies, it is clear that the Murdoch family will have effective control of the merged entity. From a plurality

perspective, concerns in relation to the public interest are generated by concentration not in purely market terms, but in the power of voice exercised by a given individual or group. A principle the government adopted (DCMS July 2013) as the desired outcome of a plural market is “Preventing any one media owner or voice having too much influence over public opinion and the political agenda.” Our report demonstrates throughout why the proposed merger, based on preliminary evidence and assessment, presents a clear and present threat to news plurality within that context.