

21st Century Fox / Sky merger inquiry

Submission to the Competition and Markets Authority on plurality

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For and on behalf of



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Acknowledgements and declaration

This submission is based partly on original research commissioned by Avaaz and carried out by researchers based at Birkbeck College and City, University of London between June and September 2017. The research was led by Dr Justin Schlosberg (Birkbeck) and Dr Glenda Cooper (City), with the assistance of Thomas Chivers, Naomi Smith, Richard Dover and Hannah Sharland. We are in the process of preparing materials for submission to peer-review publication but include here interim findings in view of their relevance to the merger inquiry.

I. Executive Summary

In phase one of the merger inquiry we submitted new evidence to Ofcom which showed that the market reach, share and impact of major news brands controlled by the merging parties may be significantly greater than previously thought. In particular, our research showed a disproportionate presence of Sky News on intermediary platforms and strongly suggested that Global and Bauer radio stations still rely to some degree on the wholesale news service provided exclusively by Sky (via the Independent Radio News Network). We have now extended that research which reinforces these findings. We have also commissioned new research which shows that News UK titles are among the most prominent agenda ‘leaders’, with potential to exert significant influence over the news agenda adopted by other news sources across platforms.

Two independent studies were conducted over the course of the summer 2017 by academics based at Birkbeck College and City, University of London. They were designed to address and further probe key issues raised by Ofcom’s phase one review in regard to wholesale news provision, consumption via intermediaries and agenda setting power.

First, we extended our analysis of commercial radio bulletins following the pilot research conducted for the phase one review, using a broader sample both in terms of time and number of stations examined. We found strong evidence of shared content across Global and Bauer stations, including the use of identical clips. This further calls into question Ofcom’s decision in 2015 to discount Sky’s wholesale provision to Global and Bauer. On the basis of these findings, we suggest that it would be more appropriate to attribute 50% of Global and Bauer’s wholesale news provision to Sky. That would more appropriately reflect the balance of wholesale input and also have a significant impact on the cross-platform picture of plurality. Based on Ofcom’s 2016 news consumption survey¹, this would make

- **News Corp the fifth largest wholesale news provider across platforms (up from 6th)**
- **Sky and News Corp combined the joint second largest (eclipsed only by the BBC)**

In the second study, we mapped out news stories across 29 outlets at several daily time points over an extended period in September 2017. This enabled us to identify particular brands as significant agenda ‘leaders’ (covering stories first that are picked up by other outlets at a later time point). We also collected new data reinforcing our findings in phase one in regards to the comparative reach of Sky News via social media channels. Overall, we found that

- **News UK accounted for the highest share of agenda leading stories, and was also the dominant agenda leader in our sample based on levels of salience (headline prominence).**
- **Sky and News UK titles combined account for the largest share of headline stories featured on major news aggregators (Yahoo News UK, MSN News UK, and Facebook Trending).**
- **Sky News has a disproportionately large audience on social media platforms relative to conventional measures of reach and consumption.**

The Times and *Sunday Times* newspapers were particularly influential in our sample, in spite of their relatively low audience reach. **This underscores the view expressed by a News UK spokesperson in 2015**, defending a controversial story as “responsible journalism and another example of *The Sunday Times* setting the news agenda.”²

Collectively, the new evidence gives further weight to Ofcom’s key findings in respect of the risks posed by the deal to news plurality in the UK. Ofcom made clear in its phase one report that the basis of public interest concerns resides in the fact that 21CF, by the most conservative of measures, is de facto controlled by the Murdoch family and that a shift from minority to full shareholding in Sky raises a substantive risk of increased proprietorial influence over the editorial of Sky News. It is extremely unlikely that any form of independent editorial board for Sky News will have the desired effect of shoring up its autonomy in this respect. Apart from a historical record that strongly suggests

¹ Using Ofcom’s bespoke ‘share of reference’ measure at the wholesale level. See Ofcom (2016). News consumption in the UK. https://www.ofcom.org.uk/data/assets/pdf_file/0016/103570/news-consumption-uk-2016.pdf

² See <http://www.ibtimes.co.uk/sunday-times-defends-edward-snowden-report-criticised-opposite-journalism-1506167>

breached undertakings by Murdoch-controlled companies and extensive testimony from former editors suggesting direct editorial interference by Rupert Murdoch³, an independent board will leave open the risk of influence being exercised through informal channels and inconspicuous ways. In his report into the Ethics and Practices of the Press, Lord Leveson made clear that proprietorial influence over the media need not manifest in explicit instructions to editors or journalists (though they very often do), noting that senior media figures are often “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”.⁴

In conclusion, we believe - on the balance of credible evidence produced to date - that the deal poses very significant risks on plurality grounds, for the following reasons:

1. According to standard metrics of consumption and reach, as well as Ofcom’s bespoke survey data, the merged entity will give the Murdoch family unparalleled control of news providers both within and across all news platforms. In terms of platform breadth, this dominance would be unmatched even by the BBC (which is restricted to broadcasting and online only).
2. New evidence presented here strongly suggests that the reach and impact of both Sky News and News UK titles is likely to be even greater than what was determined by Ofcom in its phase one review. As well as being the third largest television news provider, Sky is the leading wholesale provider of news to the commercial radio sector and, according to our research, the second biggest contributor of content to major news aggregators. News UK titles – especially the *Times* and *Sunday Times* – play a lead role in setting the wider news agenda across platforms.
3. Contrary to conventional wisdom, plurality in the UK national news market has not improved over recent years and there is strong empirical evidence suggesting it has contracted, especially as regards the multi-sourcing of news by consumers at the wholesale level. According to Ofcom’s research, 46.7% of consumers in 2010 relied on just one or two wholesale news sources.⁵ By 2015, that figure had increased to 60%.⁶ This means that a significant merger such as this should be treated with added caution when it comes to assessing potential risks posed to the public interest on plurality grounds.

The remainder of this submission consists of three parts. First we highlight some of the problems in evidence submitted by 21st Century Fox (21CF) in their initial submission to the CMA on plurality. Next we set out the scope of our analysis by outlining issues we believe have been substantively addressed in the phase one review and identifying key areas that warrant further scrutiny. Finally, we present interim results and findings from new research conducted in lieu of the phase 2 review.⁷

³ See our submission to the Secretary of State in July 2017 on *Fox/Sky Merger Review: The problem of undertakings*

⁴ Leveson, B. (2012). An Inquiry into the Culture, Practices and Ethics of the Press: Executive summary.

<http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0779/0779.pdf>

⁵ Ofcom (2017). Public Interest Test for the proposed acquisition of Sky Plc by 21st Century Fox Inc.

https://www.ofcom.org.uk/_data/assets/pdf_file/0017/81413/public-interest-test-report.pdf

⁶ Ofcom (2015). News Consumption in the UK. https://www.ofcom.org.uk/_data/assets/pdf_file/0020/77222/News-2015-report.pdf

⁷ We are happy to make full datasets and reports available to the CMA on request (including detailed description of methodologies and relevant academic literature).

II. Problems with evidence used by 21CF

Assessment of media plurality has been made more complex and challenging by the increasingly dynamic and disaggregated news market. This much is widely accepted and there are two implications that have direct relevance for this review. First, it is relatively easy to cherry pick or misconstrue evidence in order to paint a picture of media plurality that either favours or disfavors the bid. But the challenge for regulators is not simply to make an assessment based on the balance of available and contesting evidence. It is essential that critical consideration is given to the source of the evidence produced as much to the evidence itself.

It may be argued that the groups behind this submission (Avaaz and the Media Reform Coalition) represent vested interests given a clear position taken by both organisations throughout the process of the bid thus far. However, such a view overlooks two crucial distinctions. First, neither Avaaz nor the Media Reform Coalition have any commercial interest in opposing this deal, in direct contrast to the merging parties' interest in supporting it. Avaaz represents the views and concerns of a non-partisan mass membership base. The Media Reform Coalition was founded by media academics with the aim of supporting and coordinating civil society groups advocating for progressive media policies.

Second, and more significantly, our joint submissions to date have been based exclusively on rigorous research produced, reviewed and endorsed by a cross-section of media academics and experts based at leading universities. In contrast, 21CF have based their plurality arguments largely on either anecdotal evidence or on reports produced by commercial consultancies. These consultancies have been engaged by both 21CF and News Corporation on contracts that precede this merger review. In particular, 21CF's initial submission to the CMA on plurality includes reports by two commercial media consultancies: Communications Chambers and Enders Analysis. Both organisations have listed the merging parties (21CF and Sky) as well as News Corp/News UK as clients for a number of years. It is worth also noting that in the case of Enders Analysis, this situation did not pertain in 2010 when the organisation opposed the merger between News Corporation and BskyB on plurality grounds. According to Ofcom's public interest test on that bid, Enders expressed concern that the shift from partial to full control of Sky would increase potential for proprietorial influence over the editorial coverage of Sky News, and "this concern was heightened by Mr Rupert Murdoch's position as a 'traditional proprietor' of certain media properties, exercising editorial control on key policy debates or political events".⁸

We note that the initial submission by 21CF to the CMA consists of over 200 pages, much of which repeats arguments and evidence both within the document itself and in submissions to the phase one review, with virtually no reference to scholarly research. We are not suggesting that scholarly research should be treated as entirely independent or objective vis-à-vis the context of this deal. But it is produced by experts with doctoral-level training in research methods, both quantitative and qualitative, and subject to the norms and procedures for research ethics common to leading universities.

In any case, it is clear from 21CF's submission that the evidence on which it relies is either flawed, inappropriately contextualised or purely anecdotal. Concrete examples of this are as follows:

Flawed evidence

21CF cites secondary data analysis conducted by Communications Chambers of Ofcom's latest news consumption survey, stating that "Social media (such as Facebook and Twitter) and aggregators (such as Google) are amongst the largest retail sources of news".⁹ In fact, Ofcom has made clear in its plurality measurement framework that social media and search engines *should not* be classified as retail news sources if they are neither an exclusive carrier for a wholesale provider nor independent news producers in their own right (both of which can be said of Facebook, Twitter and Google):

In many cases, online intermediaries (such as search engines or social networks) may not be categorised as retail or wholesale news sources if they are neither the provider of a news title or brand nor the producer of a

⁸ Ofcom (2010). Report on public interest test on the proposed acquisition of British Sky Broadcasting Group Plc by News Corporation. https://www.ofcom.org.uk/data/assets/pdf_file/0017/81413/public-interest-test-report.pdf p 124

⁹ <https://assets.publishing.service.gov.uk/media/59db6fb240f0b63118216839/fox-media-plurality-initial-submission-to-cma.pdf> p. 13

*news source. Intermediaries should therefore be considered as a separate category distinct from the retail and wholesale classifications when looking at media consumption metrics. Doing so indicates how news sources are accessed online and the role that intermediaries play, including the extent to which they are used.*¹⁰

This mis-categorisation results in a significantly distorted picture of plurality, whereby search and social media platforms are considered as *competing* news sources with wholesale or retail brands such as Sky or News UK titles. In fact, the very opposite is more likely to be the case, with intermediaries amplifying the voice of dominant news brands. Indeed, Ofcom point out that according to data provided by Sky and News Corp themselves, Sky News and the *Sun* are out-performing their competitors on several of these platforms:

*Our analysis suggests that Sky News and The Sun may receive a disproportionate amount of consumption through intermediaries, relative to their reach and share of reference. This analysis is supported by data from Sky and News Corp, which show high levels of consumption of their content through third-party platforms, for example Facebook Instant Articles or Snapchat.*¹¹

Inappropriately contextualised evidence

In its submission to the CMA, 21CF argue that the reach and impact of mainstream and Conservative-leaning press (typified by News UK titles) has been profoundly challenged in the online environment, not least by ‘alt-left’ sources such as The Canary or Evolve Politics. Much of this argument is made with reference to a report by BuzzFeed, a rival news brand, including this statement directly quoted:

*Political stories published on the sites of traditional right-leaning newspapers such as The Daily Telegraph, The Daily Mail, and The Sun have also struggled to reach mass audiences online, and have often been dwarfed in terms of social media readership by alt-left sites such as The Canary and Evolve Politics.*¹²

But 21CF make no mention of the paragraph that directly follows this in the cited report which states that

*BuzzFeed News' analysis does not take into account the substantial number of readers who visit newspaper websites without sharing articles – or indeed buy print editions – but it does suggest a substantial enthusiasm gap, even as polls show the Tories with a substantial lead.*¹³

Indeed, the latest Reuters Digital News Report 2017 shows that most consumption of news in the UK bypasses social media and other intermediaries altogether, noting that “strong commercial and public service brands have built and marketed powerful news destinations”.¹⁴

Part of the confusion stems from the fact that 21CF conflate ‘readership’ with ‘sharing’ in the context of online news consumption. But the number of times a given article is ‘shared’ tells us very little about the degree to which it is actually read.¹⁵ Though sharing in itself can be considered a form of consumption, it should not be considered – in impact terms – as equivalent to page views. Data from Comscore for April 2017 shows that 8 out of the top 10 news websites based on page views are owned by traditional newspaper groups, the majority of whom peddle Conservative-leaning editorials.¹⁶ TheSun.co.uk attracted 270 million page views in that month compared to just 1 million for the Canary. The reality is that the reach of online brands like the *Sun* and *Daily Mail* is still several hundred

¹⁰ Ofcom (2015). Measurement framework for media plurality.

https://www.ofcom.org.uk/data/assets/pdf_file/0024/84174/measurement_framework_for_media_plurality_statement.pdf p. 4

¹¹ Ofcom (2017). https://www.ofcom.org.uk/data/assets/pdf_file/0012/103620/public-interest-test-report.pdf p. 11

¹² See <https://www.buzzfeed.com/tomphillips/not-even-right-wingers-are-sharing-positive-stories-about>

¹³ Ibid.

¹⁴ Reuters Institute. Digital news report 2017.

https://reutersinstitute.politics.ox.ac.uk/sites/default/files/Digital%20News%20Report%202017%20web_0.pdf p. 14

¹⁵ See http://www.slate.com/articles/technology/technology/2013/06/how_people_read_online_why_you_won_t_finish_this_article.html

¹⁶ See <https://www.opendemocracy.net/uk/analysis-of-news-and-advertising-in-uk-general-election>

times that of the so called ‘alt-left’ sites, and there is little prospect of that gap being even marginally narrowed any time soon.

Anecdotal evidence

21CF appear to place considerable weight on anecdotal evidence in arguing that the proposed deal does not give cause for concern on plurality grounds, and especially in the context of the General Election 2017. They quote (as does Rob Kenny in his appended report for Communications Chambers) a mix of industry commentators, academics and journalists attesting to the assumed waning of mainstream press influence – especially tabloids – typified by the 2017 General Election.

It is worth noting that it was only one year previous to this that the prevailing opinion appeared to swing in the opposite direction, with even the *Sun*’s editor remarking on the EU referendum results: “so much for the waning power of the print media”.¹⁷ In that poll, the ‘vote leave’ editorial agenda of most newspapers appeared to be in step with the referendum results.

What this underlines is the danger in placing too much emphasis on anecdotal evidence, especially when taken out of the broader context in which many of the quoted experts were expressing their opinions. 21CF acknowledge that “none of these analyses represent a forensic examination of the election”. But they pay no attention to just such a forensic examination carried out by Loughborough university.¹⁸ As Professor Angela Phillips of Goldsmiths points out, “Far from attacking Corbyn and supporting the Conservatives, according to Loughborough University’s content analysis, the newspapers almost all changed direction halfway through the campaign. The number of anti-Corbyn stories dropped in the second fortnight and the number of stories critical of Theresa May soared.”¹⁹

What’s more, none of the arguments put forward by 21CF take account of the fact that the rapid growth of Jeremy Corbyn-supporting online news sources long-preceded the 2017 election and coincided with a dramatic *deterioration* in Labour’s national polling. The only substantive material change in the editorial landscape that took place immediately prior to the reversal of Labour’s polling misfortunes was that the *Guardian* and the *Mirror* – both traditional Labour-supporting titles –reversed their editorial opposition to Jeremy Corbyn once the election was called. It is also highly likely that factors extraneous to the media coverage influenced the election results, not least the way in which the main parties ran their campaigns, and the individual performances and ideas put forward by party leaders.

¹⁷ See <https://www.theguardian.com/media/2016/jun/24/mail-sun-uk-brexite-newspapers>

¹⁸ Centre for Research in Communication and Culture, Loughborough University (2017). Media coverage of the 2017 general election campaign (report 2). <https://blog.lboro.ac.uk/crcc/general-election/media-coverage-2017-general-election-campaign-report-2/>

¹⁹ See <https://theconversation.com/dont-believe-the-pundits-its-too-soon-to-dismiss-the-power-of-the-red-tops-79446>

III. What we've learnt so far

Our research does not engage substantively with issues that we believe were comprehensively addressed in Ofcom's phase one report, and which do not warrant or call for further scrutiny. We note, however, that 21CF's initial submission to the CMA repeats many of their arguments in relation to these issues. For the purpose of clarity, we have summarised them as follows:

a. Presumption of control

21CF maintain that the minority shareholding of the Murdoch Family Trust (MFT) prevents their capacity to coordinate the group's policies and – by extension - to influence the editorial output of its newsrooms. As Ofcom made clear in its phase one review, this position is entirely incompatible with the statutory definition of common control enshrined within section 26 of the Enterprise Act 2002. At the very least, the MFT's share of voting rights is sufficient to block special resolutions that require a 75% majority vote at a shareholder meeting. This does not take account of ad hoc arrangements that the MFT may secure with other voting blocks in order to further leverage its control. According to a source in 2015, when top 21CF investors were considering converting voting shares for ordinary shares, "once you own the controlling block that [the MFT] does, the vote is not worth a terrible lot".²⁰ The Murdoch family also occupy the most senior positions within 21CF, including James Murdoch as CEO, Rupert and Lachlan Murdoch as joint executive chairmen, and Rupert Murdoch as Chairman and acting CEO of Fox News. Ofcom rightly considered this issue to be unambiguous, and it is inconceivable under these conditions that 21CF could meaningfully act in ways that run contrary to the MFT's wishes. It follows that it would be inappropriate to not review the merger on the basis of presumption of control as regards the MFT's influence over both News Corporation and Fox/Sky in a post-merger context.

The key consideration in this review is therefore the *likely* public interest implications of a shift from partial to full control by the MFT over Sky, and Sky News in particular. Decades of research in the fields of both industrial organization and journalism studies have tended to confirm that precisely this kind of consolidation can have a material impact on the extent of proprietorial influence over news output. One recent study investigated the levels of owner influence in 211 different print and broadcast outlets in 32 different European media markets, and concluded that the more concentrated the ownership structure of a news organisation is in individual or family control, the more likely its editorial independence will be compromised.²¹

b. Definition of sufficiency

This consideration must be made against a judgement of the deal's likely impact on external plurality which calls into question the determination of plurality 'sufficiency'. Though this term is not elaborated in the relevant statute, 21CF misconstrue the legal framework for the public interest test in their assumption that it must be carried out against a definitive 'benchmark' of sufficiency, which is assumed to be the situation that prevailed when the 2003 Communications Act was passed. This directly contradicts the approach taken by the Competition Commission in its assessment of Sky's 2007 proposed acquisition of 17.9% shares in ITV:

*Whilst recognising that it would not be sufficient for plurality purposes to rely on a single provider (for example, the BBC), we do not consider it necessary to take a view on precisely how many owners would constitute a 'sufficient' level of plurality of persons [...] We have considered sufficiency by reference to the current levels of plurality [our emphasis], having regard to any change in plurality that arises as a result of the acquisition.*²²

Indeed, it would be exceedingly difficult to draw any meaningful comparison between the likely situation post-merger and that which prevailed in the 2003 UK media landscape. The profound changes in the ways that news is produced, distributed and consumed today compared to 14 years ago make such a comparative framework

²⁰ See <https://uk.reuters.com/article/us-fox-votingshares-exclusive/exclusive-top-fox-investors-seek-to-convert-voting-shares-murdoch-may-benefit-idUKKBNOLA2HP20150207>

²¹ Hanretty, C. (2014). Media outlets and their moguls: Why concentrated individual or family ownership is bad for editorial independence. *European Journal of Communication*, 29(3). https://ueaeprints.uea.ac.uk/48248/1/ejc_eastminster_preprint.pdf

²² See <http://researchbriefings.files.parliament.uk/documents/SN06028/SN06028.pdf>

redundant. Nevertheless, the bulk of these changes have not produced the widely assumed plurality effects on which 21CF's arguments are based for reasons set out below.

c. Significance of newspapers

21CF argue extensively that the rise of digital news platforms has eclipsed the reach and influence of newspapers in the cross-platform media market. As highlighted in the previous section, much of this argument is simply wrong because it classifies 'intermediaries' as competitive news sources in their own right when in reality, there is substantial evidence to suggest that intermediaries are *amplifying* the reach and influence of major news brands – including leading newspapers – in the online sphere.

In terms of availability, it is clear that there has been a proliferation of news channels on digital platforms, just as participatory platforms enable consumers to engage with news in different ways. This accounts for the often presumed correlation between digital development and greater levels of news plurality. But when it comes to standard measures of reach and consumption it is equally clear that the UK news market remains heavily concentrated around a relatively small number of established news providers.²³ These measures alone demonstrate how brands such as the *Sun* are able to directly reach audiences that are similar to, or greater than what their print editions achieved at the height of their circulation. The National Readership Survey (integrating data from Comscore on digital reach) estimates that the *Sun* now has a net audience across print, pc and mobile devices of over 29 million.²⁴ By way of context, the *Sun's* print edition rarely sold over 4 million copies at its peak of circulation during the 1990s. Though circulation is not an equivalent measure to reach (one newspaper copy could be read by more than one person), there is simply no credible evidence to suggest that the reach, or indeed influence of most major newspaper brands has substantially declined, taking into account their online platforms. Indeed, the rate of growth of the *Sun* online strongly suggests that, in the near term future, its overall reach is likely to increase well above levels in the pre-digital era.

In regard to the influence of newspaper brands over the wider news agenda – and Murdoch-controlled titles in particular – Ofcom remarked in its phase one report that

*There is a risk that members of the Murdoch Family Trust may seek to coordinate the editorial policy of news outlets under their influence by omitting certain news stories, highlighting others or using the same commentators in their newspapers and on television news. This type of coordination could weaken the editorial independence of Sky News and so give members of the Murdoch Family Trust greater influence over public opinion.*²⁵

21CF take issue with this arguing that Ofcom's report does not substantiate the case that the national press has a significant influence over the wider news agenda. However, this argument is strikingly at odds both with the evidence presented in this submission (see section IV.b.) but also the views expressed by News UK itself. In response to a controversial story published by *The Sunday Times* in June 2015, a News UK spokesperson stated that "This story was responsible journalism and another example of *The Sunday Times* setting the news agenda".²⁶ Similarly, in reflecting on the 2016 EU referendum result, the *Sun's* editor remarked: "so much for the waning power of the print media".²⁷

d. News multi-sourcing

Contrary to arguments put forward by 21CF, the phenomenon of news multi-sourcing – especially at the wholesale level – has not turned out to be a boon for media plurality. At the retail level, multi-sourcing across platforms has remained relatively constant over the four years since Ofcom began its annual news consumption surveys (averaging 3.7 in 2013 and 3.8 in 2016)²⁸. However, at the wholesale level, Ofcom's research suggests a marked contraction

²³ Reuters Institute (2017). Digital news report 2017.

https://reutersinstitute.politics.ox.ac.uk/sites/default/files/Digital%20News%20Report%202017%20web_0.pdf

²⁴ See http://www.nrs.co.uk/downloads/mobile-data/pdf/nrs_padd_mobile_standard_tables_jul16_jun17.pdf

²⁵ Ofcom (2017). Public interest test on proposed acquisition of Sky Plc by 21st Century Fox Inc.

https://www.ofcom.org.uk/data/assets/pdf_file/0012/103620/public-interest-test-report.pdf p. 4

²⁶ See <http://www.ibtimes.co.uk/sunday-times-defends-edward-snowden-report-criticised-opposite-journalism-1506167>

²⁷ See <https://www.theguardian.com/media/2016/jun/24/mail-sun-uk-brexit-newspapers>

²⁸ See <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/news-media/news-consumption>

over recent years. In 2010, 29.2% of people used four or more sources of news across platforms²⁹ whilst in 2015, this figure fell to 20%³⁰. Perhaps more significantly, the proportion of consumers relying on just one or two wholesale news sources was 46.7% in 2010 compared to 60% in 2015.

e. Influence over the political process

21CF argue that the presumed pluralising market and proportionate increase in 'soft' or 'light' news in the online environment is reducing the potential for media owners to exert influence over the political process. In our submission to the phase one inquiry, we cited evidence demonstrating that Rupert Murdoch and senior News Corp executives continue to enjoy unrivalled access to the most senior politicians in government, as evidenced by our analysis of quarterly returns produced by all government departments declaring such meetings.³¹ Within the period examined, Murdoch/News Corp visits to Number 10 or 11 Downing Street were significantly more than any other private sector individual or organisation. The second most frequent visitors were Evgeny and Alexander Lebedev who own the *Evening Standard* and *Independent* news titles. We recognise, as Ofcom made clear, that access to politicians should not be used as a proxy for influence. It is nevertheless the closest available indicator of the *potential* to leverage editorial control for political influence and strongly suggests that if desired, media proprietors can open doors at the top of government at a rate that is unmatched by others. The testimony of politicians to the Leveson Inquiry in 2012 gives further weight to this, as cited in Ofcom's report. The Sky News brand has a powerful presence across both broadcasting and digital platforms such that the shift to full control implied by the merger can be expected only to increase what is already disproportionate political access afforded to members of the Murdoch family.

²⁹ Ofcom (2010). Report on public interest test on proposed acquisition of British Sky Broadcasting Group Plc by News Corporation. https://www.ofcom.org.uk/_data/assets/pdf_file/0017/81413/public-interest-test-report.pdf

³⁰ wholesale data for multisourcing not provided in Ofcom's 2016 news consumption report

³¹ <http://www.mediareform.org.uk/featured/murdochs-lobbying-efforts-increasing-new-analysis-finds>

IV. New research: key findings

a. Reach and consumption via intermediaries

Conventional measures of reach and consumption do not take account of audiences reached via news aggregators which are becoming an increasingly popular source of news for UK consumers. What is striking here is just how prominent major news brands are on these platforms, especially Sky News. Video content is fast becoming the gold standard of digital news delivery and it's clear that Sky has exploited its strength in this area to leverage its brand on third party platforms. In our previous submission, we showed how Sky is in fact by some measure the dominant wholesale provider of headline news content to Yahoo, itself one of the leading online news aggregators in the UK.

Conventional measures also do not capture the kind of news consumption typified by social media engagement (likes, shares, replies, etc). As previously mentioned, we do not consider this kind of consumption equivalent (in impact terms) to news *readership*. But it is nevertheless an important emergent area of inquiry when it comes to plurality assessment.

In its report on the public interest test, Ofcom noted that available (survey-based) evidence “does not provide for a robust analysis of exactly which news sources people are consuming through intermediaries.”³² However, there are a number of established social media analytics agencies that collect relevant data in this regard, and our previous examination of prominent brands featured on Yahoo News provides a framework for more extensive analysis of aggregators. The fuller phase two inquiry provides a welcome opportunity to explore these issues in greater depth.

To begin with, we have collected further data comparing the audience reach of leading news brands on social media (Facebook, Twitter and Youtube). Our data covers a six month period to date and the 10 leading online news providers in the UK. It reveals that Sky has a disproportionate audience reach within and across these platforms, compared to standard page view metrics. Though it is not surprising that Sky News has a very strong presence on Youtube given the wealth of its audiovisual content, it also outperforms other leading brands in terms of its audience on both Facebook and Twitter (as measured by numbers of followers). This data is presented in figures 1 to 3 below.³³

³² Ofcom (2017). Public interest test on proposed acquisition of Sky Plc by 21st Century Fox Inc.

https://www.ofcom.org.uk/data/assets/pdf_file/0012/103620/public-interest-test-report.pdf. P. 11

³³ All data is sourced from RivalIQ.com, a leading social media analytics agency.

Figure 1 Cross-channel audience for leading UK online news providers, April to October 2017

Cross-Channel Audience, with % Change

As of Oct 23, 2017 vs. Apr 22, 2017

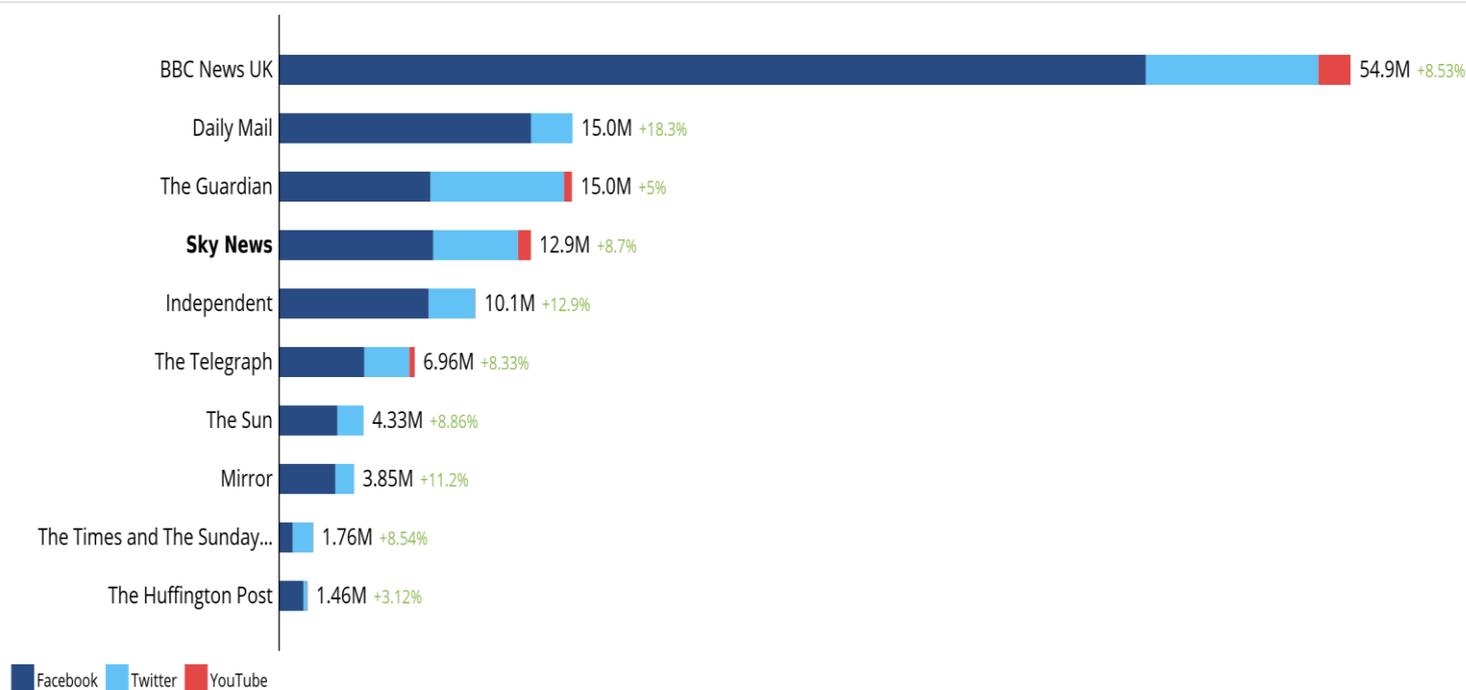


Figure 2 Facebook page fans for leading UK online news providers, April to October 2017

Facebook Page Fans, with % Change

As of Oct 23, 2017 vs. Apr 22, 2017

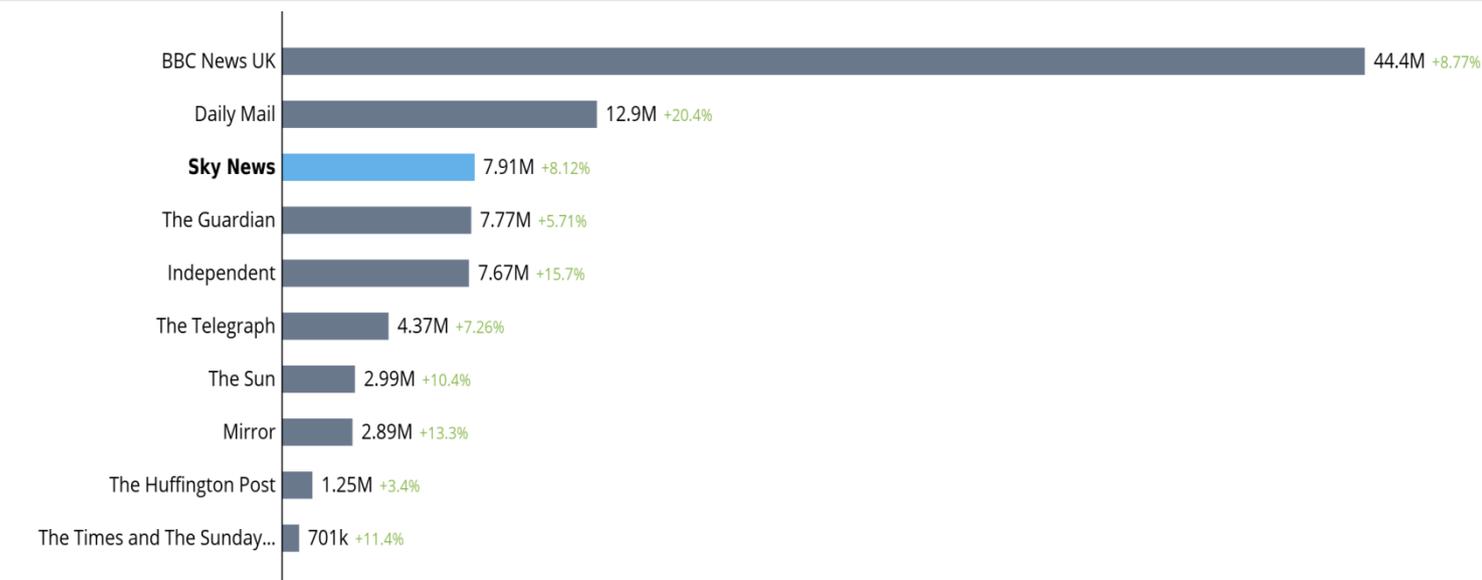
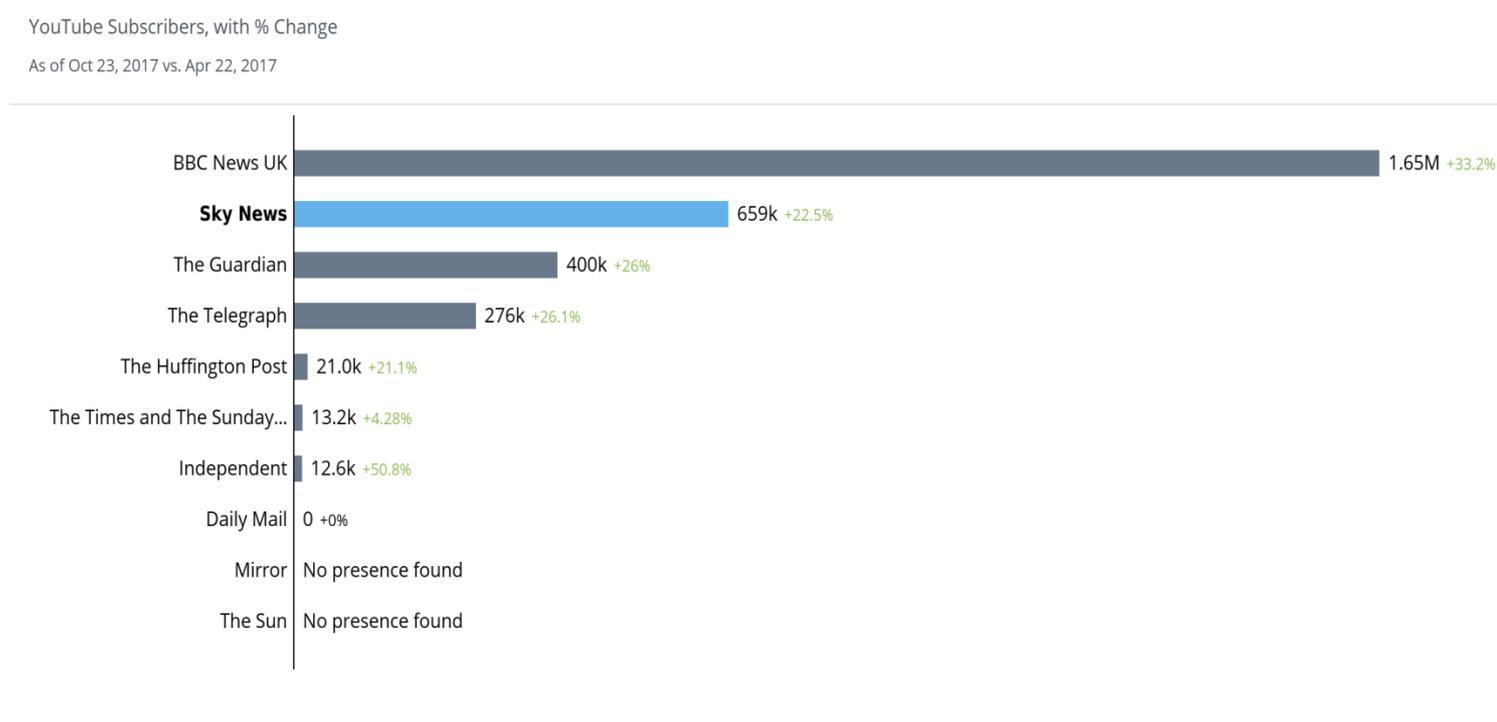
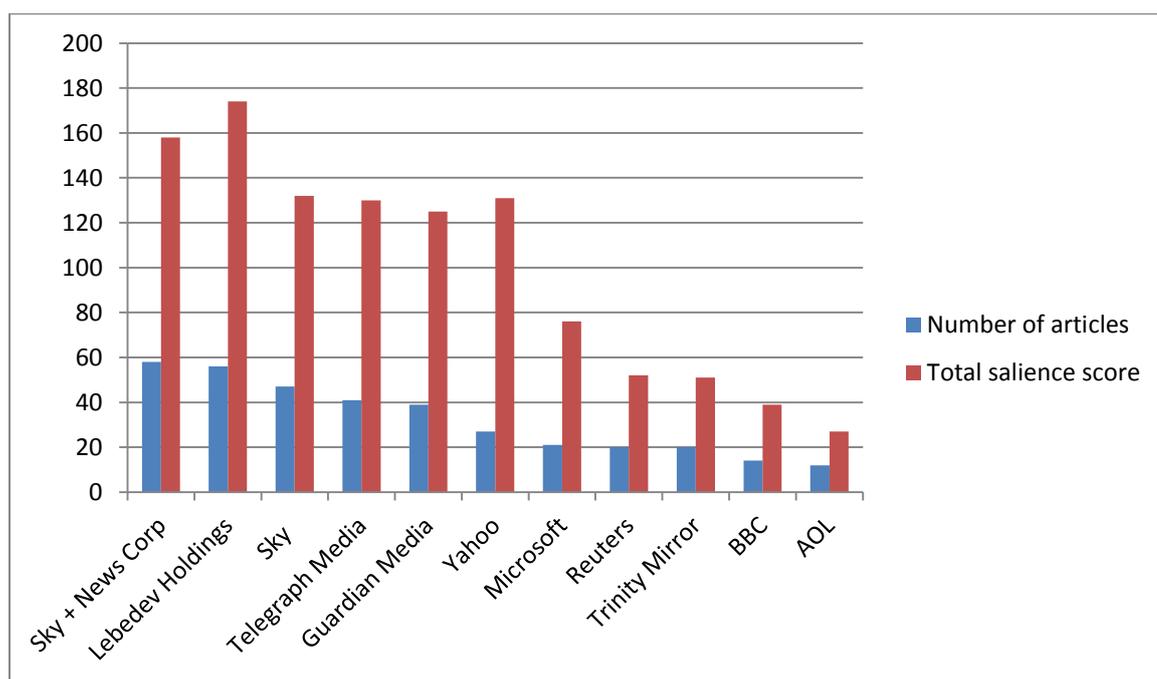


Figure 3 Youtube subscribers for leading UK online news providers, April to October 2017



Sky News is also one of the leading wholesale brands on UK news aggregators. In our phase one submission, we submitted evidence showing that Sky News features more regularly in the top five headlines of Yahoo News than any other wholesale news brand, based on a 4 week period with a single daily time point. We have now extended this research to examine the top five headlines on Yahoo, MSN and Facebook (trending stories) at four regular time points over a 10 day period in September 2017. The results for this sample show that Sky is the second leading wholesale news brand on these platforms. But when combined with other brands controlled by the Murdoch family (including *Wall Street Journal*, Fox News and the *New York Post*), the post-merger context puts Murdoch-controlled brands in first position based on number of articles in the top five headlines.

Figure 4 Top 10 news brands on Yahoo News UK, MSN News UK and Facebook Trending Stories, September 2017



NB. Salience scores were derived from the ranking of headlines on each captured home page (applying a score of 5 for a lead headline, descending to 1 for the 5th headline).

b. Wholesale provision

The increasingly disaggregated online news market also calls for further scrutiny of wholesale news provision, and the likely consequences of the proposed merger in this respect. Ofcom has rightly adopted an approach that gives due weight to wholesale provision since “the wholesale level allows us to assess the consolidated reach and share of media owners [our emphasis]”.³⁴

But one area of contention remains wholesale radio news, where Sky has the exclusive contract for the commercial radio sector via the Independent Radio News Network (IRN). It is on this basis that Ofcom attributed wholesale news provision for commercial radio to Sky in its 2010 review of the News Corp/BskyB bid. However, in 2015 this approach was changed and the two largest commercial radio groups – Global and Bauer – were considered wholesale news providers in their own right. As elaborated in the phase one report, Ofcom based this decision on the view that both Global and Bauer maintain dedicated newsrooms that do not rely wholly or even predominantly on Sky’s wholesale service.

In lieu of the phase one review, we conducted pilot research that demonstrated significant homogeneity in bulletins used by Global and Bauer that was not aligned to the same degree with BBC radio bulletins.³⁵ We also found very limited use of bespoke clips and dedicated reporters in the Global and Bauer bulletins. We subsequently extended this research and examined a wider cross section of stations during the general election 2017. Specifically, five stations – Classic, Heart London, Magic, Smooth London and KISS London - were simultaneously sampled looking at a peak morning (8am), late morning off-peak bulletin (12pm), drive-time peak bulletin (6pm) and late night off peak bulletin (10pm) in the calendar week running up to the election.

We found further evidence of common reliance on a single wholesale source which was especially evident through the use of shared clips by both Global and Bauer stations. For instance, On 7th June 2017, we found three such examples of shared clips between Classic FM (Global), Heart London (Global), Magic FM (Bauer) and Smooth London (Global). We also spoke to a source at Magic who confirmed that their in-house service does not operate outside of peak hours (6am to 7pm weekdays and Sundays, 6am-1pm Saturdays).

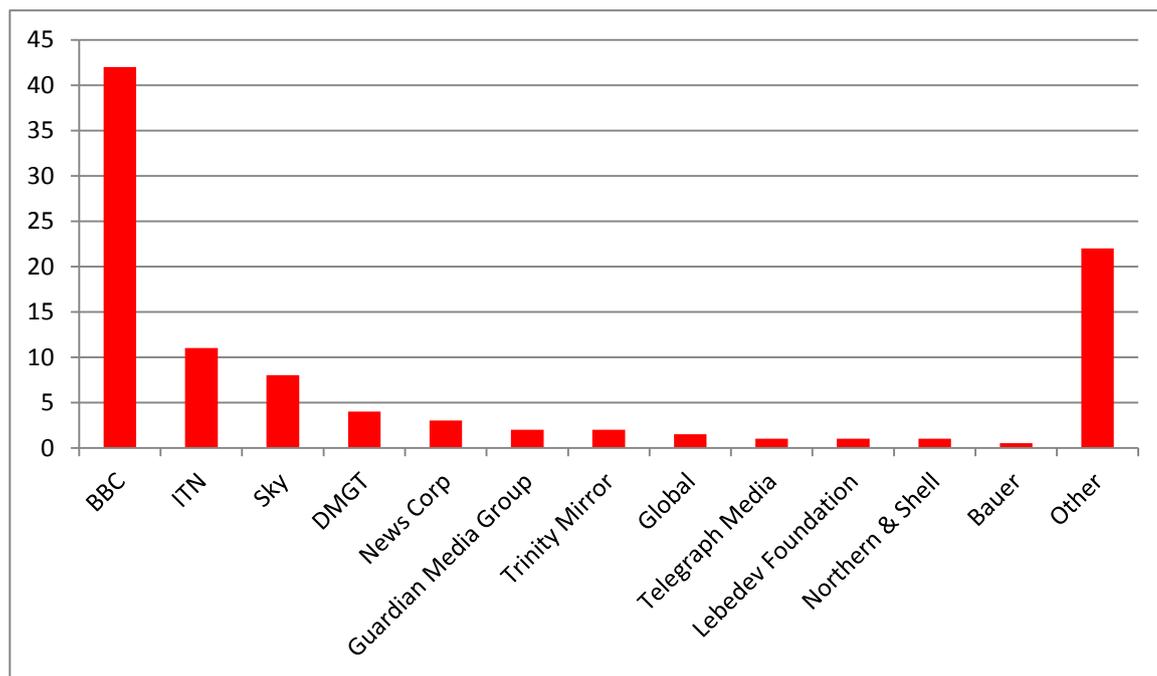
This suggests that whilst it may not be appropriate, as Ofcom has stated, to classify Sky News as the exclusive wholesale provider for Global and Bauer stations, discounting it altogether skews the picture in the other direction. We consider that apportioning a 50% weighting to Sky would be most appropriate in light of the evidence we have submitted.

This would more fairly and accurately reflect the combination of in-house and Sky’s wholesale input into the news services that run across the Global and Bauer networks. It would also have a significant effect on the cross-media picture of plurality most relevant to this merger. According to Ofcom’s 2016 news consumption survey, Sky and News Corp’s combined share of wholesale references amounts to 9 percent and would be the third largest (behind ITN and BBC). But if we factor in a 50 percent weighting for Sky’s wholesale provision to Global and Bauer, this combined figure increases to 11 percent, which is equal to ITN’s share and eclipsed only by the BBC (as shown in figure 5 below).

³⁴ Ofcom (2017). Public interest test on the proposed acquisition of Sky Plc by 21st Century Fox Inc https://www.ofcom.org.uk/data/assets/pdf_file/0012/103620/public-interest-test-report.pdf p. 27

³⁵ Media Reform Coalition & Avaaz (2017). Fox/Sky merger proposal: Submission of evidence to Ofcom in lieu of the public interest test. <http://www.mediareform.org.uk/wp-content/uploads/2017/03/Ofcom-submission-1.pdf>

Figure 5 Share of wholesale references with 50% attribution of Global and Bauer's wholesale news provision to Sky



Source: Ofcom News Consumption 2016

c. Agenda leading

The potential impact of the merger on wholesale provision also calls attention to News Corp's ownership of Storyful, a social media newswire agency that services many of the leading global news brands including the *New York Times*, *Washington Post*, BBC and Channel 4 News. This gives the Murdoch family potentially added leverage in shaping the wider news agenda, an issue that Ofcom highlighted in its phase one report and which goes to the heart of plurality concerns. A number of phase one submissions and the Ofcom report itself drew attention to a study by Cardiff University on the 2015 election which showed that national newspapers – including News UK titles – played a significant agenda leading role over television news.³⁶

In order to probe this issue further, we monitored the headlines of 29 news outlets across television, radio, print and online over a 10 period in September 2017, and at 4 regular daily time points. We identified and categorised headlines according to discreet news stories covering UK political, economic and social issues and, following Harder et al. (2017)³⁷. We then used a time series analysis to identify key agenda leaders and rank them according to ownership.

Adopting a more cautious approach relative to similar studies, we restricted our focus to those stories with a single agenda leader, i.e. those for which a single outlet carried the story at a time point in the sample prior to attracting wider coverage. Though this does not prove origination conclusively,³⁸ the breadth of the sample in terms of outlets covered and in terms of the frequency of time intervals provides for robust evidence of trends.

In terms of digital sources we used five newspaper brands covering the left-right political spectrum as well as broadsheet, mid-market and tabloid sectors (theGuardian.com, Telegraph.co.uk, DailyMail.co.uk, theSun.co.uk, and Mirror.co.uk); three online-only news sites (HuffingtonPost.co.uk, Independent.co.uk and BuzzFeed.com); three online aggregators (Yahoo News UK, MSN News UK and Facebook trending stories), and two broadcasters (BBC.co.uk/news and news.Sky.com). For print we used the same 5 brands as digital but added their Sunday editions as well as *The Times* and *Sunday Times*. For radio we monitored the wholesale bulletin provided by Sky News as well as regular news bulletins on Radio 4, 5 Live, LBC and Talksport. And for television we sampled peak bulletins and news programmes on BBC1, BBC2 (Newsnight), ITV1, Channel 4 and Sky News. Most of the outlets were sampled at four daily time points mid-week (breakfast, lunchtime, early evening and late evening) with less frequent time intervals on the weekends. The sample period ran from 9 to 19 September.

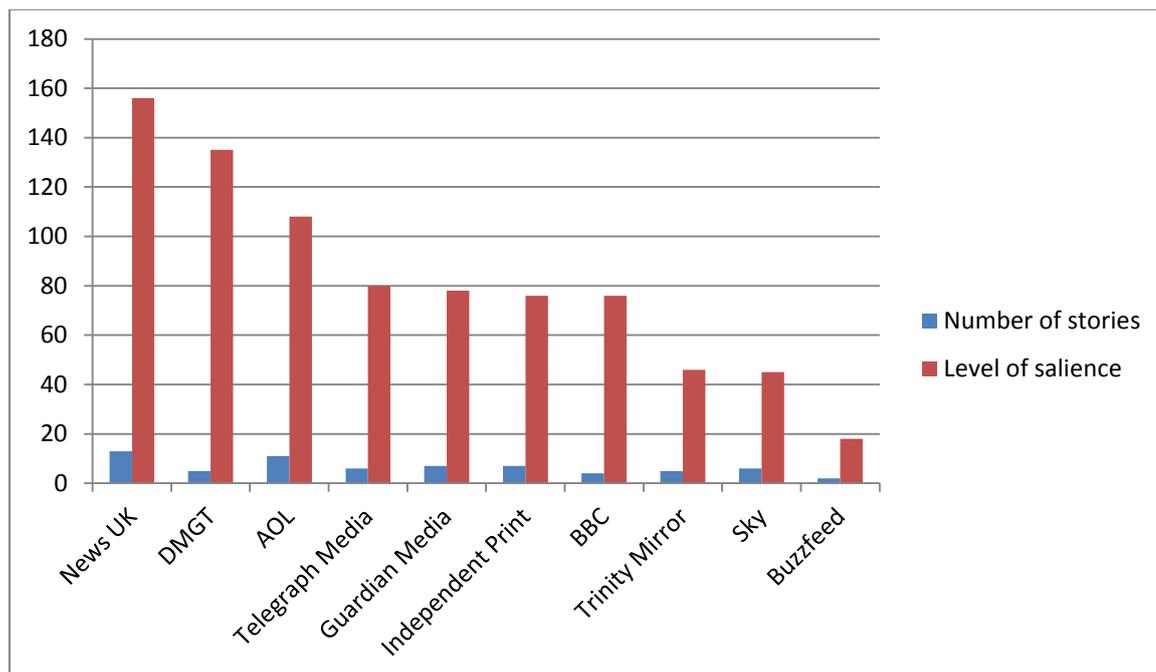
After filtering out international and non-political/social news stories, this yielded a total of 108 units of analysis out of which 66 stories exhibited a clear agenda leader. Out of these, News UK accounted for the highest share both in terms of the number of stories and levels of salience (applying a scoring system that allocated a score of five for a lead headline, descending to one for a 5th headline), as shown in figure 6 below.

³⁶ Cushion, S., Kilby, A., Thomas, R., Morani, M. and Sambrook, R., 2016. Newspapers, impartiality and television news: Intermedia agenda-setting during the 2015 UK general election campaign. *Journalism Studies*, pp.1-20. <http://www.tandfonline.com/doi/abs/10.1080/1461670X.2016.1171163>

³⁷ Harder, R.A., Sevenans, J. and Van Aelst, P., 2017. Intermedia Agenda Setting in the Social Media Age: How Traditional Players Dominate the News Agenda in Election Times. *The International Journal of Press/Politics*, p.1940161217704969.

³⁸ It is possible that some agenda leaders were not captured within our sample (eg those that carried a story first during a time interval between those which were sampled or preceding the sample). In any case, 'agenda leading' in this context is not a proxy for 'breaking' or 'exclusive' but rather evidence of prior influence in agenda formation.

Figure 6. Agenda leading wholesale news providers, September 2017



Source: Original research conducted by academics at Birkbeck College and City, University of London, September 2017

These results are consistent with previous research showing that newspapers continue to play a dominant role in inter-media agenda setting. Five out of the top six agenda leading wholesale providers are legacy newspaper groups, with the only exception being AOL (owner of the Huffington Post). The BBC has a strikingly low ranking here compared to its dominant position on conventional measures of reach and consumption.

Importantly, the extent of agenda influence does not seem to be correlated with either revenue or audience reach. 21CF make this point on a number of occasions to buttress their argument that the *Sun's* dominance of print and rapid growth online is not a proxy for the extent of its agenda influence. Our evidence concurs with this but shows that *The Times* and *Sunday Times* have precisely this disproportionate impact over the agenda and more so than any other individual news brand.

V. Conclusion

The research and analysis in this briefing speak to the CMA's Theory of harm 1 and 2, as outlined in its Issues Paper of 10th October and show that the Sky takeover would potentially reduce the range of viewpoints available to and consumed by members of the public while likely increasing the influence of the Murdoch family on public opinion and on the political agenda.

Plurality in the UK national news market has not increased in recent years and there is substantial evidence to suggest it has contracted, especially at the wholesale level. This shows the risks to the public interest of further consolidation among major media players. Based on the evidence presented here, and adopting the presumption of control principle established in the phase one review, this deal would consolidate control in the hands the Murdoch family as reflected by Sky and News UK's combined market share on all platforms. At the wholesale level, this represents one of the largest shares (among the top 3) of national news markets in television, radio, print and online, as well as Ofcom's cross-platform share of references³⁹. In addition, our research suggests that News UK and Sky News combined will have a dominant presence on intermediaries, including the leading news aggregators in the UK, and have the most significant agenda leading influence across platforms.

The key post-merger context is that a shift to full control over Sky will effectively enhance the potential for the Murdoch family to exercise agenda influence on every platform (television, radio, print, online), at both wholesale and retail levels. This should be considered in conjunction with the additional leverage that may be expected to result from Sky's strong presence on intermediaries, its wholesale input on commercial radio, and News Corp's ownership of Storyful, a leading social media news wire servicing many of the biggest global news brands.

The shift to full control of Sky represents a significant consolidation both in practical terms (eliminating the risk of special resolutions being blocked by shareholder revolt) and in cultural terms (as evidenced by recent research demonstrating correlation between consolidation of shareholding in individual/family hands and erosion of editorial independence⁴⁰). Ensemble, these conditions suggest that the deal may result in a consolidated control over news agendas in the hands of the Murdoch family that is not immediately visible, but potentially pervasive.

³⁹ assuming a 50% attribution of Global and Bauer's wholesale provision to Sky (see section IV.b)

⁴⁰ Hanretty, C. (2014). Media outlets and their moguls: Why concentrated individual or family ownership is bad for editorial independence. *European Journal of Communication*, 29(3). https://ueaeprints.uea.ac.uk/48248/1/ejc_eastminster_preprint.pdf