

Fox/Sky Merger Investigation

Issues Statement Submissions form

1. Thank you for taking the time to make a submission in response to the Statement of Issues for the CMA's Fox/Sky merger investigation on media plurality and broadcasting standards, published on our [website](#) on Tuesday 10 October 2017.
2. This form is designed to help with your submission (although it is not compulsory to use). It sets out the key issues where we are seeking views and evidence, based on the Issues Statement. However, you may find additional useful information in the issues statement.
3. Please note:
 - You can choose which questions to respond to, but we ask all respondents to provide a small amount of background information at the start of this form. The boxes will 'expand' to accommodate long responses if required.
 - Please provide evidence in support of your submission – this can be attached to the email/enclosed with your response.
 - We may publish all or some of your submission to our Statement of Issues, or a summary of it. Please indicate any confidential material included in your submission (including whether you wish to be anonymous) and provide a non-confidential (redacted) version of your submission giving reasons for your requests for confidentiality.
 - The CMA may use the information you provide for the purposes of facilitating the exercise of any of its statutory functions. This may include the publication or disclosure of the information. Prior to publication or disclosure, in accordance with its statutory duties under Part 9 of the Enterprise Act 2002, the CMA will have regard to (among other considerations) the need to exclude, so far as is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if disclosed, would or might, in our opinion, significantly harm the individual's interests or, as the case may be, the legitimate business interests of that business (confidential information).
4. If you have any questions please visit the [Fox/Sky merger investigation page](#).
5. Please download and save this form before completing it. Please submit your response by **5pm on Tuesday 24 October 2017**, either by:
 - Email to: FoxSky.Submissions@cma.gsi.gov.uk.
 - Or by post to: Project Manager

Fox/Sky merger inquiry
Competition and Markets Authority
Victoria House
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Your details

*(Fields marked * are required)*

Title*	Mr
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Surname*	Gopsill
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What is your role / profession*	Editor
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Are you representing yourself or an organisation?*	An organisation <i>(please delete as appropriate)</i>
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If you are representing yourself rather than an organisation would you be content for us to include your name if we publish your response?*	<input checked="" type="checkbox"/>
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If you are representing an organisation:

(a) What is the organisation's name?*	Campaign for Press and Broadcasting Freedom
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(b) Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?*

Grouping founded in 1980 to campaign for democratic and accountable media, including the rights of citizens to reply to bad reporting and media staff to participate in the industry.

Public interest consideration – media plurality in the UK

With respect to media plurality the CMA is assessing whether there will be a sufficient plurality of persons with control of the media enterprises serving audiences in the UK following the Transaction. We are therefore looking for views and evidence on the current level of media plurality in the UK, whether and the extent to which the Transaction reduces that level of media plurality, and whether the remaining level of plurality of persons with control of media enterprises would be sufficient. We will consider these issues in the context of Ofcom’s definition of media plurality: ensuring diversity of viewpoints that are available and consumed; and preventing any one media owner or voice having too much influence over public opinion and the political agenda.

We welcome views and evidence which address the questions set out below.

1. Whether and how the ability of the Murdoch Family Trust (MFT) to control or influence editorial and commercial decisions at Sky News will change as a result of Fox’s share ownership of Sky increasing from approximately 39% to 100%, and whether that change is material in nature?
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THE CPBF IS RESPONDING ON THIS OCCASION ONLY TO THE SECTION ON COMMITMENT TO BROADCASTING STANDARDS, QUESTIONS 9 TO 14.

2. Whether and how the range of viewpoints available from news and current affairs sources in the UK is evolving in general and would change in particular as a result of the Transaction?

3. How do people consume news and current affairs and to what extent do they rely on multiple sources? How is this likely to change in future?

4. What is the impact and importance of different news and current affairs sources, including online and through social media, for media plurality? And, in turn, what are the implications of the impact of online and social media on the use of traditional (ie broadcast and print) news and current affairs sources by consumers?

5. Whether and how the ability of the MFT to influence the political agenda would change as a result of the Transaction?

6. What is the level of media plurality in the UK that should be considered sufficient?

7. Whether and how the Transaction would result in an insufficient level of media plurality in the UK, taking into account the increase in the level of control held by the MFT over Sky following the Transaction and its existing control over Fox and News Corporation (News Corp)?

8. Are there any existing factors which might help to prevent or reduce any potential negative effects of the Transaction on media plurality? What are these and why?

Public interest consideration – a genuine commitment to broadcasting standards

With respect to broadcasting standards the CMA is looking for views and evidence on whether the merged entity post-Transaction will have a genuine commitment to broadcasting standards objectives. In assessing this, we will consider the record of the Parties' compliance with broadcasting and other applicable regulations, and their broader attitude to compliance in general.

We welcome views and evidence which address the questions set out below.

9. What is the current approach of Fox, Sky, the MFT and News Corp to compliance with broadcasting standards?

The concept of requiring broadcasters to adhere to standards set by a regulator is alien to the philosophy of the MFT and the corporations it controls.

This has been explicitly expressed by Rupert and James Murdoch on numerous occasions. Both have indeed delivered public lectures on the subject, from the most prestigious platform in the industry: the MacTaggart lectures at the Edinburgh International Television Festival; also in media interviews. These have been well reported, including in the CPBF's submission to Ofcom in March, but one sentence each from the MacTaggarts can bear repetition: Rupert Murdoch said: "British television has operated on the assumption that the people could not be trusted to watch what they wanted to watch, so it had to be controlled by like-minded people who knew what was good for us... a service run for the benefit of the people who provide it"; and James that the regulation of advertising and broadcasting standards was "an impingement on freedom of speech and on the right of people to choose what kind of news to watch ...the right word is authoritarianism and it has always been part of our system."

In practice: in broadcasting Fox News in the USA operates without constraint, since the FCC's Fairness Doctrine was abolished, after lobbying from News Corporation, in 1987. Fox News's approach is openly partisan and displays an openly cavalier attitude to fairness, balance and impartiality. Sky News Australia is subject to ACMA requirements for subscription channels, which according to reports it generally adheres to in its news bulletins but is increasingly veering away from in its current affairs talkshow programming. *Also covered in separate submission.*

Fox News broadcasting in the UK has been the subject of a disproportionate number of complaints to Ofcom, which found numerous breaches of its Broadcasting Code. 21CF has now withdrawn the service from all UK platforms. In its consideration of the Secretary of State's EIN in March, Ofcom had drawn attention to the fact that Fox News had no compliance procedures in place to broadcast in Britain. She wrote that this failure called into question the existence of an "internal culture that takes compliance issues seriously" and was "**potentially indicative of an approach under which compliance issues are addressed only after having been identified externally.**"

"The representations raise concerns that the various actual and alleged failings might have been a product of **a corporate culture that does not prioritise the need for regulatory compliance.**" See replies to questions 10 and 12.

10. What is the approach of Fox, Sky, the MFT and News Corp to effective corporate governance and other applicable regulations, including regulations relating to the treatment of employees, in the UK and overseas?

MFT controlled corporations have a poor reputation for governance. Ofcom in its investigation into 21CF's status as a fit and proper proprietor in the summer highlighted the "significant corporate failure", due to the "extremely serious and disturbing" allegations of harassment at Fox News. Five years ago in its consideration of the previous buyout attempt Ofcom said of the chairman of Sky, James Murdoch that his "conduct in relation to events at News Group Newspapers repeatedly fell short of the conduct to be expected of him as a chief executive officer and chairman."

Ofcom nonetheless concluded on both occasions that this would not "provide a reasonable basis to conclude that Fox ... would not be fit and proper to hold broadcast licences." But this conclusion was effectively overruled by the Secretary of State, by adding the commitment to broadcasting standards to the grounds for the Phase 2 reference against Ofcom's advice, and by specifically indicating that corporate governance questions were germane to your considerations. This was a significant change to the process and a lead that should be followed.

The history of governance of the former subsidiary News International's London newspapers is well-known but we must draw attention to one aspect of the company's conduct. In the aftermath of the phone-hacking and bribery scandals the company had real fears of the trial and conviction of its top executives and a corporate prosecution against itself and possibly against News Corp in the USA. It was also concerned that its initial bid to buy up the whole of Sky would be imperilled. Until then it had obstructed all police and regulatory enquiries for four years, since the first phone-hacking trial in 2007, when it was common knowledge that the practice was widespread. It subverted the regulation system run then by the Press Complaints Commission by using its muscle within the PCC to block enquiries and persistently to lie about what had taken place.

But now (from late 2011) it set about a dual strategy of destroying evidence that might incriminate senior executives or the company itself, knowingly while police were investigating, and of handing over to police all the evidence it could find that might incriminate the rest of the staff and the contacts and sources they dealt with in the course of their journalistic activities. This has not been widely publicised outside the industry but has been testified to by parties involved and is expected to be raised in the upcoming trials of a series of civil cases against the Sun.

It was however consistent with the approach of MFT-controlled companies to employee relations. No such company in the UK recognises trade unions, nor will have any dealings with them or allow them to represent staff.

11. What is the degree to which compliance with other applicable regulations, and effective corporate governance more generally should be considered in assessing a company's commitment to broadcasting standards? Please include whether and which particular regulations may be considered more relevant to this assessment.

The senior managers who directed the operations in 2011-12 to ship their staff and save their own skins, notably James Murdoch and Rebekah Brooks, are back in place, even after being forced to quit in 2011, and others are in senior positions elsewhere in the group. Management that can behave so irresponsibly, unethically and so dangerously to its own staff and their collaborators cannot attain the standards of judgements and responsibility required to run a media corporation.

The refusal to tolerate trade unions is not just a matter of employees' pay and conditions; it relates to how broadcasting is conducted. News is a process in which low-ranked employees have constantly to take instant decisions, to do which well they should be consulted and involved. At the BBC, ITV and Channel 4 there are strong unions that play a constructive role. They have a commitment to broadcasting standards that are self-evidently higher than in other media.

But it has been a mission of Rupert Murdoch to eliminate employee participation in the running of his companies and the effect on editorial standards has been plain to see. Bullying is rampant in newsrooms and there have been successful tribunal cases over it. It is widely accepted in the industry that the illegal and unethical practices at News International papers would not have happened if the journalists been able to express concerns through a union. Lord Justice Leveson's inquiry accepted this point when it was made in evidence.

As another example: UK television has been largely spared the sexual assault and harassment cases that have so embarrassed Fox News in the USA. This is because of a difference in broadcasting culture. UK women are not dolled up with big hair and cosmetic surgery to present the news. They are not promoted and regarded as sex objects, but this could not be guaranteed should Fox gain control of Sky.

In the wake of the harassment-related top-level sackings earlier this year, Fox News appointed Suzanne Scott as new president of programming. The appointment of a woman was welcomed until it was reported in the Daily Beast (*July 6 this year*) that she had been responsible for enforcing the policy that women must wear miniskirts around the office; and that she had been cited in lawsuits by women alleging harassment as one of the executives who had ignored or covered up their complaints.

12. What constitutes a genuine commitment to broadcasting standards?

The Secretary of State wrote to 21CF on September 12 that "a company must have an internal culture that takes compliance issues seriously, i.e. a commitment to attaining broadcasting standards objectives."

The regulations are more than bureaucratic strictures; they are not rules to be sailed close to, obeyed for fear of penalty. They are integral with the principles of public service broadcasting (PSB): for nearly 100 years a central element of British cultural production. Their aims have traditionally been summarised as to inform, educate and entertain, and to do so with honesty and fairness. They must also maintain the balance between popular and serious programming, and, most importantly: to ensure that all broadcasts embrace in

terms of output, audience and production staff, every section of UK society, by class, gender, race, nation and region.

Broadcasters must maintain not just a formal compliance with the letter of the Ofcom broadcasting codes but genuine respect for these principles.

There must be a workplace culture and specific mechanisms that ensure that such principles are embedded in every aspect of production.

The CPBF finds it hard to believe that any senior person in 21CF could hold to such values.

13. Whether and if so, how, the Transaction might lead to the merged entity lacking a genuine commitment to broadcasting standards?

Sky has a good record in compliance with Ofcom regulations, comparable with the other UK PSB operators. That it has been able to do so while strongly influenced by a powerful minority shareholder like 21CF indicates the value of the present balanced ownership. The formula settled 25 years ago has worked out well.

If Sky had all its directors and executives put in place by 21CF it would have to veer towards Fox production style and culture, meaning a lowering of broadcasting Standards. It is clear how this would be done, as stated by Rupert Murdoch and put into practice by Fox in the USA and Sky news Australia: by the introduction of forceful current affairs talk shows to give platforms to aggressive right-wing commentators, whose assertions, true or false, would then be inserted into the Sky news agenda and thereby into the mainstream. This is what "Foxification" means and it would poison the whole national news culture.

14. Are there any existing factors which might help to prevent or reduce potential negative effects of the Transaction on the merged entity's commitment to broadcasting standards?

Not as far as the CPBF can see. Indeed, we would see dangers in any temptation to employ the obvious factor -- Sky News's autonomous status and reasonable current record in terms of compliance with regulations -- to hive it off with separate undertakings. Sky News may not be viable as a stand-alone operation in the long run, and the UK needs a second 24-hour news operation to balance the BBC's. But to tolerate a temporary arrangement -- as was proposed five years ago in discussions over the earlier buy-out bid -- would leave vulnerable to Foxification once a pro-tem arrangement had expired.

Other comments and further contact

Do you have any other comments you would like to add?

The CPBF is also submitting a paper on 2 particular topics:
A concise summary of the case on Foxification from the previous CPBF submissions
A study of Foxification in practice in Australia, where a similar takeover has already taken place, with News Corp buying up 100% of Sky news Australia.
This will be emailed separately.
There is also an individual response from the CPBF National Secretary Jonathan Hardy, not representing the organisation, also sent separately.

Would you be willing for us to contact you to discuss your response?*
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Yes

Thank you for taking the time to complete this form.

Please email it to: FoxSky.submissions@cma.gsi.gov.uk.

Or post it to:

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