

Direct Email:

Direct Fax:
Our Ref:

21 June 2017

By post and email: enquiries@culture.gov.uk

**PRIVATE AND CONFIDENTIAL
MOST URGENT**

The Rt. Hon. Karen Bradley MP
Department for Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ

Carter-Ruck

Dear Madam

Sky News Arabia – a Sky plc subsidiary

We are instructed by the Qatar News Agency ("QNA") and write to you upon the express authority of the QNA's Director-General, Mr Yousuf Ibrahim Al-Malki.

We are aware that yesterday (in addition to and distinct from Ofcom's ongoing duty under the Communications Act 2003 to assess whether any licensee is fit and proper to hold a broadcasting licence) Ofcom submitted to you a special report assessing the public interest in a potential merger between (1) Sky plc and (2) Twenty-First Century Fox, Inc. (or a wholly-owned subsidiary).

We understand that the particular focus of Ofcom's said assessment was:

- 1) media plurality (that there is a sufficient plurality of persons with control of the media enterprises serving audiences in the UK); and
- 2) commitment to broadcasting standards (the need for media enterprises and their controllers to have a genuine commitment to the attainment of the broadcast standards objectives).

In light of the above, and in particular the second of these two areas, we are instructed to write to bring to the regulator's attention pertinent information regarding the recent conduct of a Sky plc subsidiary, Sky News Arabia FZ-LLC ("Sky News Arabia"). The relevant events took place after the closure of Ofcom's public consultation on this proposed merger on 30 March 2017.

Sky News Arabia is based in Abu Dhabi in the United Arab Emirates and was established, we understand, as a 50-50 joint venture between Abu Dhabi Media Investment Corp (ADMIC), a private investment company, and British Sky Broadcasting (now merged into Sky plc). This 50% stake makes Sky News Arabia a (partially owned) subsidiary of Sky plc.

We are aware that Sky News Arabia is not regulated by Ofcom - however we trust that your overall assessment will take into consideration, when assessing Sky plc's "commitment to broadcasting standards", *all* aspects of Sky plc's business rather than simply those which fall strictly within Ofcom's remit.

Carter-Ruck Solicitors

6 St Andrew Street
London EC4A 3AE

T +44 (0)20 7353 5005
F +44 (0)20 7353 5553
DX 333 Chancery Lane
www.carter-ruck.com

Partners

Alasdair Pepper
Guy Martin
Nigel Tait
Ruth Collard
Cameron Doley
Claire Gill
Adam Tudor
Antonia Foster
Miranda Rushton
Rebecca Toman

Partnership Secretary

Alison Phillips

Authorised and regulated
by the Solicitors Regulation
Authority

SRA No. 44769

Factual Background

At or around 00.13 AST on 24 May 2017, an as-yet-unidentified person or entity hacked the QNA website. The hack caused the publication of a number of statements falsely attributed to His Highness the Emir of Qatar.

A corrective statement was issued at or around 01.08 AST (i.e. 55 minutes after the hack) by the Qatari Government Communications Office (“GCO”), which made clear that our client’s website had been hacked and that the ‘planted’ stories were false. The statement was made by File Transfer Protocol (“FTP”), a system established between the news agencies under News Exchange Treaties which stipulate that this means of communication should be preferred to that of release via websites as being more secure. These are matters of public record that have been widely reported in the British and international media.

At or around 01:27 AST QNA posted a notice on its Twitter account confirming that the QNA’s website had been hacked and that false statements had been attributed to his Excellency the Minister of Foreign Affairs regarding the withdrawal of ambassadors.

At or around 01:39 AST the QNA announced through the FTP system that its website and Twitter account had been blocked.

At or around 03.27 AST the GCO began contacting broadcasters, including Sky News Arabia, directly in an attempt to correct their coverage.

A time-marked record of the broadcasts on Sky News Arabia on 24 May 2017 is enclosed with this letter. You will note that, while the vast majority of the rest of the world’s media swiftly adjusted its coverage to acknowledge the official position of the Government of Qatar (namely that the statements had been created through hacking and falsely attributed to His Highness the Emir), at no point during the entire course of 24 May 2017 did Sky News Arabia acknowledge or otherwise refer to the Qatari Government’s position. Furthermore, attempts by the GCO across the same period to contact Sky News Arabia were met with no response.

Implications

Sky News Arabia knew (or at least ought to have known) that its coverage of this story was both inaccurate and partisan: it nevertheless persisted in reporting the “fake news” as fact throughout 24 May 2017. If Sky News Arabia were Ofcom-regulated, such reporting would constitute a flagrant breach of the Broadcasting Code, including (but without limitation) Rules 5.1, 5.2, and 5.5 covering “*due impartiality and due accuracy in news*”, in particular 5.2 which requires that “significant mistakes in news should normally be acknowledged and corrected on air quickly”; and Rules 5.11 and 5.12 covering due impartiality in respect of matters of major political or industrial controversy and major matters relating to current public policy. It would also, we submit, have been in breach of Rule 7.1 and ‘Practices to be followed’ 7.9 and 7.11 covering “*fairness*” - in this case, the individual subject to unfair treatment being His Highness the Emir.

We recognise that the terms of the “broadcast standards public interest consideration” extend only to matters provided for in s.319 of the 2003 Act and therefore not matters of unfair treatment as provided for under the Broadcasting Act 1996 or, strictly, those rules derived from section 320 of the 2003 Act. However, in the context of the ongoing merger discussion, the information set out in this letter appears to our client to be pertinent to the question of whether Sky News Arabia’s parent company can be assessed as having a genuine commitment to the attainment of the broadcast Standards Objectives under s.319 of the 2003 Act while its subsidiary demonstrably acts in such a manner.

We ask that the contents of this letter please be taken into account when making your imminent decision on the proposed merger. You and/or Ofcom may wish to investigate the position as a matter of urgency; our client is willing to assist with any local resources or information required.

Yours faithfully

A handwritten signature in blue ink that reads "Carter-Ruck". The signature is written in a cursive, flowing style.

Carter-Ruck

Sky News Arabia

The channel started to broadcast the fabricated statements in its newsreel at 00:21 with the breaking news signal "NOW" (it changed the colour of the newsreel to yellow):

Qatar' Emir: Al-Udeid Air Base is the US's only opportunity to have military power in the region
Qatar' Emir: Al-Udeid Air Base protects us from the ambitions of neighbouring countries
Qatar's Emir: We regularly communicate with Israel
Qatar's Emir says that tensions with the US will not persist due to the transgressions of the American President in his country
Qatar's Emir: Iran is an important regional and Islamic player that cannot be ignored
Qatar's Emir says that his country maintains strong relations with the US and Iran at the same time
Qatar's Emir: It is not in our interested to escalate the situation with Iran, especially as it is a great power that guarantees stability in the region
Qatar's Emir: Hamas is the legitimate representative of the Palestinian people
Qatar's Emir describes Iran as the guarantor of stability in the region
Qatar's Emir describes Hezbollah as the "Party of Resistance"
Qatar News Agency: Sheikh Tamim reveals tensions with Trump administration
Qatar's Emir: Trump faces legal problems at home
Qatar's Emir: Al-Udeid Air Base protects us from the ambitions of neighbouring countries
Qatar's Emir: We have good relations with Israel, Hamas is the legitimate representative of Palestinians

(The headlines are continuously repeated in the newsreel)

Then, at 00:40 the news presenter began covering the news, discussing the statements and repeating the same phrases that were broadcast in the newsreel. The news bulletin hosted the following people to comment:

00:42 Political writer and researcher Abdulaziz Al Khamis – London

00:56 Journalist Mohammad bin Abdullatif Al-Shaikh – Riyadh

01:00 Egyptian writer Ammar Ali Hassan, who was hosted in the Tv studio

Professor of International Relations at Washington University Issam Abdullah – Washington

Researcher at Al-Ahram Centre for Studies Atef Al Saadawi – Cairo

Professor of Political Sociology Ammar Ali Hassan – Cairo

Note: The above coverage lasted from 00:40 until 01:55

12:57am - GCO Statement issued

The channel returned to cover the fabricated statements again at 02:12. This time it hosted:

02:14 Editor-in-Chief of Okaz newspaper (KSA) Jamil Al-Dhiabi – Jeddah

Professor of Political Science at the American University Tarek Fahmi – Cairo

Professor of International Law Ayman Salamah – Cairo

Researcher at Al-Ahram Centre for Political Studies – Atef Al Saadawi

Note: the above coverage lasted from 02:12 until 03:09

03:27 GCO Called Al Arabiya and Sky News to correct statement – No Response

The channel opened its news bulletin at 05:00 with the "fabricated statements" attributed to HH the Emir, and this time added the fabricated statements attributed to HE the Foreign Minister. It hosted:

05:02 Researcher at Al-Ahram Centre for Political Studies Atef Al-Saadawi – Cairo

05:04 Editor-in-Chief of Al-Ahram newspaper Ashraf Al-Ashry – Cairo

Note: the above coverage lasted from 05:00 until 05:30

The channel covered the fabricated statements again in the 10:00 o'clock news bulletin. It hosted the following people to discuss the statements:

10:02 Former Saudi Shura Member Mohammad Al-Zalfa – Cairo

Coverage lasted from 10:00 until 10:10, and it was followed by excerpts from an interview by former US Secretary of Defense Robert Gates, with the channel focusing on his statement that “Qatar needs to take initiative in chasing terrorists.”

The channel opened its main news bulletin at 12:00 with another discussion of the fabricated statements. It hosted:

12:03 Strategic expert Amjad Taha from Manama (coverage lasted 10 minutes).

And again, in the same news bulletin, the channel covered the fabricated statements and hosted:

13:02 Political researcher Khaled Al-Zaatar from Riyadh (coverage lasted 10 minutes).

In the 14:00 news bulletin, they hosted:

14:02 Editor-in-Chief of the Al-Etihad (UAE) newspaper Mohammad Al-Hammadi, in the TV studio

Writer in Okaz (KSA) newspaper Mohammad Saad – Jeddah

The channel covered the fabricated statements again at 15:00, and this time it hosted:

Journalist Mohammad Al-Sabty from Kuwait (coverage lasted 10 minutes).

**15:30 Ministry of Foreign Affairs
Statement Issued**

The channel covered the news at 16:00, and it hosted:

Emirati journalists Aref Omar in the TV studio (coverage lasted 10 minutes).

In its 17:00 o'clock news bulletin the channel aired a report on the subject, and hosted:

Editor-in-Chief of Shorouq newspaper (Egypt) Imad Al-Din Hussein (lasted 10 minutes).

Monitoring Period: From 00:00 to 18:00