

21ST CENTURY FOX, INC. / SKY PLC MERGER INQUIRY**INITIAL SUBMISSION TO THE COMPETITION AND MARKETS AUTHORITY REGARDING
MEDIA PLURALITY****1. INTRODUCTION AND EXECUTIVE SUMMARY**

- 1.1 This initial submission is made to the Competition and Markets Authority (**CMA**) on behalf of Twenty-First Century Fox, Inc. (**21CF**) in relation to 21CF's proposed acquisition of the remaining shares in Sky plc (**Sky**) (the **Transaction**). This submission addresses matters relevant to the CMA's assessment of media plurality. 21CF has separately commented on matters relating to the broadcasting standards consideration.
- 1.2 21CF welcomes the opportunity presented by the Phase II inquiry process for a considered and impartial review of the Transaction's implications for media plurality. 21CF believes that the available evidence, when analysed within the relevant legal framework, should lead the Inquiry Group to advise the Secretary of State that the Transaction will not operate against the public interest.
- 1.3 21CF disagrees with several aspects of Ofcom's advice to the Secretary of State (the **Ofcom Report**), and with its overall conclusion regarding the potential effects of the Transaction on plurality, which formed the basis on which the Secretary of State reached her decision to refer the Transaction to the CMA. 21CF has addressed these matters separately, in its response to the Secretary of State's provisional decision on reference (the **Provisional Decision Response**), and does not repeat specific comments in detail here. A copy of the Provisional Decision Response is provided as **Annex 1**.
- 1.4 Instead, the purpose of this submission is to provide the CMA with 21CF's views on relevant aspects of the legal framework and key themes that 21CF submits should inform the CMA's assessment of the Transaction, and to set out at a high level what 21CF believes is the proper analysis of Transaction. The CMA now needs to consider these matters on the basis of the evidential standard that applies to its decision under Article 6(3) of the Order, and to the Secretary of State's final decision under Article 12(2) of the Order: whether the Transaction "*operates or may be expected to operate against the public interest*", i.e. whether on the balance of probabilities it will do so.¹ This is a higher standard than applied to Ofcom's Report and to the Secretary of State's decision on reference.
- 1.5 This submission should be read in conjunction with an expert report 21CF has commissioned regarding the state of the UK media landscape, attached as **Annex 2**.² This shows how the available evidence in fact supports entirely different conclusions regarding the Transaction's implications for media plurality to those drawn by Ofcom and the Secretary of State at Phase I, even applying Ofcom's own published measurement framework. In addition, 21CF provides as **Annexes 3 and 4** two further expert reports prepared by Enders Analysis. Annex 3 sets out further background on the supply of news in the UK and how this has developed since the enactment of the Communications Act in 2003, which introduced the current media plurality regime. Annex 4 focuses specifically on Facebook's role in shaping news provision and consumption; a role which, as explained below, is of considerable importance for any assessment of media plurality in the UK.

¹ Enterprise Act 2002 (Protection of Legitimate Interests Order) 2003; read (by analogy) with *IBA Health v OFT* [2004] EWCA Civ 142, at paragraph 46.

² Robert Kenny, Communications Chambers, *News Plurality in the UK and the impact of 21CF's acquisition of Sky*.

1.6 In summary, 21CF would submit that the following considerations must be central to the CMA's assessment of the Transaction.

- (i) **The Transaction does not bring news providers under common material influence.** The Secretary of State's decision on reference appeared to attach significance to a statement by Ofcom that the Transaction would "bring" important news providers under the material influence of the Murdoch Family Trust (MFT). In fact, the MFT already owns 38.4% of the voting Class B Common Stock in News Corp and 38.4% of the voting Class B Common Stock in 21CF. Each of News Corp and 21CF is a listed company with a separate majority independent board. News Corp is not a party to the Transaction. Most importantly the Transaction does not affect either the ownership or the degree of control that the MFT has over either News Corp or 21CF. 21CF already owns 37.19% of the voting rights in Sky and has at least material influence over Sky for the purposes of the Enterprise Act. The plurality assessment must focus on the change brought about by the Transaction taking into account the current position. If one were to proceed on the basis of a legal fiction under which 21CF, Sky and News Corp are considered a single entity because of common material influence, the Transaction would bring about no change to the status quo.
- (ii) **The Transaction is not a full combination of Sky, 21CF and News Corp, and cannot be assessed as if this were the case.** Following the Transaction, the UK news outlets concerned – Sky News and those of News Corp – will remain under the ownership of separate listed companies – 21CF and News Corp – with separate majority-independent boards. While the statutory framework permits the CMA to take account of the activities of News Corp, due to the common minority shareholdings of the MFT in 21CF and News Corp, it must do so on the basis of the actual extent of control exercised and exercisable by the MFT over the relevant news outlets as a result of that shareholding, consistent with the judgment of the Court of Appeal in *Sky/ITV*. A failure to do so led Ofcom's Report to overstate significantly the effects of the Transaction on media plurality. The Transaction will bring about no changes to the relationship between the MFT and News Corp on the one hand and 21CF on the other. 21CF - which already has at least material influence over Sky - will acquire full ownership and control of Sky. But 21CF will remain a listed company with a majority independent board equivalent to the one governing Sky at present.
- (iii) **No adverse finding can be made unless the CMA concludes that the Transaction would result in insufficient plurality.** Ofcom's Report confined itself to considering whether the Transaction could potentially reduce plurality. This is a reasonable starting point for a plurality assessment – and should in fact suffice to *exclude* plurality concerns regarding the Transaction – but it is only a starting point. It cannot serve as the basis for an adverse public interest finding. The statutory question is whether the Transaction would lead to *insufficient* plurality. This requires not only a significant reduction in plurality, but that, as a result of the Transaction, plurality would fall below a critical benchmark. 21CF would submit that current levels of plurality are substantially more than "sufficient" on any reasonable view, having regard to indications as to the appropriate benchmark in the legislative history and relevant statutory guidance, and that a finding of insufficient plurality as a result of the Transaction is therefore not plausible.
- (iv) **The landscape of news provision is highly plural, having been transformed by the rise of online sources and intermediaries.** There remains no lack of diversity across the traditional news platforms – TV, radio and print – and these are complemented by new provision online, which is firmly established as a platform of similar importance to TV. The provision and consumption of news online is of critical relevance for any plurality assessment. It has brought new entry and redistributed share across traditional media groups (resulting in a sharp drop in the relative importance of newspapers generally, and News Corp specifically, as news providers). More than that, though, it has dramatically eroded the

scope for any news outlet, or proprietor of news outlets, to exert influence over public discourse. These effects are already clear - they cannot be dismissed as speculative or uncertain, as Ofcom's report did.

- (v) **The quantitative evidence is inconsistent with media plurality concerns.** During its Phase I review, Ofcom carried out a quantitative analysis of the Transaction in the context of the UK media landscape, using cross-platform measures of consumption (share of references and reach). 21CF would submit that this evidence is not consistent with media plurality concerns. Far from creating a provider with a position of "*cross-media dominance*" (in the words of the relevant statutory guidance), even a full combination of Sky, 21CF and News Corp (which is not the effect of the Transaction) would amount to the moderate strengthening of the third-largest player, with around one-tenth of news consumption on a cross-media basis (compared with Sky's existing share of around 6%), far behind the BBC and also behind ITN. Looked at another way, an adverse public interest finding would require one to believe, amongst other things, that the continued sufficiency of plurality in the UK media hinges on a company that accounts for just 3% of news consumption on a cross-media basis – that is to say, News Corp.
- (vi) **The alleged influence of the MFT provides no basis for a finding of insufficient plurality.** Ofcom's Report took the view that a reference to the CMA might be justified on the basis that the Transaction might increase the influence of members of the MFT over the news agenda and the political process. Whether or not this was reasonable grounds for a reference, it certainly cannot justify an adverse public interest finding.
- (A) First, increased influence does not equate to insufficient plurality: the question is whether there is a sufficient range and variety of voices in the overall cross-media landscape, not whether there is a change in the precise extent of a given proprietor's influence.
- (B) Second, there is in fact no basis to believe the Transaction would materially enhance the influence of the MFT over the news agenda and political process. This would require that the Transaction would allow the MFT to exert a material degree of influence over the editorial agenda of Sky News, notwithstanding the fact that the MFT's interest in Sky will remain an indirect, minority one, held through 21CF, a company with a majority-independent board, and despite the cumulative effect of the safeguards arising from broadcast impartiality requirements, the culture of editorial independence in broadcast news and commercial incentives arising from audience expectations. These are safeguards that the Competition Commission (CC) considered sufficient to exclude plurality concerns in *Sky/ITV*. Moreover, there is little basis to believe that any attempt to exert influence would have significant effects on the wider political landscape given Sky's modest position in the news landscape, and the likelihood that such an attempt would result in viewers switching away to other news providers that meet their expectations of impartiality.
- (C) Third, the evidence shows that 21CF has no intention to exercise influence over editorial matters at Sky News, or (by extension) to permit its shareholders to do so. To the contrary, on 20 April 2017, 21CF's Board passed a resolution designed to ensure the independence and integrity of Sky News content by requiring independent board oversight of the hiring and dismissal of the Head of Sky News, and of any changes to the Sky News Editorial Guidelines. This evidence of 21CF's intentions is consistent with the CC's findings in *Sky/ITV*. Then, the CC found there was no evidence that senior executives at Sky (which at the relevant time included 21CF's current CEO, James Murdoch, as CEO of Sky) or its shareholders had exerted influence over Sky News' agenda.

- (D) Fourth, any supposed increase in influence would be more than offset by wider market developments that are eroding the influence of the traditional media. There is clear recent evidence of this, in particular from the 2017 General Election and the 2016 EU referendum, where social media allowed the campaigns to deny the traditional media their ‘gatekeeper’ role. Ofcom’s Report erred by relying on out-dated evidence that predates these developments.

1.7 Drawing these points together, 21CF would respectfully suggest that an adverse public interest finding cannot be justified, despite the initial concerns raised by Ofcom at Phase I. Once all relevant considerations are properly accounted for, it becomes strikingly implausible that the Transaction would result in a significant reduction in plurality, still less a reduction that would lead to insufficient plurality. 21CF looks forward to engaging with the Inquiry Group and CMA staff team to demonstrate this.

2. THE PARTIES AND THE TRANSACTION

21CF

- 2.1 21CF is a diversified global media company with operations in three main industry segments: cable network programming, television and filmed entertainment. 21CF is a Delaware corporation whose shares are listed and traded on the NASDAQ Global Select Market.
- 2.2 21CF owns a global portfolio of cable and broadcasting networks and properties including FOX, Fox Networks Group, National Geographic and STAR, the film studio Twentieth Century Fox Film, and television production studio Twentieth Century Fox Television. In addition to its interest in Sky (see further below), 21CF holds equity interests in the online video service Hulu in the US, the Endemol Shine/CORE Media TV production joint venture, the Indian satellite TV platform operator Tata Sky and a 5% stake in the digital media company VICE.
- 2.3 21CF formerly owned the Sky Italia and Sky Deutschland direct broadcast satellite TV businesses, principally active in Italy and Germany and Austria respectively. In November 2014, 21CF sold its interests in these businesses to Sky.
- 2.4 In the UK, 21CF’s principal activities involve the licensing and distribution of audio-visual works for theatrical exhibition, television and home entertainment viewing, and the wholesale supply of TV channels. 21CF does not own newspapers or radio stations broadcasting in the UK; nor does it own news channels available to a UK audience.³
- 2.5 21CF was a founding shareholder of Sky and has remained its major shareholder since it was listed in 1994. 21CF currently holds approximately 39.14% of the issued share capital of Sky and controls 37.19% of the voting rights in Sky.⁴
- 2.6 The Board of 21CF comprises 13 directors, of which a majority of eight are independent directors in accordance with applicable US corporate governance rules. The independent directors are Sir Roderick I. Eddington (lead director), Delphine Arnault, James W. Breyer, Viet Dinh, Jacques Nasser, Robert S. Silberman, Tidjane Thiam and Jeffrey W. Ubben. The committees of the Board include two committees with responsibility for corporate governance matters, both of which are composed exclusively of independent directors: the Audit Committee and the Nominating and Corporate Governance Committee (NCGC) (chaired by Viet Dinh – the other members of the

³ The US-focused Fox News channel was formerly available in the UK on the Sky platform, with a very limited UK viewership, averaging around 2000 viewers across the day. This ceased on 29 August 2017.

⁴ Pursuant to a voting agreement dated 21 September 2005 between 21CF, Sky and affiliated entities, the voting rights that 21CF can exercise at general meetings of Sky are capped at 37.19%.

NCGC are James Breyer, Robert Silberman and Tidjane Thiam). The NCGC is responsible for oversight of Board appointments and of corporate governance matters generally.

- 2.7 As a NASDAQ-listed company, 21CF is subject to corporate governance and listing rules⁵ regarding the composition, and appointment of members, of its Board. Notably, these require that 21CF's Board must be comprised of a majority of independent directors who meet NASDAQ's independence standards. These independence standards provide that an independent director may not (a) be an executive officer or an employee of the company or (b) have a relationship that, in the opinion of the Board, would interfere with exercising independent judgment in carrying out the responsibilities of a director. Such relationships include, among others, (a) service as an employee; (b) subject to certain exceptions, receiving compensation during any twelve-month period above \$120,000; (c) certain relationships with the company's outside auditors; (d) being employed as an executive officer at a company at which any of the company's executive officers served on the compensation committee; and (e) being a controlling shareholder, partner or executive officer of an entity that makes or receives, to or from the company, payments above a specified threshold for property or services. A three-year cooling off period applies to each of these relationships (other than (e)). No individual who has had such a relationship within the cooling off period, or who is an immediate family member of an individual who had such a relationship, may be considered independent.
- 2.8 In addition, as regards board appointments, NASDAQ rules require that either a nomination committee or a majority of the independent directors of the board select or recommend director nominees. With limited exceptions, all members of a nomination committee must meet NASDAQ's independence standards (as described above). In the case of 21CF, the NCGC performs this role, recommending candidates for appointment by 21CF's stockholders at annual meetings or, in case of vacancies and newly created directorships, by the Board. Pursuant to its Charter,⁶ the NCGC is composed entirely of directors meeting NASDAQ's independence standards.

Separation of News Corporation into 21CF and News Corp

- 2.9 21CF was formerly known as News Corporation. On 28 June 2013, News Corporation completed the separation of its business into two independent publicly-traded companies, by distributing to its shareholders shares in a newly-formed entity known as (new) News Corporation (referred to in this submission as **News Corp**, as distinct from the former News Corporation). As described in the materials sent to shareholders in connection with the separation, the board of News Corporation determined that it was in the best interests of its shareholders for its businesses to be separated into two independent companies, one focused on media and entertainment, the other on newspapers and publishing, which could then "*focus on and pursue distinct strategic priorities and industry-specific opportunities*".⁷
- 2.10 News Corporation changed its name to 21CF and retained interests in cable network programming, television, satellite broadcasting and filmed entertainment.
- 2.11 News Corp holds News Corporation's former businesses including newspapers, information services and integrated marketing services, digital real estate services, book publishing, digital education and sports programming and pay-TV distribution in Australia. News Corp's operations in the UK are principally conducted through News UK and HarperCollins.⁸ News UK publishes the following newspaper titles in print and digital formats: *The Times*, *The Times Literary Supplement* (a weekly periodical literary review), *The Sunday Times*, *The Sun*, *The Sun on Sunday* and *Sun Online* (the

⁵ See NASDAQ Listing Rule 5600 Series.

⁶ Available at: https://www.21cf.com/sites/default/files/uploaded/corpgov/board-committees/ncg_charter_update_11.10.16.pdf.

⁷ Definitive Proxy Statement for the special meeting of stockholders held on 11 June 2013, Annex C, *Reasons for the distribution*.

⁸ News Corp also owns Dow Jones and the *Wall Street Journal*, which have offices located in London.

combined online offering of *The Sun* and *The Sun on Sunday*).⁹ In 2016, News Corp acquired Wireless Group, which in the UK operates the talkSport, talkRadio and Virgin Radio UK national radio stations, as well as a portfolio of predominantly music-based local radio stations.

- 2.12 News Corp currently has 11 directors, comprising Rupert Murdoch (Executive Chairman), Lachlan Murdoch (Co-Chairman), Robert Thomson (CEO), James Murdoch, Joel Klein and a majority of six independent directors (Peter Barnes (lead independent director), Kelly Ayotte, José Maria Aznar, Natalie Bancroft, Ana Paola Pessoa and Masroor Siddiqui).

The Murdoch Family Trust

- 2.13 The MFT holds approximately 38.4% of 21CF's voting Class B Common Stock and approximately 38.4% of News Corp's voting Class B Common Stock (in conjunction with other small interests associated with Rupert Murdoch, 38.9% and 39.4% respectively).¹⁰
- 2.14 As noted above, certain members of the Murdoch family serve as officers and/or directors of News Corp and 21CF. Rupert Murdoch serves as News Corp's Executive Chairman and Executive Chairman of 21CF; Lachlan Murdoch serves as News Corp's Co-Chairman and Executive Chairman of 21CF, and James Murdoch is a member of News Corp's Board and serves as CEO of 21CF. However, the boards of both 21CF and News Corp comprise a majority of independent directors (none of whom serve on both boards) and a large majority of the boards of both 21CF and News Corp have no links with the MFT or the Murdoch family, and no links with the other company.¹¹

Sky

- 2.15 Sky is a multi-territory entertainment and communications company active through a number of subsidiaries. Sky is a public company whose shares are listed on the London Stock Exchange.
- 2.16 Sky retails subscription television services on a linear and on-demand basis to residential and commercial premises in the UK, Ireland, Germany, Austria and Italy. Sky also produces a range of TV channels that it makes available to retail subscribers on its own and third party TV platforms and supplies on a wholesale basis to other retailers. Sky's other businesses include the production and licensing/distribution of audiovisual content, the sale of advertising on its own and partner channels via its advertising house 'Sky Media' and the sale of communications services in the UK and Ireland.
- 2.17 Sky's portfolio of TV channels includes Sky News, a 24-hour international news channel available in the UK to Sky's pay-TV subscribers, and other retail pay TV services and on free-to-air TV. Outside of the UK, Sky also offers Sky News International, a channel which has the same news content as Sky News but without UK adverts, in Europe, Africa, Asia and the US. In addition to these news channels, Sky provides rolling news content in the form of bulletins and articles on its website, as well as on a range of mobile devices. Sky News is provided under licences held by Sky's subsidiary Sky UK Limited.
- 2.18 Sky also owns and operates Sky News Radio, the radio arm of Sky News, which supplies news to the Independent Radio News (**IRN**) network of radio stations in the UK. The IRN network provides more than 280 stations (including well-known brands such as Absolute Radio, Capital, Classic,

⁹ *The Sun* and *The Sunday Times* also have distinctive Scottish editions (*The Scottish Sun* and *The Sunday Times Scotland*).

¹⁰ In addition, Lachlan Murdoch holds small interests in both 21CF and News Corp, while James Murdoch holds a small interest in 21CF only (far less than 1% of each class in each case).

¹¹ To 21CF's knowledge, only four of 21CF's directors have links with News Corp, the directors of News Corp, individual members of the Murdoch family, entities affiliated to the Murdoch family, or involvement with the MFT: Rupert Murdoch, Lachlan Murdoch, James Murdoch and David DeVoe (who is one of the directors appointed to the corporate trustee that administer the MFT); while other than Rupert Murdoch, Lachlan Murdoch and James Murdoch, none of the directors of News Corp have links with 21CF, its directors, the MFT or the Murdoch family.

Heart, Magic, LBC, Smooth and talkSport) with a continuous service of national and international news, comprising live hourly news bulletins, scripts, audio clips and a suite of pre-recorded news content. At their discretion and editorial judgment, stations use this content to prepare their bulletins, or at certain times simply rebroadcast the bulletin created by Sky News Radio. Sky News Radio also supplies digital content such as news stories in text and video to the websites of the IRN network radio stations.¹²

- 2.19 Between January 2005 and February 2012, Sky News provided news data and content to Channel 5. This arrangement ended in February 2012, when the Channel 5 contract switched to ITN.
- 2.20 Since Sky's public listing in 1994, a number of the directors on the Board of Sky have been affiliated with 21CF at the same time as holding their office. At present, of the 11 directors of Sky, three are affiliated with 21CF (James Murdoch, Chase Carey and John Nallen).

The Transaction

- 2.21 The Transaction contemplates the acquisition by 21CF of up to 100% of Sky's shares. The Transaction is subject to the City Code on Takeovers and Mergers (the **Code**) and was announced publicly pursuant to Rule 2.7 of the Code on 15 December 2016 (following the announcement of a possible offer pursuant to Rule 2.4 of the Code on 9 December 2016). The Transaction has been recommended to Sky's shareholders by the independent directors of Sky. It is envisaged that the Transaction would be implemented by way of a court-approved scheme of arrangement.
- 2.22 The Transaction was cleared by the European Commission under the EU Merger Regulation on 7 April 2017. In addition, it has been notified to and cleared unconditionally under applicable media plurality rules in Austria, Germany, Ireland and Italy, and under competition legislation in Jersey.

Transaction rationale and 21CF's intentions regarding Sky News

- 2.23 The acquisition of the entire share capital of Sky brings clarity to 21CF's capital allocation strategy and constitutes an opportunity for 21CF to achieve financial consolidation with a company in which it has held a substantial stake from the outset. The Transaction will also allow 21CF to diversify its activities geographically, by acquiring a significant presence in markets where its activities in the TV sector are limited, and to diversify its sources of earnings towards more stable subscription-based revenues.
- 2.24 In announcing the Transaction, 21CF made the following specific statements of intent with regard to the UK:
- *21st Century Fox will maintain Sky's UK HQ at the re-developed campus at Osterley and complete the £1 billion investment programme at the site.*
 - *21st Century Fox will continue to support Sky's development of Leeds as its technology hub and its Software Engineering Academy scheme which offers technology apprenticeships and graduate opportunities to young people across the north of England. This is reflective of 21st Century Fox's intention to continue investment in employees across all of the UK.*
 - *The UK will be kept as the creative hub of Sky programming and 21st Century Fox intends to continue to invest in the creative community in the UK. In aggregate 21st Century Fox and Sky invested around £700 million last year in TV and film production in the UK alone, and 21st*

¹² However, as Ofcom has noted other commercial radio operators source, produce and broadcast their own news content including the two largest commercial radio operators in the UK, Global and Bauer Radio: see Ofcom's News Consumption in the UK 2015 Executive Summary at footnote 17 and Ofcom's Advice to the Secretary of State on a Measurement Framework for Media Plurality at 3.40 – 3.42 (5 November 2015, **Ofcom's Measurement Framework**).

Century Fox intends to continue at least that level of investment. To this end 21st Century Fox fully expects to build on Sky's already outstanding original content pipeline which has 1,000 hours of original programmes and 80 series in development.

- *21st Century Fox intends to maintain Sky's standard of excellence in respect of Sky investment in business and community initiatives including the company's role in Sky's Bigger Picture programme.*
- *21st Century Fox is proud of the journalistic tradition of Sky News which has been one of the great innovators. 21st Century Fox will continue to broadcast news under the Sky brand maintaining its excellent record of compliance with the Ofcom Broadcasting Code.¹³*

2.25 21CF intends that Sky News will continue to operate as an editorially independent business unit within Sky following completion of the Transaction. To this end, on 20 April 2017, 21CF's Board passed a resolution designed to ensure the independence and integrity of Sky News content by requiring independent board oversight of the hiring and dismissal of the Head of Sky News, and of any changes to the Sky News Editorial Guidelines.

2.26 Specifically, the resolution provides that, upon completion of the Transaction, the Board approves the continued application of the Sky News Editorial Guidelines (which set out principles and processes to be followed by Sky News journalists, including with regard to accuracy, impartiality and independence from external commercial or political pressure or influence), and that the following matters will require the approval of 21CF's NCGC (which, as noted above, is comprised solely of independent directors):

- (i) the appointment or removal of the Head of Sky News (including any material changes in terms and conditions which could give rise to constructive dismissal);
- (ii) any material changes to the authority or reporting relationship of the Head of Sky News; and
- (iii) any future changes to the Sky News Editorial Guidelines.

2.27 21CF entrusted the NCGC with these functions, as the committee of its Board with responsibility for senior appointments and corporate governance matters. 21CF believes there is value in ensuring that oversight of these important matters sits directly with a committee of its Board, so that they are safeguarded by independent figures at the highest level of its corporate structure.

3. LEGAL FRAMEWORK FOR THE CMA'S ASSESSMENT

3.1 21CF submits that two aspects of the legal framework for media plurality assessments should play a central role in the CMA's inquiry: the requirement for a realistic analysis of the actual control position resulting from the Transaction, and the fact that the media plurality public interest consideration concerns the *sufficiency* of plurality, rather than simply *changes* in plurality. These points are developed below. While neither should be controversial, 21CF would nevertheless suggest that Ofcom's Report failed to have due regard to both, and that this heavily influenced the nature of the Report's conclusions.

The Transaction must be assessed on the basis of the actual extent of control, not as a full combination of Sky, 21CF and News Corp

3.2 The applicable legal framework requires that the impact of the Transaction on media plurality be assessed on the basis of the actual extent of control exercised and exercisable over the relevant media

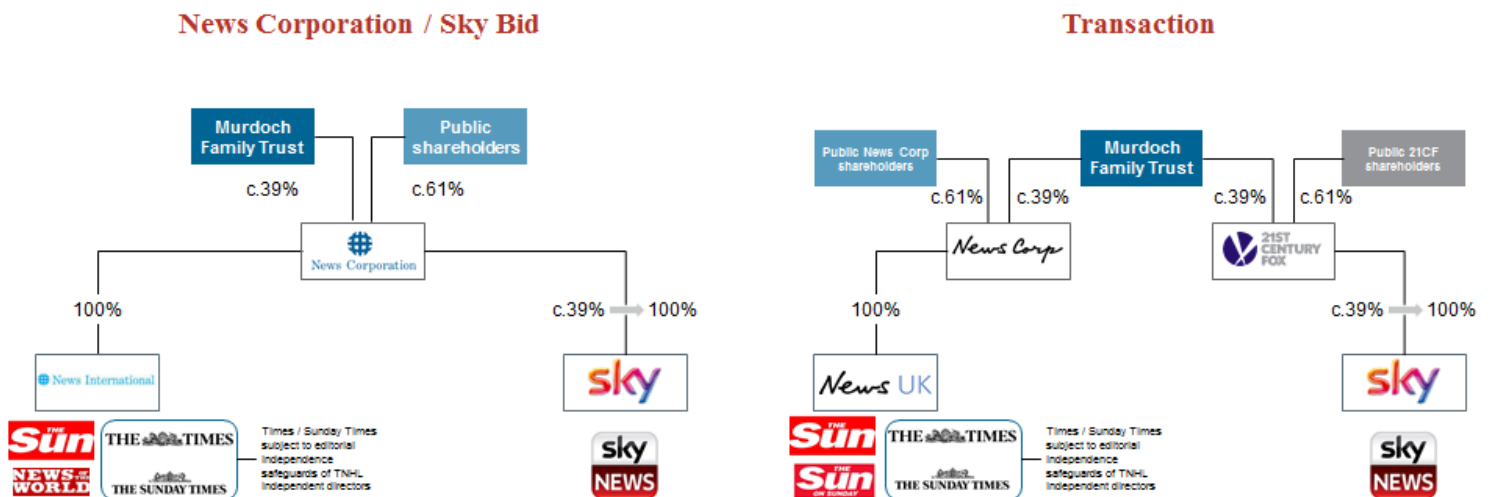
¹³ Rule 2.7 Announcement, 15 December 2016, section 5.

outlets post-Transaction; not on the premise that media outlets under a degree of common influence present a single voice. This follows from the judgment of the Court of Appeal in *Sky/ITV* that:

“when it comes to assessing the plurality of the aggregate number of relevant controllers and to considering the sufficiency of that plurality, the Commission may, and should, take into account the actual extent of the control exercised and exercisable over a relevant enterprise by another, whether it is a case of deemed control resulting from material influence under section 26 or rather one of actual common ownership or control.”¹⁴

- 3.3 The Secretary of State’s decision on reference attached significance to a statement by Ofcom that the Transaction would “bring” important news providers under the material influence of the MFT.¹⁵ This is inaccurate. the MFT already owns 38.4% of the voting Class B Common Stock in News Corp and 38.4% of the voting Class B Common Stock in 21CF. Each of News Corp and 21CF is a listed company with a separate majority independent board. News Corp is not party to the Transaction. Most importantly the Transaction does not affect either the ownership or the degree of control that the MFT has over either News Corp or 21CF. 21CF already owns 37.19% of the voting rights in Sky and has at least material influence for the purposes of the Enterprise Act. The plurality assessment must focus on the change brought about by the Transaction taking into account the current position.
- 3.4 Moreover the Transaction does not bring material UK news providers under the ownership of a single company. Rather, under 21CF’s full ownership of Sky, Sky News will remain under separate ownership from the news outlets of News Corp, another listed company. This is in contrast to News Corporation’s proposed acquisition of the remaining shares in Sky in 2010 (the **News Corporation / Sky Bid**), which would have brought Sky News under the control of the same company as News Corp’s newspapers. The following diagram illustrates this.

Figure 1: Comparison of News Corporation/Sky Bid and the Transaction



- 3.5 21CF accepts that the statutory framework permits the CMA in assessing the Transaction to take account of activities carried on by companies under common material influence with 21CF. However, it also requires the CMA to consider the actual extent of that influence, giving due regard to the limitations on the MFT’s ability to influence the news outlets owned by 21CF and News Corp that will continue to apply post-Transaction.

¹⁴ *British Sky Broadcasting Group plc v Competition Commission & Anor.* [2010] EWCA Civ 2, para. 121.
¹⁵ Page 3 of DCMS’ letter to the parties dated 20 September 2017.

- 3.6 Notably, these include the structural limitations arising from the fact the MFT will remain a minority shareholder in both companies, and that the majority of both companies' boards are independent and unconnected with the MFT. The Transaction will bring about no changes to the relationship between the MFT and News Corp on the one hand and 21CF on the other. 21CF - which already has at least material influence over Sky - will acquire full ownership and control of Sky. But 21CF will remain a listed company with a majority independent board equivalent to the one governing Sky at present. (Other considerations also point to the conclusion that the MFT will not be able to influence the editorial agenda of Sky News post-Transaction, including regulatory, commercial and cultural factors – these are discussed in more detail below.)
- 3.7 As set out in more detail in 21CF's Provisional Decision Response, 21CF considers that Ofcom's Report in practice disregarded these limitations. It appears that the Report instead proceeded on the basis that 21CF, Sky and News Corp should be assessed as (in Ofcom's words) "*a single entity*";¹⁶ an approach which is neither factually accurate nor consistent with the legal framework set out in the Court of Appeal's judgment.

No adverse finding can be made unless the CMA concludes that the Transaction would result in insufficient plurality

- 3.8 The fundamental legal question on which the CMA is to advise the Secretary of State is whether the Transaction may be expected to result in insufficient plurality of persons with control of the media enterprises in the UK. This follows from the formulation of the media plurality public interest consideration:

the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience (emphasis added.)

- 3.9 Ofcom's Report purports to have focused on whether the Transaction might result in a *reduction* in plurality, citing the approach of the Competition Commission in *Sky/ITV*,¹⁷ and does not address the *sufficiency* of plurality.
- 3.10 Whether a transaction may reduce plurality is of course a relevant question, and an appropriate starting point. The applicable statutory guidance published by the Department for Trade and Industry (the **DTI Guidance**¹⁸) indicates that the starting point is to consider "*whether there is likely to be a significant reduction in plurality in relation to any relevant audience as a result of the merger*".¹⁹
- 3.11 In *Sky / ITV*, the CC was able to *exclude* an adverse finding on the basis that the transaction would not materially reduce plurality. The CC found that Sky's shareholding in ITV would not have "*an adverse effect on the plurality of news relative to the position absent the acquisition*", and for that reason "*would not materially affect the sufficiency of plurality of persons with control of media enterprises*". However, it does not follow that an adverse finding could be reached without considering the overall sufficiency of plurality.
- 3.12 Whether plurality would be insufficient post-Transaction depends not only upon the nature and magnitude of the change brought about by the Transaction, but also a view of what level of plurality

¹⁶ See further paras. 2.4 – 2.10 of 21CF's Provisional Decision Response.

¹⁷ Para. 3.36: "*We have therefore considered whether the proposed transaction may result in a potential reduction in media plurality*". In fact, as explained below and in 21CF's Provisional Decision Response, Ofcom's Report concentrated on the question of whether the Transaction would increase the influence held by the MFT over the news agenda and politics, which is not necessarily the same as a reduction in media plurality.

¹⁸ Department for Trade and Industry, *Enterprise Act 2002: Public Interest Intervention in Media Mergers – Guidance on the operation of the public interest merger provisions relating to newspaper and other media mergers* (May 2004).

¹⁹ Para. 7.11.

is sufficient (i.e. the benchmark against which the Transaction should be assessed). If, as 21CF would submit is certainly the case (for reasons developed below), levels of plurality are substantially in excess of “sufficient”, that is a strong indication that the Transaction cannot be expected to result in insufficient plurality.

- 3.13 As to the appropriate benchmark, what constitutes “sufficient plurality” is not developed in the EA 2002. However, relevant statutory guidance strongly suggests that a finding of insufficient plurality should not readily be reached. The DTI Guidance explains that the purpose of the PIC is to ensure that control of media enterprises is not in “*in the hands of a **limited** number of persons*”, to avoid “***unacceptable** levels of media and cross-media **dominance***” and to ensure “*a **minimum** level of plurality*” (emphasis added).²⁰
- 3.14 21CF submits that the situation prevailing when the Communications Act 2003 was passed should be taken as a relevant benchmark. It is implausible that Parliament considered media plurality to be insufficient when passing legislation that relaxed controls on media ownership and, particularly, cross-media ownership. The situation in 2003 could therefore serve as an example of when plurality was considered to be clearly sufficient (though it would not follow that plurality below 2003 levels should necessarily be considered insufficient).

4. OTHER KEY CONSIDERATIONS FOR THE CMA’S ASSESSMENT

- 4.1 In addition to the points regarding the relevant legal framework set out above, there are several other key points that 21CF submits should inform the CMA’s assessment from the outset. These are:
- (i) the high degree of plurality of the UK news landscape, in particular in light of the transformative effects of online news provision and consumption;
 - (ii) the inconsistency of the quantitative data gathered during Ofcom’s Phase I review with plurality concerns; and
 - (iii) that, for factual as well as legal reasons, an adverse public interest finding cannot be justified on the basis of an alleged increase in the influence of the MFT (the central concern in Ofcom’s Report).

- 4.2 Each of these points is developed below.

The UK news landscape is highly plural and has been transformed by online news provision and consumption

- 4.3 The level of plurality in the UK media is high, especially on a cross-media basis (which is the only relevant frame of reference for the Transaction), and is considerably higher than when the Communications Act 2003 was enacted, due to market developments. In particular, the rapid growth in the provision and use of online news has transformed the news market, and has resulted in greater plurality, increasing the number of news sources available and leading to more plural patterns of consumption. It is this highly plural landscape against which the Transaction must be assessed.
- 4.4 As set out in detail in 21CF’s Provisional Decision Response, while Ofcom’s Report recognised some of the changes brought by online news, the Report’s characterisation of the impact of these changes as “*uncertain*” was unduly cautious, and failed to give due weight to the substantial evidence of the significant effects that the provision of news online have already had on plurality.²¹

²⁰ DTI Guidance, paragraph 7.7.

²¹ Provisional Decision Response, paras. 3.1 to 3.6.

4.5 The state of plurality in the UK media, and the impact of these changes in how news is consumed, is discussed in detail in the report provided as Annex 2. Annex 3 provides further background on the varied forms of news supply in the UK, while Annex 4 describes Facebook's in shaping news consumption – one of the most significant developments of recent years. Some key points are summarised below.

Diverse availability and consumption of news

4.6 Within each type of traditional media (TV, radio and newspapers) there is considerable diversity in terms of both availability and consumption, including:

- (i) TV news programming on the BBC, ITV, Sky, Channel 4, Channel 5 and a range of smaller providers, including CNBC, Al Jazeera, Euronews and RT (many of these players are either new to the UK since 2003, or have been made much more widely available since then by the digital switchover²²);
- (ii) 11 daily papers focused on national news, plus Sunday newspapers, major regional titles with substantial national news and local newspapers; and
- (iii) national and local radio services operated by the BBC and a range of commercial providers.

4.7 These are complemented by the extraordinary expansion of online news provision, which now represents as significant a source as television,²³ well ahead of print newspapers or radio. Traditional outlets have all established online presences, but the landscape does not simply replicate the situation offline. There are online-only news providers with significant journalistic resources and online reach, such the *Huffington Post* and *Buzzfeed*. Further, and as described in further detail below, even amongst traditional outlets, share online is often very different to offline.

4.8 A sense of the sheer diversity of news outlets available to and consumed by UK audiences is given by the number of sources identified by consumers in Ofcom's news consumption surveys. In 2015, the sources identified by a sample of 2626 news users comprised approximately 480 wholesale sources, including the BBC, ITN, Sky, DMGT, News Corp, Global Radio, Trinity Mirror, GMG, the Lebedev Foundation, Northern & Shell, Bauer, Telegraph Media, Pearson, 49 further TV stations, 77 further radio stations, 211 local papers (excluding those owned by Trinity Mirror and DMGT) and 129 websites and apps.²⁴

4.9 Ofcom's Report recognised the wide range of news providers available across multiple platforms, and in particular acknowledged that the proliferation of news sources online has increased the range of available news content. Given this highly diverse landscape, Ofcom was correct to conclude that "*the transaction would not result in a significant change in the range or number of providers across the different platforms*".²⁵

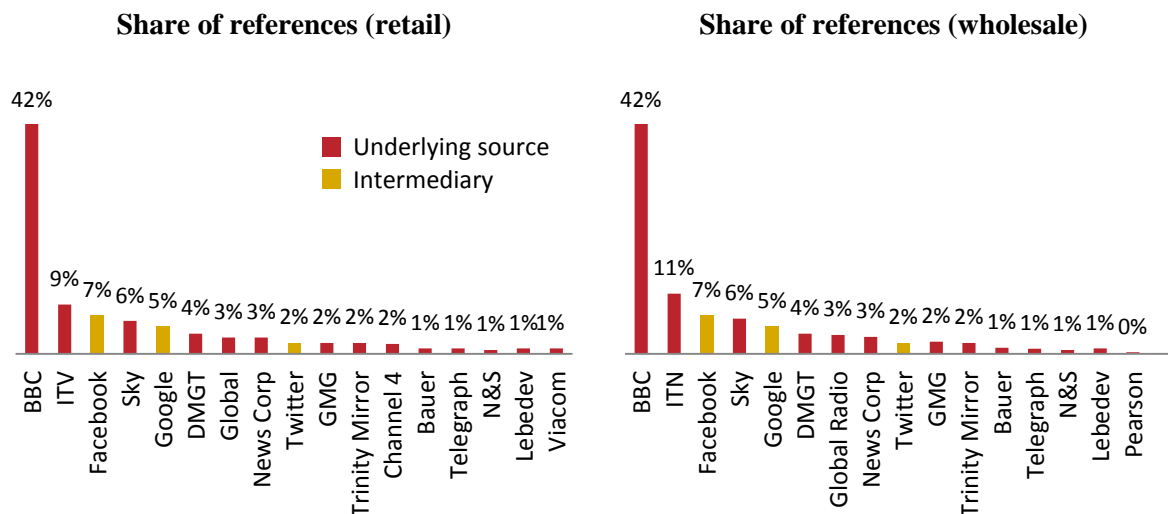
4.10 There is also significant plurality in terms of consumption. On a cross-media basis, the BBC is by far the largest provider on a share of references basis (a bespoke metric developed by Ofcom specifically for the purposes of measuring plurality across media). However, remaining share is widely distributed amongst other players, at both the retail and wholesale level. The following charts (taken from Annex 2, and based on Ofcom's 2016 news consumption survey) illustrate this.

²² See further pages 5 to 13 of Annex 3.

²³ Analysis of Ofcom's 2016 news consumption survey data indicates that the internet and TV have a share of references of around 37% and 39% respectively. See Annex 2.

²⁴ Ofcom News Consumption Report 2015, reissued February 2017, Figure 2.9.

²⁵ Para. 5.18.

Figure 2: share of references, 2016

A shift to online sources is resulting in more plural patterns of consumption

4.11 The increasing consumption of news online is resulting in more plural patterns of consumption, which matters because multi-sourcing dilutes the influence of any one particular outlet (the shift in consumption online also dilutes influence in other ways, such as undermining outlets' ability to set an editorial agenda, discussed below in paragraphs 4.37 onwards). Two trends are particularly relevant regarding multi-sourcing.

- (i) Social media (such as Facebook and Twitter) and aggregators (such as Google) are amongst the largest retail sources of news, and are reshaping consumption of online news, leading consumers to a range of underlying sources and thereby supporting multi-sourcing.²⁶ As set out above, Ofcom's 2016 news consumption survey indicates that Facebook was the third most used source of news in the UK (on a 'share of references' basis), behind only the BBC and ITV.²⁷ Today Facebook is as large as Sky News and the *Sun* combined on the same basis.²⁸ This is significant because social media and aggregators are "inherently plural" – their business model is based on the distribution of a wide variety of underlying sources.
- (ii) A majority of time online is now spent on mobile devices (62% overall, and more than 80% for news and information sites).²⁹ This matters because of how news is consumed via mobile, commonly via social media and aggregators, which in turn means that multi-sourcing is particularly high for users of news via mobile. For example, those reading newspapers in print use, on average, 1.74 titles. Those reading newspapers on smartphones read 4.31 titles.³⁰

4.12 Overall, Ofcom's news consumption survey indicates that the mean number of sources consumers use "nowadays" across all platforms is 3.8 on a retail basis, and 2.8 on a wholesale basis.³¹ The fact that, on average, users are now absorbing news from almost three different perspectives is indicative of a highly plural environment, and one where no one owner can have excessive influence.

²⁶ Consumption by individual consumers across a diverse range of sources.

²⁷ Communications Chambers analysis of Ofcom, *News consumption in the UK - 2016 data*, 29 June 2017.

²⁸ Communications Chambers analysis of Ofcom, *News consumption in the UK - 2016 data*, 29 June 2017.

²⁹ UKOM, *UK Digital Market Overview – September 2016*, October 2016, using UKOM's 'news and information' category.

³⁰ Communications Chambers analysis of NRS, *Print/PC/Mobile & Tablet*, 29 June 2017.

³¹ Communications Chambers analysis of Ofcom, *News consumption in the UK - 2016 data*, 29 June 2017.

- 4.13 It is also noteworthy that these figures are likely to understate significantly the true extent of multi-sourcing. This is because Ofcom's methodology treats each social media and aggregator as a single source, when in fact such outlets are gateways to multiple sources (and, as discussed below, this is a specific reason why consumers use them for news).
- 4.14 The internet thus has made (and will continue to make) a vital and growing contribution to multi-sourcing, more than offsetting the downward pressure on multi-sourcing due to the collapse of print newspapers.³²

Online consumption has changed the relative positions of news providers

- 4.15 The growth of the online consumption of news has also had a material impact on the relative strength of individual traditional media outlets.
- 4.16 As noted above, traditional news providers do all now have established online presences. However, as shown in Annex 2, Ofcom's news consumption survey indicates that the outlets which are strong online are not necessarily those which are strong offline. For example, the *Times* and the *Sun* have much lower online share of reach (at 2% and 13% respectively) than offline (7% and 17% respectively). Conversely, the *Guardian* has a digital reach comparable to the *Sun*, despite its more limited offline reach.³³ In this way, the internet has had an important impact in redistributing the share of consumption between different traditional players.
- 4.17 Significantly, it is not the case that online consumption of newspapers has offset the long term decline in print readership. This is evidenced by the fact that Ofcom's news consumption survey indicates only 0.4 million people use the *Sun*'s website for news – in contrast to a decline of 2.2 million in those using the print version, just since 2013.³⁴ This is also borne out by data on advertising revenues: lost print revenues far exceed gains in digital advertising revenues, which reflects the fact that advertisers do not consider newspapers to be as influential online as they are offline.³⁵

No news provider has undue influence on a cross-media audience

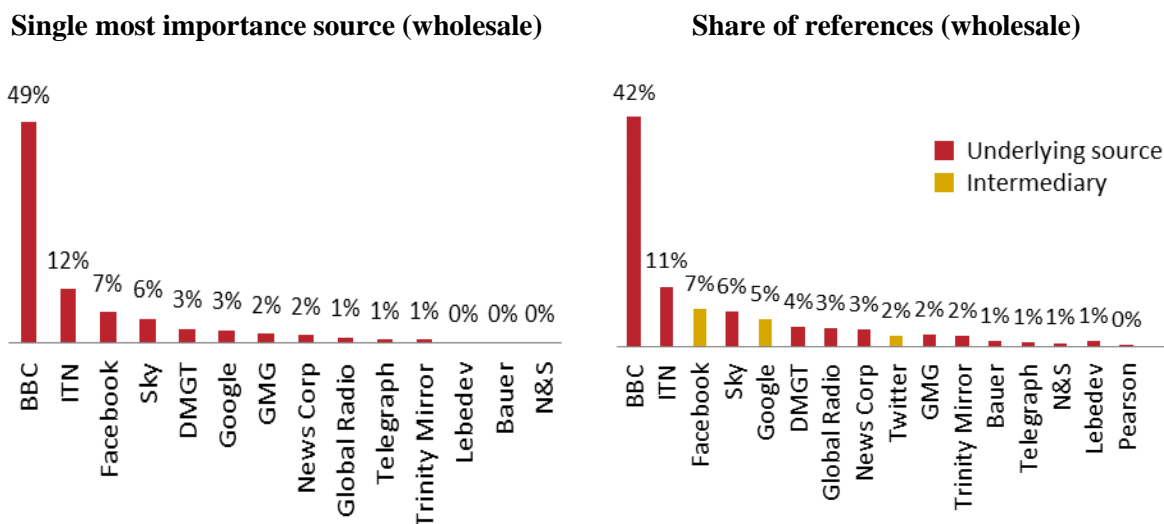
- 4.18 There is no evidence that any one provider in the UK media carries undue weight amongst consumers on a cross media basis (except perhaps the BBC, which is subject to specific regulation). Consumers identify a range of news providers as their single most important source, corresponding broadly with share of references, as the following charts (taken from Annex 2) demonstrate.

³² Ofcom's Report downplayed the impact of the internet on multi-sourcing, noting that "*This figure has remained broadly the same since 2013, despite the wide range of sources available online.*" However, this statement misses the fact that there has been a shift in the sources used during that time. There has been a 0.3-source drop in the number of newspaper sources used by the average person. However, there has been a 0.5-source increase in the number of online sources used per person, even treating social media and aggregators as single sources.

³³ See Annex 2.

³⁴ See Annex 2.

³⁵ See Annex 2.

Figure 3: single most important source vs. share of references, wholesale, 2016

- 4.19 The BBC outperforms somewhat as consumers’ “single most important source” (identified as such by 49% of respondents, compared with a 42% share of references), suggesting it may be particularly influential. On the same basis, News Corp’s outlets may be somewhat *less* influential than their share of references might suggest, having a wholesale shares of references of 3%, but being identified as the most important news sources by only 2% of consumers. Meanwhile, Sky’s share on both metrics is similar, at 6%, providing little support for claims that it is more important as a news source than its small share of references suggests.

There are substantial limitations on the ability of news outlets and proprietors to exert influence, and market changes are eroding this further

- 4.20 As well as redistributing share between news providers, the shift to online consumption and the related use of social media and intermediaries has substantially reduced the ability of traditional media and their proprietors to exert influence, in ways that are less readily quantifiable, but are clearly evidenced by recent political events. These factors are discussed further below (see para. 4.37 onwards).
- 4.21 These developments should be seen in a context where a large proportion of news provision – that by the broadcast media, including Sky News – is already subject to regulatory, cultural and commercial constraints that require impartiality (see further para.4.33).
- 4.22 The scope for news outlets and their proprietors to exert influence over the political agenda is therefore subject to substantial and increasing limitations.

The quantitative evidence indicates that the effects of the Transaction are limited and does not suggest plurality concerns

- 4.23 During its Phase I review, Ofcom carried out quantitative analysis of the Transaction in a cross-media context, taking into account the availability of news sources and patterns of consumption. In 21CF’s submission, this analysis provides clear evidence that the Transaction does not raise plurality concerns.
- 4.24 As noted above, Ofcom identified no concerns relating to the availability of news. In relation to consumption, Ofcom considered cross-platform reach and share of references. The results show that a combination of 21CF, Sky and News Corp under full common ownership (which is not the result

of the Transaction) would amount to a moderate strengthening of Sky's position as the third-largest news provider.

- (i) In terms of reach at both retail and wholesale level, the combination would remain in third place (at 30% and 31% respectively), far behind the BBC (at 77% on both levels) and some way behind ITV (at 34% and 39% respectively).³⁶ This combined reach is less than each of Sky and News Corporation *individually* in 2010.³⁷
- (ii) Applying Ofcom's bespoke share of references metric, the combination would be broadly comparable to ITV/ITN (10% vs. 11% at wholesale level; 10% vs. 9% at retail level) and far behind the BBC, which accounts for 42% of news provision at both wholesale and retail level.³⁸

4.25 The modest strengthening of Sky's position as the third-largest news provider hardly amounts to a material reduction in plurality; still less does it result in insufficient plurality. Applying the DTI Guidance, it is simply not credible that Transaction involving news outlets that collectively account for just one-tenth of news consumption brings about "*cross-media dominance*", or concentrates ownership in the hands of a "*limited number of persons*" (even leaving aside that in reality these news outlets will remain in the hands of two separate listed companies).

4.26 Moreover, Ofcom's share of references analysis places News Corp as only the eighth-largest news provider, with a share of references of just 3%. It is implausible that the continued sufficiency of plurality depends upon such a player remaining under no greater degree of common ownership with Sky than at present.

4.27 It is also instructive to compare these data with Ofcom's share of references analysis in 2010, prepared in the context of the News Corporation / Sky Bid, since this underscores how the changes in consumption patterns discussed have eroded the position of the News Corp newspapers.

Table 1: change in reported share of references, retail and wholesale, 2016 (usage weighted) vs. 2010 ('all news sources')³⁹

Media enterprises	Retail		Wholesale	
	2016	2010	2016	2010
21CF & News Corp / News Corp	3%	12%	3%	12%
Sky	6%	5%	6%	10%
Combined	10%	17%	10%	22%

4.28 These changes also reflect Sky's loss of the Channel 5 news contract to ITN, as well as refinements of approach by Ofcom (recognition that news provision on commercial radio should not be aggregated to Sky as wholesale provider, and a shift to usage-weighting in calculating shares of reference). Overall, though, the comparison demonstrates that the quantitative evidence regarding the Transaction is very different to that considered by the authorities in 2010.

³⁶ Para. 6.43 and figures 6.8 and 6.9 of Ofcom's Report.

³⁷ Ofcom, Report on public interest test on the proposed acquisition of Sky by News Corporation, 31 December 2010, Figure 22, giving Sky wholesale cross-media reach of 33% and News Corporation 32%.

³⁸ Figures 6.10 and 6.11.

³⁹ Ofcom Report, figures 6.10 and 6.11; Ofcom, Report on the News Corporation / Sky Bid, Figures 2 and 3. In 2010 Ofcom also provided share of reference figures based on 'main source'. 'All news sources' has been used here, since this was the approach which Ofcom gave greater prominence (for instance, it was the one used in its Executive Summary).

The alleged influence of the MFT provides no basis for a finding of insufficient plurality

4.29 The basis on which Ofcom advised the Secretary of State that a reference to the CMA might be justified was that the Transaction may increase the influence of members of the MFT over the UK news agenda and the political process.⁴⁰ For the reasons explained below, this cannot serve as the basis for an adverse public interest finding.

Influence does not equate to insufficient plurality

4.30 An increase in one media owner's influence cannot in itself justify an adverse finding. As set out above, the relevant question is whether the Transaction would result in insufficient plurality; not whether it would increase the influence of one particular media owner. This requires the effects of the Transaction to be set within the wider media landscape. Even if a transaction increases the relative influence of one media owner, this should not be of concern if there remains a sufficient range and variety of voices within that landscape. 21CF would submit that this is certainly the case.

The Transaction will not increase the influence of the MFT over Sky News

4.31 Moreover, it is far from evident that the Transaction would in fact increase the influence of the MFT. Ofcom's advice to the Secretary of State provides little basis for this conclusion.⁴¹

4.32 The Transaction brings about no change to the MFT's interests in News Corp or its newspapers. This is significant because much of Ofcom's discussion of influence focused on claims that the News Corp newspapers are particularly influential. Whatever influence these newspapers provide to the MFT does not change as a result of the Transaction.

4.33 As regards Sky, while the MFT's indirect interest would increase as a result of the increase in 21CF's shareholding, this would not translate into an increase in the actual extent of control exercised and exercisable over Sky News.

- (i) First, the MFT will continue to hold only a minority interest in 21CF, which in turn will continue to have a majority of independent shareholders and a majority-independent board. This represents a significant structural limitation on any scope for the MFT to exert influence over Sky News (with which Ofcom's Report did not engage, as discussed above).
- (ii) Second, as a TV news provider, Sky News is subject to the impartiality requirements of the Broadcasting Code. This requires that broadcast news be presented in the UK with due impartiality and reported with due accuracy, and specifically prohibits expressions of the views or opinions of the person providing the service on matters of political or industrial controversy and matters relating to current public policy.⁴² While these requirements are not absolute,⁴³ at the very least they substantially limit the scope for influence to be exerted through a television news outlet.

⁴⁰ Page 4 of Ofcom's Report, "Advice and recommendation on the plurality consideration": "The Transaction raises public interest concerns as a result of the risk of increased influence by members of the Murdoch Family Trust over the UK news agenda and the political process, with its unique presence on radio, television, in print and online. We consider that these concerns may justify a reference by the Secretary of State to the Competition and Markets Authority".

⁴¹ See section 5 of 21CF's Provisional Decision Response (Annex 2).

⁴² Paragraphs 5.1 and 5.4 of the Broadcasting Code.

⁴³ 21CF notes that in *Sky/ITV* the CC concluded that these requirements do not address the relative prominence given to each story, and Ofcom concluded similarly in its Report. 21CF has previously received advice from leading counsel (provided to Ofcom in the context of the 2010 News Corporation / Sky bid) that the Code requirements do in practice constrain the scope for a proprietor to influence such matters: "Nonetheless, a very great deal of the mischief which the public interest consideration of plurality seeks to achieve is addressed by the regulatory requirement of due impartiality... the provisions in the 2003 Act and the Code governing impartiality help to ensure that, in practice, the owner of a television station (or the news editor) could not intervene to require news items on their own television news service to receive lesser (or indeed greater) prominence, or no coverage, for political reasons." (Legal opinion of Lord Pannick QC and David Lowe dated 15 December 2010, submitted as Annex 1 to News Corporation's response to Ofcom's Issues Letter in relation to the News Corporation / Sky Bid, paras. 30 and 33.) A copy of the advice is provided as [Annex 5](#).

- (iii) Third, as the CC recognised in *Sky/ITV*, television news provision is characterised by a strong culture of editorial independence, in which editors would resist any intervention from the board or shareholders. In turn, this reinforces the relevance of broadcasting regulation, since, as the CC also noted, any breach of impartiality requirements caused by shareholder influence would be likely to be brought to the attention of Ofcom by editorial staff.⁴⁴ Consistent with this, in *Sky/ITV* the CC noted that it had received no evidence to suggest that senior executives at Sky or its parent companies exerted influence on the Sky News agenda.⁴⁵ One of these senior executives was 21CF's current CEO, James Murdoch, who was CEO of Sky from 2003 to December 2007 and is currently Sky's Chairman.
- (iv) Fourth, audience expectations provide a further safeguard. In the UK, consumers expect TV news to be impartial, and the commercial success of TV news providers therefore depends upon providing a service which meets these expectations of impartiality. This also means that any attempt to exert influence through television news would be self-defeating over time, since viewers will switch away, thus reducing the channel's influence as a news outlet.⁴⁶ Given the use of multi-sourcing and the 'disintermediation' of the media discussed below, it is likely that even subtler forms of bias – such as the omission of a significant news story – will be noticed by a material proportion of viewers.

4.34 The CMA should consider the cumulative effectiveness of these safeguards, rather than assessing each in isolation. This is consistent with the approach adopted by the CC in *Sky/ITV*, which concluded as follows regarding plurality:

*Given the extent of the influence conferred on BSkyB by its acquisition of a 17.9 per cent shareholding in ITV, we conclude that the regulatory mechanisms, combined with a strong culture of editorial independence within television news production, are likely to be effective in preventing any prejudice to the independence of ITV news. We do not therefore expect BSkyB's ability materially to influence ITV to have an adverse effect on the plurality of news relative to the position absent the acquisition. We therefore concluded that the acquisition would not materially affect the sufficiency of plurality of persons with control of media enterprises servicing audiences for news.*⁴⁷ (Emphasis added.)

4.35 The CC thus excluded plurality concerns precisely on the basis of a *combination* of these factors, notwithstanding the CC's view that broadcast regulation would not in *isolation* exclude plurality concerns. In contrast, Ofcom's Report largely dismissed the safeguards arising from impartiality requirements, newsroom culture and audience expectations on the basis that none of them "*are sufficient of themselves*", rather than considering their cumulative effect (and also did not consider them in the context of the actual, limited extent of influence arising from a minority shareholding).

4.36 It is particularly important that the CMA should follow the cumulative approach adopted by the CC, given the higher standard applicable in a Phase II inquiry.

⁴⁴ CC Report in *Sky/ITV*, paragraphs 5.68 and 5.69(b).

⁴⁵ Para. 5.57: "Sky [...] emphasized the role of their editorial staff in determining the day-to-day content of their programming. Sky told us that all editorial decisions regarding the content of Sky's various news services were taken by the Sky News editorial staff [...] We received no evidence from third parties to suggest that senior executives at Sky or its parent companies exerted influence on the Sky news agenda".

⁴⁶ Ofcom's Report acknowledges that Sky provided information showing that the majority of viewers consider impartiality important, and that a lack of impartiality might affect viewing figures (para. 9.13).

⁴⁷ Para. 5.75. To similar effect, see para. 37: "[...] We found that there was a strong commitment to editorial independence across television news broadcasting which would lead to editors resisting any intervention from the board or from shareholders to set the news agenda. We also noted that there were a number of internal and regulatory constraints in the production of television news which were likely to limit any possible single minority shareholder influence on editorial decisions."

The Transaction takes place against a background of waning influence of owners over news outlet content and of news outlets over citizens

- 4.37 It is also relevant that the scope for news outlets to exert influence over the political agenda has been substantially eroded in recent years, as a result of the shift of news consumption online and the related use of social media and intermediaries to obtain and share news. The same is true for the ability of the owners of news outlets to influence their content. As such, any potential increase in influence that might result from the Transaction would be more than offset by wider market developments that operate in the other direction.
- 4.38 These developments are discussed in detail in the paper provided as Annex 2 (in particular sections 7 and 8). Some of the key points are summarised below.
- (i) **Increasing impact of audience interests:** online consumption is giving news outlets far more information about audience interests and preferences, through the ability to track metrics such as unique visitors, time-on-site and bounce-rate, as well as which articles are most read and most shared. This information has become a key input into editorial decisions, giving rise to a phenomenon of “reverse agenda-setting”, where audiences influence which stories are covered, how prominently and for how long. In addition, the widespread use of social media such as Twitter by journalists provides audiences with the ability to influence the news agenda through direct interaction. As audiences’ influence over news outlets increases, the corollary is that the influence of proprietors over news outlets declines.
 - (ii) **Requirements of social media platforms:** news outlets are increasingly dependent on platforms such as Facebook for distribution (see Annex 4). Publishers’ content therefore needs to accord to social media’s requirements, ranging from the algorithms social media uses to prioritise posts, to the audience’s expectations when they use such sites. As the tone, presentation and even choice of stories is increasingly dictated by the requirements of social media platforms, the scope for proprietors to exert influence is reduced.
 - (iii) **Declining relevance of the editorial news agenda:** as consumption online increases, news outlets have significantly less control over the distribution of their content, and therefore the ability to set an editorial agenda. In print or broadcast media, placing a story on the front page or towards the top of a bulletin increases the likelihood of it being seen by audiences. Online, however, consumers frequently access specific stories directly through social media or search engines, rather than working through stories on the provider’s homepage in order (at present, less than half of users say direct entry to a provider’s website is the way they come across news online, and this has dropped by nearly 20% in just two years). In such cases, the user neither knows nor cares whether the outlet considered the story their lead. Thus, intermediaries and end-users are increasingly driving which stories receive the most attention, not outlets or their proprietors.
 - (iv) **Disintermediation of the media:** the traditional media is no longer the only means to communicate with mass audiences. Many voices, politicians in particular, can and do speak loudly to citizens, using social media to ‘disintermediate’ traditional media. This means traditional media companies cannot act as gatekeepers or control the news agenda. In fact, research suggests that this is precisely why many people use social media for news: they prefer to hear directly from politicians than have their views filtered by others, or do not trust the media.

The scale and importance of this development is evident from the size of the audiences politicians reach via social media. For example, Jeremy Corbyn has a Twitter following of around 1.4m followers, more than the print readership of the Telegraph or Times (at 1.2m

and 1.0m respectively), while the official @Number10gov account has 5.3m followers, larger than the readership of any print newspaper. Its ramifications are also clearly demonstrated by the US presidential election, in which (now-President) Donald Trump used social media to outweigh a hostile traditional media environment. In 2012 Trump said explicitly that a large Twitter following is “*like having your own newspaper*”,⁴⁸ and since the 2016 election he has commented “[*t*]he fact that I have such power in terms of numbers with Facebook, Twitter, Instagram, etc., I think it helped me win all of these races where they're spending much more money than I spent”

- (v) **Increased breadth of sources:** as described above, the internet encourages multi-sourcing of news outlets. Survey data indicates that a significant majority of online news users seek out a range of views on stories that interests them, and a key reason why users consume news via social media and aggregators is that it serves as a simple way to access a variety of news sources.
- (vi) **Lighter news offers online for some providers:** news distribution via the internet changes the nature of content distributed. There has been a trend on the part of some news outlets towards “softer” news, and more light-hearted subject matter, driven in great part by the influence of social media intermediaries, and the search by traditional news providers for the digital reader. If news outlet carries a greater proportion of “soft” stories online, its online presence has less potential to influence the political process. In particular, certain online newspapers (notably including the *Sun*) publish online a greater proportion of soft content, with little relevance to public political discourse. As commentators have recognised, this reduces the scope for influence to be exerted through them.

4.39 The 2017 general election provides a case study that clearly illustrates the effect these changes have already had. As discussed in detail in section 8 of the report provided as Annex 2, despite exerting all the influence they had, newspaper titles, including the *Sun*, were unable to sway the outcome. Instead, social media played an enormous role in determining which media stories were consumed (often from sources well outside the mainstream media) and, crucially, in enabling the campaigns to bypass the traditional media. Following the election, there has been widespread agreement that the election showed the influence of the press has substantially waned. Similar evidence arises from the 2016 EU referendum campaign, also discussed in section 7 of Annex 2.⁴⁹

5. THE TRANSACTION WILL NOT OPERATE AGAINST THE PUBLIC INTEREST IN MEDIA PLURALITY

5.1 Drawing together the points above, in order to conclude that the Transaction would operate against the public interest in terms of the media plurality public interest consideration, the CMA would have to reach the view that: (i) the Transaction would result in a significant reduction in plurality; and (ii) that reduction would result in insufficient plurality. 21CF would submit that to reach either of these conclusions, the CMA would have to accept all of a number of implausible propositions.

5.2 In order to reach the view that the Transaction would result in a significant reduction in plurality, the CMA would need to conclude, at least, all of the following:

- (i) that the actual extent of the influence resulting from the MFT’s minority shareholding of approximately 39% in each of 21CF and News Corp is sufficient to enable it to co-ordinate the editorial output of those company’s news outlets, notwithstanding the presence of independent board majorities and independent shareholder majorities at each company;

⁴⁸ @RealDonaldTrump, 17 October 2012.

⁴⁹ For further discussion of Facebook’s role in the general election and referendum campaigns, please refer to the case studies in Annex 4.

- (ii) that the increase in 21CF's shareholding in Sky from 39% to 100% makes a significant difference to the MFT's ability to bring about such co-ordination;
- (iii) that the MFT would attempt to exert control over Sky News following the Transaction, notwithstanding the clear conclusion reached in *Sky/ITV* that Sky and its shareholders had not exerted influence over Sky News, and despite the specific measures 21CF has already put in place to preserve Sky News' editorial independence⁵⁰;
- (iv) that attempts to exert control would significantly impact Sky's output, notwithstanding the combined effect of broadcasting regulation, the culture of editorial independence in TV news provision and commercial imperatives arising from audience expectations (a combination the CC found in *Sky/ITV* would be sufficient to prevent a minority shareholder exerting influence over editorial decisions), as well as pressure on the news agenda arising from other traditional media and new media;
- (v) that the effects on Sky's news agenda would significantly impact political discourse, notwithstanding:
 - (A) the modest position of Sky within the cross-media landscape, as evidenced by the quantitative data on news consumption presented in Ofcom's Report – in particular having regard to the far stronger position of the BBC;
 - (B) multi-sourcing by citizens, facilitated by increasing online consumption through intermediaries and social media;
 - (C) the increasing disintermediation of the media; and
 - (D) the diminishing trust in Sky News' output that would result over time from any departure from rigorous impartiality.

5.3 Even if one accepted all of these propositions, in order to conclude that the Transaction would thereby result in insufficient plurality and justify an adverse public interest finding, the CMA would have to believe that plurality is currently 'close to the line', rather than substantially in excess of 'sufficient', as 21CF would submit. This would require one also to accept, at least, all of the following:

- (i) that the rise of social media, the redistribution of share of voice by the internet, the rise of disintermediation, the decline in proprietors' influence over news outlets, the declining relevance of the editorial news agenda, online multi-sourcing and the vast and ready availability of news online has not enhanced plurality;
- (ii) that the 2017 General Election does not demonstrate ample plurality, despite the evident and widely recognised inability of traditional media to exert influence effectively;
- (iii) that the sufficiency of plurality depends upon the eighth-ranked news provider, News Corp, accounting for just 3% of news consumption, remaining under no greater degree of common ownership with Sky (accounting for just 6% of news consumption) than is presently the case;
- (iv) that the UK authorities were wrong not to be concerned about recent media mergers such as the acquisition of UTV by ITV (a more significant news provider than a full combination of 21CF, Sky and News Corp would be in aggregate); and

⁵⁰ See paras. 2.25 to 2.27 above.

- (v) that plurality was insufficient at the time the Communications Act 2003 was enacted, given that the post-Transaction situation would on any reasonable view be considerably more plural than in 2003. This in turn would require one to believe that Parliament made the perverse decision to deregulate media ownership at a time when it believed plurality to be insufficient.

5.4 21CF would submit that none of the propositions described above is correct. However, on any reasonable view, it seems wholly implausible that *all* of them hold. 21CF looks forward to engaging with the CMA on each or any of these points.

6. CONCLUSION

6.1 For the reasons set out above and in the accompanying Annexes, 21CF believes that the Transaction cannot reasonably be expected to operate against the public interest in terms of the media plurality public interest consideration. 21CF is confident that a considered, in-depth review will confirm this.

Allen & Overy LLP
27 September 2017

21ST CENTURY FOX, INC. / SKY PLC

Response of Twenty-First Century Fox, Inc. to the Secretary of State's provisional decision on reference

1. INTRODUCTION AND EXECUTIVE SUMMARY

- 1.1 This submission is made on behalf of Twenty-First Century Fox, Inc. (**21CF**) in response to the Secretary of State for Digital, Culture, Media and Sport (the **Secretary of State**)'s provisional decision to refer 21CF's proposed acquisition of the remaining shares in Sky plc (**Sky**) (the **Transaction**) to the Competition and Markets Authority (**CMA**) on the grounds of the media plurality public interest consideration set out in section 58(2C)(a) of the Enterprise Act 2002 (**EA 2002**) (the **Media Plurality PIC**).
- 1.2 21CF welcomes the Secretary of State's provisional decision, based on Ofcom's advice contained in its report to the Secretary of State of 20 June 2017 (the **Report**), not to make a reference on the grounds of the broadcasting standards public interest consideration set out in section 58(2C)(c) of the EA 2002 (the **Broadcasting Standards PIC**). 21CF is fully committed to the attainment of these standards, as represented to the Department for Culture, Media and Sport (as it then was) (**DCMS**) at the time of the "minded to" decision to intervene on the grounds of the Broadcasting Standards PIC. 21CF focuses its representations on matters of media plurality.
- 1.3 With regard to the Media Plurality PIC, 21CF recognises that Ofcom's role in media plurality cases is to provide the Secretary of State with advice in the context of a first-stage review, in which the threshold for reference is not set at a high level (a point the Report emphasises (para. 3.7)). 21CF understands that in this context, there may be issues on which Ofcom did not feel able to take a definitive view at this stage (indeed, as discussed further below, the Report does not reach firm conclusions on a number of material points). As a result there are several aspects of the Report on the Media Plurality PIC that lead Ofcom to overstate the possible implications of the Transaction for sufficiency of media plurality in the UK and do not adequately engage with the statutory framework within which Transaction falls to be assessed or the full body of evidence.
- 1.4 Nevertheless, in light of the difficulties in reaching definitive views at Phase I, 21CF has offered undertakings (the **Proposed Undertakings**) with a view to avoiding the delay and expense that would result from a protracted CMA review. The Proposed Undertakings comprehensively address the preliminary concerns raised by Ofcom, and 21CF welcomes that Ofcom recognises in its report that they mitigate those concerns. Under the relevant statutory framework this conclusion provides a clear legal basis on which the Secretary of State could accept the Proposed Undertakings (as the Secretary of State herself has stated).
- 1.5 A decision to refer the Transaction for a lengthy Phase II review and not to accept the Proposed Undertakings, which Ofcom found would mitigate the public interest concerns raised in its Report, would further delay a transaction which has been recommended by Sky's independent directors to its shareholders; which will ensure that Sky remains at the forefront of Europe's creative industries in a rapidly changing global media environment; and which will benefit the UK creative economy as a whole. As part of the Transaction, 21CF has publicly stated its intentions to complete Sky's £1bn investment programme at its UK HQ, to continue investment in employees across all of the UK, to maintain the parties' major investments in TV and film production in the UK (of around £700m per

year), and to continue Sky's standard of excellence in investing in business and community initiatives.¹

1.6 21CF therefore regrets and is disappointed that the Secretary of State is minded not to follow Ofcom's advice in this respect and instead to refer the Transaction to a protracted and unnecessary CMA review.

1.7 As mentioned above and set out in Sections 2 to 5 below, there are several aspects of the Report on the Media Plurality PIC that lead the Report to overstate significantly the possible implications of the Transaction for media plurality. 21CF is confident that an in-depth CMA review would address these issues and conclude that the Transaction will not result in *insufficient* plurality of persons with control of media enterprises (the statutory question to be addressed by the Secretary of State's decision).

(i) Section 2 of this submission responds to the Report's assumption on the basis of which "*Fox, Sky and News Corp* [are assessed] *as a single entity*" (para 2.5):

(A) First, 21CF does not dispute that the statutory framework permits the Secretary of State in assessing the Transaction to take account of activities carried on by companies under common material influence with 21CF. However, that does not mean they can be treated as a "single entity" on the basis of a legal fiction. This is made clear by the judgment of the Court of Appeal in *Sky/ITV*, which requires an **analysis of the actual degree of control exercised and exercisable over media outlets**. Despite purporting to take account of the judgment of the Court of Appeal in *Sky/ITV* there is little evidence of this in the Report.

Instead, it treats the Transaction as combining Sky News and News Corp into a "*single entity*", rather than assessing the actual extent of common control over them before and after the Transaction, in particular in relation to editorial matters. If one were to proceed on the basis of a legal fiction under which 21CF, Sky and News Corp are already considered a single entity because of common material influence, **the Transaction would bring about no change to the status quo**. A review that engaged with the actual (limited) extent of common control of news outlets post-Transaction, and the (limited) extent of the change brought about by the Transaction, would be bound to conclude that the Transaction will not significantly affect media plurality and certainly would not result in insufficient plurality.

(B) Second, and related to this, the Report **does not address the fundamental legal question that any final decision would need to address: whether the Transaction would result in insufficient plurality** of persons with control of media enterprises. This requires consideration not only of the effects of the Transaction, but also a view as to what level of plurality may be sufficient, and on the existing level of plurality in the absence of Transaction and taking into account the existing relationships between the merging parties. 21CF is confident that a review that took into account the high existing levels of plurality and employed an appropriate benchmark (reflecting relevant statutory guidance) would conclude that the Transaction would not result in insufficient plurality.

¹ See the intention statements set out in the Rule 2.7 dated 15 December 2016 (page 14).

- (ii) Section 3 of this submission describes the reasons why **the Report does not fully engage with the effects of the growth of online news and presents those effects as potential changes whilst they are demonstrably already present.** The Report correctly recognises that online news is bringing about change in news consumption and provision, that these changes will continue, and that they are potentially transformative for news consumption and plurality. However, Ofcom appears to have felt unable to draw firmer conclusions regarding the effects of these changes in the course of its review. This caution is not warranted. The transformative effects of online news, in terms of availability, consumption and influence are already clear, and 21CF believes that any more detailed review will recognise this, also in the light of most recent events.
- (iii) Section 4 of the submission identifies **a number of technical flaws and limitations in the Report's assessment of the quantitative evidence** that is cited in support of its conclusion that the Transaction will result in plurality concerns. In particular:
- (A) Far from providing cause for concern, the cross-platform metrics used in Ofcom's analysis show that the combination of 21CF, Sky and News Corp would in broad terms amount to the moderate strengthening of the third-largest provider. In terms of reach at both retail and wholesale level, the combination would remain in third place (at 30% and 31% respectively), far behind the BBC (at 77% on both levels) and some way behind ITV (at 34% and 39% respectively). This combined reach is less than each of Sky and News Corporation *individually* in 2010. Applying Ofcom's bespoke share of references metric, the combination would be broadly comparable to ITV/ITN (10% vs. 11% at wholesale level; 10% vs. 9% at retail level) and far behind the BBC, which accounts for 42% of news provision at both wholesale and retail level. It is far from obvious why this raises plurality concerns: 21CF is not aware of anyone arguing that ITV/ITN's position is a threat to media plurality.
- (B) The Report contains a number of errors relating to its assessment of the impact of the shift in news consumption online. In particular, it understates the extent of online multi-sourcing by treating each social media outlet as just a single source, while overstating the importance of online consumption of the *Sun* (for example, by treating someone who clicks on a *Sun* article once a month as equivalent to someone who reads the paper in print every day).
- (C) The Report repeatedly overstates the position of News Corp through an inappropriate and inconsistent focus on 'UK-wide' newspapers, which omits titles with significant national news coverage (such as the *Evening Standard*, now edited by former Chancellor of the Exchequer George Osborne) while at the same time failing to account for the fact that News Corp's Scottish titles are *not* UK-wide newspapers, but distinct regional titles that take their own editorial lines. (Relatedly and more generally, the Report disregards internal plurality within News Corp, despite concrete evidence of this from the different approaches and editorial lines of the News Corp newspapers – a striking example is that the *Sun* and the *Times* took diametrically opposed views on Brexit, while the *Scottish Sun's* approach differed from that of the *Sun* in England and Wales.)
- (iv) 21CF would expect a more detailed review to correct these errors, and ultimately to reach the conclusion that the available evidence shows a healthily plural landscape,

in which even a full combination of 21CF, Sky and News Corp would be very far from a dominant player and certainly not result in insufficient plurality.

- (v) Section 5 of this submission responds to **the Report's preliminary assessment of the alleged influence of the MFT and members of the Murdoch family on the news agenda and political process.**
 - (A) Related to the points made above, the Report fails to give sufficient weight to the role of online players such as Facebook, Google and Twitter (which receives little attention in the report) in diluting the influence of traditional news outlets. Instead, it relies on evidence (notably from the Leveson Inquiry) that pre-dates much of the transformation of agenda-setting that has resulted from these developments, and is therefore not informative as to the current influence of news outlets and their proprietors. It also fails to draw conclusions from more recent and clear-cut evidence emerging from the 2017 general election.
 - (B) Further, the Report is inconsistent in its approach to influence. It suggests that newspapers (including those of News Corp) may have greater influence than their (modest) share of references might suggest, but does not take into account the corollary that Sky News (and the Wireless Group radio stations) must then have less. This follows from the zero-sum nature of influence: if one organisation has greater influence, the other necessarily has less.
 - (C) An additional point that the Report does not account for is that the possibility of a news story being picked up by other outlets and shaping the wider news agenda tends to enhance the relative share of influence of smaller, rather than larger, players. For example, if the *Mail* breaks a story but it is then picked up by the *FT*, it makes relatively little difference to the overall number of people who see it. Conversely, if the *FT* breaks a story and it is then covered by the *Mail*, this greatly increases its audience.
- (vi) Crucially, by not giving sufficient weight to the legal framework established by the Court of Appeal in *Sky/ITV*, the Report also does not adequately explain how the Transaction would result in the MFT and members of the Murdoch family having an increased ability to influence the news and political agenda. 21CF is confident that a proper consideration of the corporate, regulatory and cultural reasons why the MFT or the Murdoch family would continue to have no ability, or incentive, to influence the agenda of Sky News post-Transaction would result in the CMA identifying no plurality concerns.

1.8 The DCMS letter of 29 June 2017 also provided a second reason why the Secretary of State is minded not to accept the Proposed Undertakings: that they are “behavioural in nature”. Drawing an analogy with competition cases, DCMS notes that the CMA “*is highly unlikely to accept behavioural remedies at phase P*”. As described in Section 6 of this submission, 21CF considers that this approach, which does not follow Ofcom’s advice in the Report, is unwarranted.

- (i) The Secretary of State’s ‘minded to’ decision places undue weight on a rigid distinction between ‘behavioural’ and structural’ undertakings, by analogy with guidance that does not itself give such weight to the distinction.
- (ii) The relevant question is not whether the undertakings are behavioural or structural, but whether those undertakings are an effective solution to the specific concerns raised in a particular case. In this case, the concerns Ofcom raised after its first-

stage review related to the possibility of influence being exerted over the editorial agenda of Sky News. The undertakings were tailored to address this issue, by providing substantial safeguards for the editorial independence of Sky News, as Ofcom's advice recognised. Ofcom considered the relative merits of the Proposed Undertakings and structural separation, and concluded that the Proposed Undertakings were more appropriate in this case.

- (iii) In such circumstances, the acceptance of behavioural undertakings – even at Phase I – is expressly envisaged by the CMA guidance to which the Secretary of State refers.
- (iv) Moreover, the Proposed Undertakings are not necessarily capable of a binary classification: they contain a structural component, in that they provide for the creation of a separate editorial board tasked with guaranteeing the independence of Sky News. This would effect a structural separation of governance for Sky News, decisively removing any potential for influence to be exerted over the editorial policy of Sky News.
- (v) It is therefore disappointing that the Secretary of State is nevertheless minded to apply a formalistic distinction, rather than considering 21CF's proposal on its actual merits and, if necessary, communicating to the parties any enhancements she believes are required to fully address her concerns.

1.9 21CF would have expected the Secretary of State to consult in an open and transparent manner with the CMA regarding the appropriateness of the Proposed Undertakings – 21CF believes the CMA would also have supported Ofcom's conclusions without the need for a lengthy and expensive Phase II review, or the consequent delays to a transaction that will benefit not only the parties, but the UK economy as a whole.

1.10 Again, 21CF regrets and is disappointed that that the Secretary of State is minded to instigate a protracted, costly and unnecessary review of the Transaction, despite 21CF's willingness to address the concerns raised by Ofcom in an effective manner (which Ofcom recognised mitigated its concerns). However, 21CF remains committed to working constructively with the UK authorities and will put its case to the CMA, should the Secretary of State so require. 21CF would encourage the Secretary of State to take her final decision on this at her earliest convenience, so as to avoid unnecessary delay, in particular given the review timetable has already been extended significantly as a result of the general election.

2. THE REPORT PROCEEDS AS IF THE TRANSACTION CREATED A “SINGLE ENTITY” COMPRISING 21CF, SKY AND NEWS CORP AND DOES NOT ENGAGE WITH AN ASSESSMENT OF CHANGES OF ACTUAL CONTROL AND IMPACT ON PLURALITY UNDER THE RELEVANT LEGAL FRAMEWORK

2.1 21CF recognises that Ofcom’s role in media plurality cases is to provide the Secretary of State with advice in the context of a first-stage review, in which the threshold for reference is not set at a high level (a point the Report emphasises (para. 3.7)) and in which tighter time constraints apply than in an in-depth review. 21CF understands that in this context, there may be issues on which neither Ofcom nor the Secretary of State feels able to take a definitive view.

2.2 Even recognising this, though, it is nonetheless clear that any analysis of media plurality – whether in a first or second-stage review – should be conducted on the basis of the relevant legal framework. There are material respects in which the Report falls short of this:

- (i) the Report does not analyse the actual extent of control exercised and exercisable by the MFT over news outlets, pre- and post-Transaction; and
- (ii) the Report does not adequately link its conclusions to the fundamental legal question of the sufficiency of plurality of persons with control of media enterprises.

2.3 21CF is confident that a review giving due attention to these points would conclude that the Transaction does not raise plurality concerns.

The Report does not adequately consider the actual extent of control exercised and exercisable by the MFT over news outlets

2.4 As 21CF has previously submitted, a central aspect of the applicable legal framework is that the impact of the Transaction on media plurality is to be assessed on the basis of the actual extent of control exercised and exercisable over the relevant media outlets; not on the premise that media outlets under a degree of common influence present a single voice. This follows from the judgment of the Court of Appeal in *Sky/ITV* that:

“when it comes to assessing the plurality of the aggregate number of relevant controllers and to considering the sufficiency of that plurality, the Commission may, and should, take into account the actual extent of the control exercised and exercisable over a relevant enterprise by another, whether it is a case of deemed control resulting from material influence under section 26 or rather one of actual common ownership or control.”²

2.5 The Report purports to have taken this judgment into account (para. 3.27). However, there is little evidence of this in the Report. To the contrary, the Report proceeds on the basis that the Transaction “brings [News UK and Sky] under the material influence of the Murdoch Family Trust” (para 1.4) and states that Ofcom has “assessed Fox, Sky and News Corp as a single entity” (para. 2.5). This is explained on the basis that the MFT, by virtue of its shareholdings in both News Corp and 21CF and the positions held by members of the Murdoch family at both companies, has material influence over both companies. This approach is said to be consistent with section 26 of the EA 2002 (paras. 2.5, 3.23-3.25).

2.6 21CF does not dispute that the statutory framework permits the Secretary of State in assessing the Transaction to take account of activities carried on by companies under common material influence with 21CF. However, that does not mean they can be treated as a “single entity”.

² Para. 121.

- 2.7 The judgment of the Court of Appeal makes clear that this is not the effect of section 26 of the EA 2002. What is instead required is an assessment of the Transaction in light of the actual extent of control exercised and exercisable by the MFT over news outlets, pre- and post-Transaction. If this were not the case, the review of the Transaction could stop there, since Sky would already be deemed part of that same “single entity” by virtue of 21CF’s existing shareholding. The Transaction would therefore bring about no change to the *status quo*.
- 2.8 The substantive discussion of the effects of the Transaction in the Report does not, however, address this.
- (i) As 21CF understands it, the concern articulated in the Report is essentially that the MFT and members of the Murdoch family would be able to exert influence as a result of the Transaction, principally by aligning the editorial output of Sky News with that of News Corp’s outlets (paras. 9.7 and 9.8). However, the Report does not explain how the Transaction would actually result in the MFT or members of the Murdoch family having the extent of control required to achieve this, or how this would occur in practice, given that it has not occurred in the past despite the existing links with 21CF.
 - (ii) In particular, the Report’s assessment of the Transaction does not acknowledge the structural limitations on the MFT’s ability to influence the news outlets owned by 21CF and News Corp post-Transaction arising from the fact the MFT will remain a minority shareholder in both companies, and that the majority of both companies’ boards are independent and unconnected with the MFT. Notably, this is not even mentioned in section 9 of the Report, which purports to deal with matters of internal plurality. This is despite the weight Ofcom placed in 2010 on the differences between minority and full ownership, and on the continued presence of independent directors and shareholders.³ 21CF would respectfully suggest that the Report cannot be said properly to have analysed the actual extent of control without discussing this in some detail.
 - (iii) Although the Report states that it has taken into account 21CF’s existing shareholding in Sky (para. 13), it does not set out precisely what it is that could be done post-Transaction that cannot be done at present to give rise to plurality concerns. The Report only states that “*Full control would allow Fox to do a number of things it cannot do at present, including taking decisions which are in the exclusive commercial interests of Fox*” (para 3.26). However, no reason is given why decision-taking in 21CF’s commercial interests might lead to alignment of the Sky News editorial agenda with that of News Corp.
- 2.9 In addition to these factors, as described further in Section 5 of this submission, there are other strong, mutually reinforcing reasons why the MFT would not have the ability or incentive to exert influence over editorial decisions at Sky News post-Transaction. These include impartiality requirements under the Broadcasting Code, the strong culture of independence in television news and audience expectations of impartiality (and the editorial board offered as part of the Proposed Undertakings).

³ Ofcom, Report on public interest test on the proposed acquisition of Sky by News Corporation, 31 December 2010, paragraph 2.24 “*Full control will allow News Corp to do a number of things it cannot do at present, for example to take decisions which are in the exclusive commercial interests of News Corp*” and paragraph 5.59: “*The main concern raised has been that, given the proposed acquisition will result in full ownership of Sky by News Corp, internal plurality for Sky News cannot be guaranteed. Representations argue that this is because the proposed acquisition will result in the loss of independent shareholders and the removal of the existing independent directors who currently help protect the independence and diversity of Sky News.*” See further paragraphs. 4.19 – 4.21 of 21CF’s Initial Submission.

- 2.10 It therefore appears that, rather than assessing the actual extent of control exercised and exercisable over the relevant media outlets by the MFT as a result of the-Transaction, the Report has for all practical purposes treated it as if it brought Sky under full common control with News Corp. This is neither factually accurate nor consistent with the legal framework set out in the Court of Appeal’s judgment. A review that engaged with the actual (limited) extent of common control of news outlets post-Transaction, and the (limited) extent of the change brought about by the Transaction, would be bound to reach more moderate conclusions regarding its implications in respect of the Media Plurality PIC.

The Report does not adequately link its conclusions to the fundamental legal question of the sufficiency of plurality

- 2.11 A further gap in the Report is that it does not explain how any change brought about by the Transaction could result in *insufficient plurality*. As the Report recognises, the fundamental legal question before the Secretary of State is whether the Transaction may be expected to result in insufficient plurality of persons with control of the media enterprises in the UK (para. 11.1), reflecting the formulation of the Media Plurality PIC.

the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience (emphasis added.)

- 2.12 Despite this, the Report’s conclusions are couched not in terms of the sufficiency of plurality, but in terms of the supposed risk that the MFT members of the Murdoch family will hold increased influence as a result of the Transaction (paras. 1.9-1.10).
- 2.13 21CF recognises that the extent of any one media owner’s influence forms part of Ofcom’s definition of media plurality. However, an adverse public interest finding cannot be based simply on a finding of increased influence, without going on to consider whether that change results in insufficient plurality. This involves both forming a view, at least in broad terms, on the level of plurality that is sufficient, and taking account of existing levels of plurality. Since the Report does not address these questions, its analysis is necessarily incomplete.
- 2.14 21CF is confident that a review that did address these questions would conclude that the Transaction poses no risk of insufficient plurality. 21CF has provided substantial evidence in previous submissions that levels of plurality in the UK are high and increasing, as further discussed below. In addition, the applicable statutory guidance makes clear that the purpose of the Media Plurality PIC is to ensure a “*minimum level of plurality*” and guard against “*unacceptable levels of media and cross-media dominance*”,⁴ not to prevent any increase in influence.

3. THE REPORT DOES NOT FULLY ENGAGE WITH THE EFFECTS OF THE GROWTH OF ONLINE NEWS

The Report does not take sufficient account of the positive effect that online news has already had on plurality by supplementing and complementing traditional news outlets

- 3.1 In the Report, Ofcom recognises the significant effects that the growth in the use of the internet for news has had on the news market, and in addition acknowledges the “*transformative*” potential of this growth for news consumption and plurality in the future (para. 6.55). However, 21CF believes that, even within the confines of a first-stage review, the Report’s conclusions do not take sufficient account of these effects, and is confident that a full review by the CMA would allow different conclusions to be drawn.

⁴ DTI Guidance, paragraph 7.7 (emphasis added).

- 3.2 The Report makes clear that the rapid growth in the provision and use of online news has “*disrupted the news market*” (para. 6.54). In particular, Ofcom recognises that “*a wide range of providers, offering a diverse range of viewpoints, is now available online*”, and that “*intermediaries are changing the way news is discovered, and social media has played a significant role in disrupting the news cycle*”. It also notes that it expects these changes to continue in the future (paras. 6.54 and 6.57).
- 3.3 Despite this, however, Ofcom stops short of drawing conclusions regarding the effects of these changes on plurality. The Report repeatedly characterises the impact of developments online as uncertain. For example, it states that expects news provision and consumption to continue changing in future, but that this only “*may affect plurality*”, and then states that “*the exact nature of these changes is uncertain*” (para. 6.57, emphasis added). In a similar vein, the Report suggests that, in the near to medium term “*it is not clear that the data presented in this report would change to any meaningful extent*” (para. 6.61, emphasis added). The Report goes on to say that online consumption of news “*does not appear to have resulted in traditional news outlets being replaced by new entrants with online only models*”, and that it cannot be said “*with any certainty that the rise of online and development of news commercial models will undermine traditional models in the near to medium term*” (para 6.61, emphasis added).
- 3.4 While recognising the constraints of a first-stage review, 21CF considers this aspect of the Report to be unduly cautious, and that it fails to give due weight to substantial evidence of the significant effects that the shift of news consumption online have already had.
- 3.5 It appears this may reflect a misapprehension as to the nature of these effects and/or the use of too high a standard in considering them. The Report concludes that online provision has not “*replaced*” traditional providers, and that it cannot be said with certainty that the rise of online will “*undermine*” traditional models in the near to medium term. But it is not necessary for online services to “*replace*” or “*undermine*” traditional providers to be significant. They also contribute to plurality by supplementing and complementing them, and by affecting how consumers access traditional providers’ content.
- 3.6 21CF’s concern that the Report has not fully engaged with these issues is reinforced by the way in which it mischaracterises 21CF’s previous submissions. The Report summarises 21CF’s argument as being that “*the ‘extraordinary expansion of online news provision’ has undermined the reach of traditional news outlets*” (para. 6.27, emphasis added). 21CF’s argument is not that the expansion of online has reduced the proportion of the population reached by traditional news outlets. In fact, the rise of the internet and mobile devices has made it easier for consumers to find access a wide range of outlets. This is a positive contribution to plurality, and one that the Report does not sufficiently address, since it understates the true extent of online multi-sourcing by treating each social media outlet as just a single source (see Section 4 below).

The Report does not give sufficient weight to the role of social media and intermediaries in diluting the influence of traditional news outlets

- 3.7 What *has* been undermined is the *influence* of traditional news outlets and their proprietors. As explained in detail in previous submissions (and in Section 6 below), this results from the role of social media and intermediaries in shaping online consumption and connecting the public directly with key opinion-formers and political figures. This has already substantially weakened the ability of traditional media to exert influence, by diluting the extent to which they can determine which stories form part of the news agenda, and by removing their power as gate-keepers for mass communication.
- 3.8 21CF believes that a more detailed review would give greater weight to the impact of online news provision and consumption, because it would take full account of such subtler, but nevertheless

critical, ways in which online affects the news landscape. While the Report engages to some extent with 21CF's previous submissions regarding these developments, 21CF would respectfully suggest that the Report's analysis is both too limited and flawed in material respects.

3.9 The Report summarises 21CF's previous points regarding the impact of online on traditional providers as follows:

- (i) audiences influence which stories are covered, and how;
- (ii) intermediaries reduce the impact of tone, prominence and selection decisions by news outlets, and consumers can access individual stories directly, not via an outlets homepage; and
- (iii) news outlets are being disintermediated, by politicians and others reaching mass audiences directly through social media and other routes

(21CF had also made the point that consumers can and do cross-check and use a breadth of sources online.)

3.10 Notwithstanding the evidence provided by 21CF, Ofcom asserts "*[i]t is not clear that the impact of traditional news providers has been significantly weakened by the growth in use of online news*" (page 74). This conclusion reflects several errors, discussed below.

Audience influence on which stories are covered and how

3.11 The Report argues against the influence of audiences by saying that traditional providers retain control over the news they produce and its tone; the prominence they give to stories; and what stories they promote (via social media or otherwise) (para. 7.23).

3.12 21CF accepts that news outlets make editorial choices, but the point is that those choices are increasingly influenced by audience considerations, not the owner's views. This is positive for plurality, *even if* each outlet retains ultimate control of story selection, tone and so on.

3.13 There is widespread recognition that the dynamics of online consumption are indeed altering the story choice and the nature of content from traditional outlets. For example, in the Weimann & Brosius paper cited by Ofcom, the authors say:

*"News organizations often monitor and react to online search trends ... which leads to 'reverse agenda setting'"*⁵

3.14 Stephen Glover (a founder of the Independent and more recently a contributor to the *Mail* and the *Oldie*) has said:

"The question is how powerful online newspapers are as propaganda vehicles. I suggest they are much less powerful as political vehicles than their print counterparts because that's not what they are there to do.

*"They are not about views and columnists, they are about other things. The press is as biased as it has ever been but it is much less important and social media has become more important."*⁶

⁵ Weimann, G. and Brosius, H. "A New Agenda for Agenda-Setting Research in the Digital Era" in *Political Communication in the Online World: Theoretical Approaches and Research Designs*. Ed. Vowe, G. & Henn, P., December 2015, p. 31.

⁶ Dominic Ponsford, "[Stephen Glover interview: 'Detestation for the Mail has risen enormously but it's based on a misconception of the Mail's power'](#)", *Press Gazette*, 30 June 2017.

- 3.15 According to the Report, in their submission to Ofcom Ed Miliband, Ken Clarke, Sir Vince Cable and Lord Falconer suggested that:

“the use of intermediaries may affect the type of news consumed and produced, arguing news providers are increasingly focusing on types of content that are better suited to sharing through intermediaries, such as opinion pieces, commentary and entertainment content, instead of news reporting.”⁷

- 3.16 Indeed, media organisations are increasingly feeling obliged to create different versions of their product adapted to the nature of each online social media outlet. According to the New Statesman:

“Of course all these newspapers have digital operations - in the case of The Daily Mail's online sister title Mail Online, the largest English language news site in the world. But being part of a digital news consumer's varied diet of articles is very different to being a print reader's main, or sometimes only, source of information. And in search of digital readers, most right-wing newspapers have moved into more frivolous subject matter. It's entirely possible for a regular reader of The Mail's sidebar of shame to never see one of its Corbyn bashing front pages.”⁸

- 3.17 In describing the Sun's move onto Snapchat, Digiday said:

“the Sun promises to not simply replicate the paper onto Snapchat, instead covering more positive, uplifting news and celebrity gossip with that British self-deprecating sense of humour. The Snapchat editions will be highly visual by necessity.”⁹

- 3.18 Indeed, the Report itself, in arguing that traditional players retain their impact online, says:

“Many news providers now employ staff whose role is to ensure headlines appear prominently on search engines. For example, The Sun recently advertised a job for an ‘SEO [search engine optimisation] Editor’, whose responsibilities would include recommending relevant keywords to journalists to drive traffic”¹⁰

- 3.19 This is certainly a way in which outlets (both traditional and new) are seeking to capture traffic – but the key point is that the Google algorithm is now a driving factor in the content produced by news outlets. A headline (for example) is no longer the creation just of the editor, but is distorted to incorporate relevant keywords.

Reduced impact of prominence decisions

- 3.20 The Report notes that news outlets still determine the position of stories on their home page, and that using the home page or apps are still *“the most popular ways ... to access news content”* (para. 7.23.2).¹¹ Ofcom's evidence for this is its news survey, which found that 46% mostly or often did so.

- 3.21 However, this is not an entirely accurate characterisation of the survey results. The relevant question is *“How often, if at all, you do each of the following when you want to get news?”* (emphasis added). The ‘when you want to get news’ is a crucial narrowing of the question. It implies occasions when the respondent is actively seeking news, and certainly on such occasions going to a news site is an obvious response.

⁷ Para. 4.41.

⁸ Jasper Jackson, *“Labour's success shows the political hegemony of the right-wing press is ending”*, New Statesman, 10 June 2017.

⁹ Lucinda Southern, *“The Sun launches on Snapchat Discover, plans a dozen pieces of content daily”*, Digiday, 26 April 2016.

¹⁰ Para. 7.23.5.

¹¹ Para. 7.23.2.

3.22 However, the critical importance of social media is that it delivers news to audiences even when they are not seeking it. Users may check Twitter or Facebook, and see news, even if that was not their purpose. A question focused on what consumers do ‘when you want to get news’ will inevitably miss this effect, and therefore cannot be used to determine how consumers access news in general (as the Report tries to do).

3.23 Moreover, according to the Reuters Institute:

“Users of search, social media, and online aggregation services are significantly more likely to see sources they would not normally use.”¹²

3.24 This is a particularly important form of multi-sourcing, in that it may be more likely to take a consumer to conflicting views than would deliberately sourcing from a set of (perhaps) concordant sources. Further, if a consumer is taken to a source they would not normally use, then the option of going to the home page of that source does not arise in the first place.

Disintermediation

3.25 While the Report acknowledges the reality of disintermediation, it largely sets it aside. The basis given is that *“people often look to traditional providers to help them navigate the range of news content now available online, as well as to help them contextualise and validate stories provided by other sources.”¹³* However, the Report offers just one source for this claim – a paper from 2012. Since that date, there has been ever-increasing evidence that disintermediation is an important factor, diluting the influence of traditional news providers. Today 42% of those using social media for news follow at least one politician.¹⁴

3.26 Moreover, the 2017 election has provided a clear case study of the importance of disintermediation. This has already been widely recognised, and the Report’s hesitancy to draw lessons from this is unduly cautious. A much cited example is the video of Jeremy Corbyn in conversation with Grime star Jme, widely available via social media. This single video had 2.2m views on Facebook, and over 350,000 on YouTube.¹⁵ This is reach that would simply have been impossible for a politician in the past, other than via major media outlets. However this was just part of Corbyn’s reach online. For example, his Facebook page saw 4.4m engagements in the last month of the campaign.¹⁶

3.27 Momentum used Facebook to reach even larger audiences. In just the last week of the election, their videos were watched 23m times by 12.7m unique users.¹⁷

3.28 While Labour had the advantage online in 2017, the Conservatives too were able to reach mass audiences this way. For example, a video attacking Jeremy Corbyn on Facebook has been viewed 8.2m times.¹⁸

3.29 The FT, under the headline *“Labour’s slick online campaign outguns Tory press”* recently wrote:

“Nearly 10m people watched leftwing videos on Facebook that appear to have turbo-charged Jeremy Corbyn’s campaign. The cost to make them was less than £2,000.”

¹² Reuters Institute, *Digital News Report 2017*, June 2017.

¹³ Para. 4.39.

¹⁴ Reuters Institute, *Digital News Report 2017*, June 2017.

¹⁵ *When JME Met Jeremy Corbyn*, YouTube; *Grime star Jme and Labour don Jeremy Corbyn talk about the importance of a high youth turnout in this election*, Facebook [accessed 1 July 2017].

¹⁶ Liam Corcoran, *“How Labour And Jeremy Corbyn Won The UK Social Media Election. In Three Charts”*, *Newswhip*, 13 June 2017.

¹⁷ Adam Peggs [Momentum], *“How Momentum changed British politics forever”*, HuffPost UK, 13 June 2017.

¹⁸ Conservatives, *On June 9th, this man could be Prime Minister*, Facebook.

“At the same time, a campaign by traditional rightwing newspapers seems to have fallen flat with voters, even when the Daily Mail attacked Labour’s leadership over 13 pages for spending ‘their careers cosyng up to those who hate our country’.

“The persuasiveness of online media, and the apparent decline in influence in this election of Britain’s newspapers, will be picked over in the aftermath of the shock result.”¹⁹

3.30 According to Enders Analysis (quoted in the same article):

“The content discovery mechanisms on Facebook in particular are shaking up the UK’s partisan press landscape. Highly opinionated, pro-Labour online publications with no direct print equivalents are reaching larger Facebook audiences... than most national news brands.”

3.31 According to the *New Statesman*, discussing media and the 2017 election:

“As of December 2016, the Sun had 1,611,464 readers every day. That’s a lot. But nowadays, people don’t need Rupert Murdoch and a printing press to wield political influence According to Twitter’s -analytics tool, [an anti-Theresa May tweet by a 21 year old administrative assistant] reached over 2.9 million people. Everyone now has the potential to have the reach and influence of a tabloid.”²⁰

3.32 While the impact of disintermediation has been particularly stark in the 2017 campaign, it is a long-running and fundamental shift, and therefore it is a material error for the Report to set it aside.

4. THE QUANTITATIVE EVIDENCE CITED IN THE REPORT DOES NOT INDICATE PLURALITY CONCERNS AND THE REPORT’S ASSESSMENT OF IT IS SUBJECT TO A NUMBER OF FLAWS

Quantitative data shows the limited impact of the Transaction in the context of the UK media landscape

4.1 While recognising that quantitative data is only part of a plurality assessment, 21CF would respectfully suggest that the data set out in Ofcom’s Report does not support the conclusion that the Transaction may result in insufficient plurality.

4.2 As regards the availability of news sources, Ofcom’s conclusion is that *“the transaction would not result in a significant change in the range or number of providers across the different platforms”* (para 5.18). This is clearly correct, given the highly diverse news landscape.

4.3 As regards consumption:

- (i) the cross-platform metrics used in Ofcom’s analysis show that the combination of 21CF, Sky and News Corp would be far from a dominant player in the UK news landscape. In terms of reach at both retail and wholesale level, the combination would remain in third place (at 30% and 31% respectively), far behind the BBC (at 77% on both levels) and some way behind ITV (at 34% and 39% respectively) (para. 6.43 and Figures 6.8 and 6.9). This combined reach is less than each of Sky and News Corporation *individually* in 2010.²¹

¹⁹ David Bond, *“Labour’s slick online campaign outguns Tory press”*, *Financial Times*, 9 June 2017.

²⁰ Amelia Tate, *“Thanks to social media, ordinary people can now influence elections more than tabloids”*, *The New Statesman*, 19 June 2017.

²¹ Ofcom, Report on public interest test on the proposed acquisition of Sky by News Corporation, 31 December 2010, Figure 22, giving Sky wholesale cross-media reach of 33% and News Corporation 32%.

- (ii) Applying Ofcom's bespoke share of references metric, the combination would be broadly comparable to ITV/ITN (10% vs. 11% at wholesale level; 10% vs. 9% at retail level) and far behind the BBC, which accounts for 42% of news provision at both wholesale and retail level (Figures 6.10 and 6.11).

4.4 In broad terms, these figures suggest that a combination of 21CF, Sky and News Corp under full common ownership (which is not the result of the Transaction) would amount to a moderate strengthening of Sky's position as the third-largest news provider. This hardly indicates plurality concerns. As explained above, given that the Transaction does not actually do this – its implications for plurality are considerably more limited than even these figures suggest.

The Report's focus on presence across four platforms is not explained or meaningful

4.5 The Report's conclusion that the Transaction raises plurality concerns appears in large part based on the fact that, taken together, 21CF, Sky and News Corp are present across all four platforms – radio, television, print and online. Ofcom's overall conclusion set out following para. 1.10 refers to the MFT's "*unique presence on radio, television, in print and online*". Likewise, para. 8.28 of the Report claims that "*The strength of voice of Fox/Sky and News Corp in this respect may be more significant than the quantitative data suggests, owing to the ability to follow a similar editorial agenda across television, radio, print and online*".

4.6 However, nowhere does the Report explain why a presence across all four platforms is of particular significance, or why this is not sufficiently reflected in the cross-platform metrics discussed above. In 21CF's view, there is no reason to believe that a presence across all four of these platforms gives greater influence than that held by an entity with the same reach and share of consumption concentrated in fewer platforms, and Ofcom's Measurement Framework does not mention this as a relevant consideration.

4.7 To the extent any significance does attach to presence across platforms, this emphasises the overwhelming influence of the BBC in the UK media landscape, with its leading position in each of three platforms – radio, TV and online.

The Report's treatment of quantitative data is flawed in other material respects

4.8 In addition to its unexplained focus on presence across platforms, 21CF believes that the Report errs in its treatment of the quantitative data, or in the conclusions it draws from such data, in other material respects. Some of these are set out below.

The Report underplays the importance of ITN

4.9 The Report notes that the merged entity would have no greater share of references than ITN, but seeks to downplay the significance of ITN, saying:

*"We note that there are commercial reasons that suggest that the share of reference of Fox/Sky and News Corp may understate the strength of its voice compared to ITN, which has a similar share of reference. The difference in their respective strength of voice is partly due to the business need for ITN to reflect the preferred styles, tones and editorial approaches of the retail news providers with which it provides news under contract (ITV, Channel 4 and Channel 5), which limits its ability to harmonise one editorial voice across its services."*²²

²² Para. 6.5.

- 4.10 This is a highly one-sided assessment, which ignores the significant constraints on any supposed ability for the MFT to harmonise news output across Sky, the *Sun*, the *Times* and the Wireless Group radio stations. Such limits include: the very different natures of these outlets; their different target audiences; the different platforms on which they operate (and associated differences in regulation); and the limited ownership which MFT will continue to have in 21CF and News Corp. It is hard to imagine that a neutral observer would see (say) the *Times* and the *Sun* as more similar products than ITV and Channel 4 news.
- 4.11 Moreover, the significance of different editorial voices for ITV, Channel 4 and Channel 5 is minimal, since even if the latter two are entirely set aside, ITV itself has a share of references (9%) which is roughly equivalent to that of that of 21CF, Sky and News Corp in aggregate (10%). Moreover, clearly the harmonisation within ITV news is far greater than that across Sky, the *Times* and the *Sun*.
- 4.12 More generally, it is striking that (to 21CF's knowledge) neither Ofcom nor any other commentator has ever suggested that ITN represents a threat to plurality. No concerns were raised, for example, when ITN increased its share of voice by winning the contract to provide Channel 5 News. Yet Ofcom's own survey finds that – as a result of substantial developments in the news market – a combination of 21CF, Sky and News Corp would be a less important provider than ITN. Given the focus of plurality regulation is on concentration of ownership, if a given 'share of voice' for ITN is unproblematic, there should be no concerns about a similar share held by 21CF/Sky and News Corp.

Inappropriate and inconsistent focus on 'UK wide' newspapers

- 4.13 The Report repeatedly refers to News Corp as the largest 'UK wide' newspaper group, and appears to attach particular importance to this. In the fourth paragraph of the entire report, Ofcom offers as its second 'key finding':

“[The Transaction] would bring the largest UK-wide newspaper group and one of only three significant providers of television news under the material influence of the Murdoch Family Trust”²³

- 4.14 Thereafter, when discussing newspapers the Report focuses on UK wide titles.²⁴ (On one occasion it asserts - incorrectly – that News “*has the widest reach of any newspaper group*”, without any 'UK wide' qualification (page 56). This is not correct either from a print perspective, or on a cross-media basis.)
- 4.15 However, it is wrong in principal to set aside non-UK wide sources. Moreover, even if it were correct, the Report has not done so consistently.

'UK-wide' is not a relevant consideration

- 4.16 It may be reasonable, in an assessment of plurality of national news, to set aside sources whose primary focus is local news (such as local newspapers). However, the Report has gone much further than this. It has set aside titles such as the *Metro* and the *Evening Standard*, even though (as the Report acknowledges²⁵) these titles provide substantial national news.

²³ Para. 1.4. 21CF would also question the characterisation of Sky News as “one of only three significant providers of television news”. Given the BBC and ITN enjoy reach seven and five times that of Sky respectively, it is not appropriate to group these together with Sky.

²⁴ See, for example, paras. 2.10.2, 4.43, 6.12, 6.16, 6.2, 6.14, 6.18, 8.26.1, 11.5.

²⁵ Para. 5.13.

4.17 The Report does not offer any rationale for treating these titles differently. It makes a passing reference to the fact that the *Metro* “is only distributed in cities and towns”,²⁶ but the Report elsewhere makes clear that Ofcom has not identified specific concerns in other (i.e. rural) areas:

*“Our view is that no particular subgroup would be significantly more affected as a result of the transaction to the extent that it would alter our overall recommendation”*²⁷

4.18 Further, while it is true that the *Metro* is ‘only’ distributed in over 50 cities across the UK,²⁸ it is not clear why this targeting would render it irrelevant. Firstly, with the sole exception of Northern Ireland, its reach across all nations, all English regions, and in both rural and urban areas is at least as high as (say) the *Sun*’s website, according to Ofcom’s news consumption survey.²⁹

4.19 The *Evening Standard* has narrower distribution, but is nonetheless influential in national news, both because of its own substantial readership and because most other news outlets are based in London and so their editors and journalists see it regularly. During the 2017 election, for example, the *Telegraph* published over 50 articles mentioning the *Evening Standard* (or more than one per day).³⁰

4.20 Its profile has been increased by the appointment of George Osborne as editor, who is also helping it reach national audiences by promoting it on Twitter (where he has over 200,000 followers). His presence makes the *Standard* part of the Westminster story, and led to significant coverage elsewhere.³¹

4.21 The *Metro* and *Standard* target particular geographic audiences, but other titles (and outlets in general) also target particular audiences. For instance, the *Times*’ readership is 88% ABC1,³² but the Report has (rightly) not set aside its contribution to plurality by focussing on ‘socio-economic-group wide’ titles. Online-only outlets are by definition only available to those with internet access, but similarly the Report does not set them aside on the basis of this targeting. Fox News is only available on the Sky platform, but again the Report does not set it aside on this basis.

4.22 As the Report notes, there is no issue of availability of news sources. All citizens – even those offline, in particular socio-economic groups, on certain TV platforms or in rural areas – have a plethora of sources available to them.

4.23 In the context of “preventing too much influence over the political process being exercised by any one media owner”, the fact that a particular title has (somewhat) limited geographic distribution is simply not relevant, if it nonetheless has substantial readership. The *Metro* does indeed have substantial readership – the third highest of any title in the UK. (The *Evening Standard* ranks fifth.)

4.24 Finally, while both these titles have geographically limited distribution *in print*, they are universally available online. Indeed, per Ofcom’s news consumption survey, the *Metro*’s website is used by as many people as a source of news as is the *Sun*’s.³³

²⁶ Para. 4.43.

²⁷ Para. 3.43.3.

²⁸ [East Midlands](#), Metro [Accessed 30 June 2017]

²⁹ Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017.

³⁰ [Google Search](#)

³¹ See, for example: Joe Watts, “George Osborne’s London Evening Standard labels Theresa May’s manifesto ‘most disastrous in history’”, *The Independent*, 30 May 2017; Jane Martinson, “Osborne’s first Evening Standard edition shows resolve to take on May”, *The Guardian*, 2 May 2017; “All of George Osborne’s anti-Theresa May Evening Standard front pages”, *The Telegraph*, 26 June 2017; BBC, *Brexit leads first Evening Standard under George Osborne*, 2 May 2017;

³² NRS, *Newsbrands April ’16 – March ’17*.

³³ Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017, p. 458- 459.

The Report applies a 'UK-wide' criterion inconsistently

- 4.25 Even if there were some particular significance to UK-wide availability, the Report is inconsistent in how it has treated the issue. It appears to have only applied it to newspapers, and indeed only to the *Metro* and the *Evening Standard*.
- 4.26 Crucially, it has not applied this approach to the *Sun* and the *Scottish Sun*. These titles are frequently bracketed together, and this may be entirely appropriate from the perspective of advertisers (the key parties interested in NRS data, for example). However they take quite different editorial lines, and this is the relevant perspective for a plurality assessment.
- 4.27 For example, at the 2017 election the *Sun* endorsed the Conservatives, and the *Scottish Sun* the SNP, as they did in 2015. (This fact contradicts the assertion by Ed Miliband, Ken Clarke, Sir Vince Cable and Lord Falconer that “*The Sun, the Times and the News of the World always [back] the same political parties at elections over the last 20 years*”).³⁴

Figure 1: Election-day front pages, Sun and Scottish Sun



- 4.28 The papers also take different editorial approaches day-to-day. For example, at 6pm on 30 June 2017, there were five ‘above the fold’³⁵ stories on each of the two paper’s websites. However, only two stories were common to both titles. Further, one of these stories was treated quite differently on the two sites, with different headlines, body text, photos and so on. These titles have substantial differences, even if certain stories are shared between them.
- 4.29 Thus, neither the *Sun* (with limited availability in Scotland in print) nor the *Scottish Sun* (with similarly limited availability in the rest of the UK) are ‘UK wide titles’. Just like the *Metro*, both have geographically limited print distribution.
- 4.30 Accordingly, if special significance attaches to certain titles being ‘UK wide’ it is not just the *Metro* that should be set aside, but also the *Sun* and *Scottish Sun*. Moreover, looking beyond newspapers, most of the stations in the Wireless Group (owned by News Corp) are local, but the Report has not made any attempt to set them aside on the basis that they are not ‘UK wide’.

Implications

- 4.31 21CF does not suggest that these various sub-national titles *should* be set aside – it is right to include them. But equally, it is right to include the *Metro* and the *Evening Standard*, with readerships of 3.0m and 1.7m respectively. In combination with the *Mail*, the *Metro* means that DMGT is a considerably larger print provider of national news than News Corp. DMGT’s total readership is 6.2m, compared to 4.7m for News.

³⁴ Para. A2.91.

³⁵ I.e. appearing on screen when the site is loaded on a desktop, without the need to scroll down.

- 4.32 21CF acknowledges that in its share-of-reference analysis, the Report does appear to include the *Metro*. But the Report’s repeated positioning that News Corp is the “*largest UK-wide newspaper group*” (and the great significance it attaches to it) is both inappropriate and misleading.

The Report disregards internal plurality within News Corp

- 4.33 Just as the Report fails to take account of differences between the *Sun* and the *Scottish Sun*, it also disregards the substantial differences between the approach and editorial lines of the News Corp newspapers more generally. Section 8 of the Report, which purports to deal with internal plurality, does not even address this. There is also little acknowledgement of the structural guarantees of editorial independence at the *Times* and *Sunday Times* arising from the governance arrangements of Times Newspaper Holdings Limited (including the presence of independent national directors with control over the appointment and dismissal of editors).
- 4.34 The Brexit referendum provides a striking illustration of the scope for internal plurality between these outlets. The *Times* and the *Sun* took diametrically opposed views on Brexit – the *Sun* in England and Wales publishing a front-page editorial strongly in support; the *Times* opposing Brexit.³⁶ Meanwhile, the *Scottish Sun* did not carry the *Sun*’s editorial.³⁷

Ofcom underestimates multi-sourcing in an online environment

- 4.35 In its discussion of online news, the Report states:

*“Despite the significant developments in the availability of news online, many people still rely on a limited number of news sources. For example, our News Consumption Survey found that in 2016, 38% of those who use the internet for news use only one source on that platform.”*³⁸

- 4.36 However, it seems likely that much of this 38% who supposedly single-source are in fact using sources such as Facebook, Google, YouTube, and Twitter (which comprise four out of the top seven sources in Ofcom’s survey). Such sources are inherently plural, and expose users to multiple underlying sources. Ofcom found that 47% of all internet news users used one or more intermediaries of this type.³⁹
- 4.37 For these users, concern that they “*still rely on a limited number of news sources*” is inappropriate. (21CF also notes that the largest portion of the 38% *not* making use of intermediaries is likely sole-sourcing from the BBC, used by 56% of all online news users.)
- 4.38 The Report also underplays the importance of the internet in saying:
- “According to our News Consumption Survey, people use an average of 3.8 different news sources, measured across all platforms. This figure has remained broadly the same since 2013, despite the wide range of sources available online.”*⁴⁰
- 4.39 Again, this misses the point that the survey treats consumption via Facebook (say) as one source rather than a path to multiple sources. Moreover, it misses the shift in sources used. Since 2013 there has been a 0.3-source drop in the number of newspaper sources used by the average person.

³⁶ [Sun says: We urge our readers to beLEAVE in Britain and vote to quit the EU on June 23](#) (13 June 2016); *Times*, *Why Remain is best for Britain* (18 June 2016).

³⁷ See e.g. Roy Greenslade, the *Guardian*, [The Sun’s pro-Brexit campaigning doesn’t cross borders](#), 14 June 2016.

³⁸ Para. 4.31.

³⁹ Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017.

⁴⁰ Para. 6.49.

However, there has been a 0.5-source *increase* in the number of online sources used per person, even treating social media and aggregators as single sources.⁴¹

- 4.40 The number of people using the internet for news, and the number of online sources accessed by these users are both increasing year after year. Thus the internet has made (and will continue to make) a vital and growing contribution to multi-sourcing, more than offsetting the downward pressure on multi-sourcing due to the collapse of print newspapers.

Ofcom significantly overstates the importance of online to the Sun

The Report does not show that digital consumption has offset the Sun's print decline

- 4.41 The Report claims:

“The Sun and The Sun on Sunday have more than offset their declining print readership through the growth of online readers. Overall readership has increased from 15 million in 2015 to 26 million in 2016.”⁴²

- 4.42 However, the Report here is using numbers for monthly reach, taking no account of the regularity of use. There is a very substantial difference in influence associated with a daily *Sun* print reader compared with someone online who happened once in a month to click on a *Sun* link sent by a friend.

- 4.43 Since 2010, the *Sun*'s average issue readership has fallen by over half, or over 4m readers.⁴³ To offset this decline, the 19m people⁴⁴ who happen to see the *Sun* online at least once in a given month would have to visit the site an average of four times, and spend as long reading it each time as a typical print reader spends with the physical version. This is not plausible.

The Report attaches too much significance to the Sun website

- 4.44 The Report also makes much of the high reach of the *Sun* online. It uses ComScore data to show that the *Sun* is visited by 27m people, comparable to the *Mail* and the *Telegraph* (para. 6.28-6.33).⁴⁵

- 4.45 However, in placing such weight on this, the Report is in essence seeking to rebut Ofcom's own survey data. The news consumption survey found that just 0.8% of news consumers said they used the *Sun* website or app - a figure lower than the number saying they used Al Jazeera, MSN, the CNN website, the LAD Bible or Russia Today. By contrast, 10.3% said they used the *Mail* online,⁴⁶ and 3.5% the *Telegraph* online.

- 4.46 The survey is based on the question “*which of the following do you use for news nowadays*”. This is entirely appropriate, and much more revealing of potential influence than would be the simpler question “*which do you use*”. However, “*which do you use*” is essentially the question comScore answers. It picks up (for example) people who are going to the *Sun* website purely for celebrity gossip or football. Ofcom's survey excludes such people, and this is the right basis for analysis of plurality.

⁴¹ Communications Chambers calculations based on figures from Ofcom, *News Consumption in the UK: 2016*, 29 June 2017. Blended figures across all news users.

⁴² Para. 6.17.

⁴³ NRS. Note that while 4m people read the average issue, over 9m see at least one issue per month.

⁴⁴ NRS PADD, *Print/PC/Mobile & Tablet*, 29 June 2017.

⁴⁵ Note that this 27m figure is for a later date than the 26m figure from Ofcom discussed above.

⁴⁶ The sharp difference with the *Mail* suggests that the low figure for the *Sun* is unlikely to be a research effect caused by respondents being hesitant to report use of certain titles.

The Report overstates the importance of distribution via aggregators and social media for News Corp and Fox outlets

Sky and Yahoo News

- 4.47 In discussing aggregators (para. 6.37.1), the Report focuses on distribution of Sky News via Yahoo News. As noted in previous submissions to Ofcom, this is not a particularly compelling example of Sky's supposed enhanced reach, given that just 2% of respondents in Ofcom's news consumption survey say they use Yahoo News.⁴⁷
- 4.48 The Report also relies on an MRC submission that argued that (in February) Sky provided Yahoo News with a quarter of all its stories and more than 60% of its headlines. However, it is not clear that this is reflective of the current situation, or representative more generally. For example, as at 7am on 3 July 2017, there were no Sky stories in the top 10, and just 4 in the top 50.

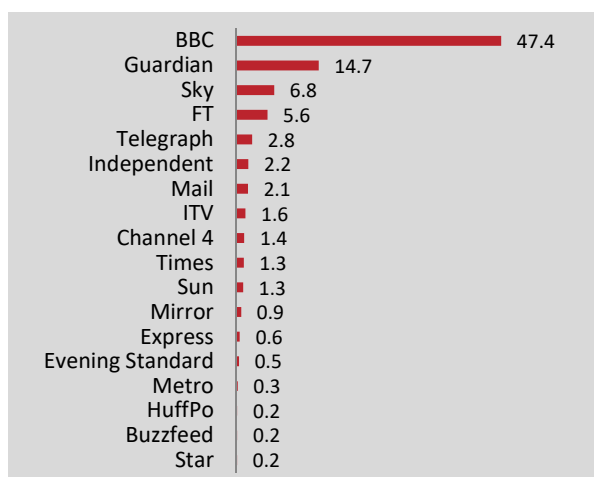
The Sun on Facebook

- 4.49 The Report says that "*The Sun is the second most popular news and current affairs related page among UK Facebook users*" (para. 6.37.2). In Ofcom's data, the Sun is positioned between BBC News and the *Guardian*.
- 4.50 However, it is stretching a point to describe the *Sun's* Facebook content as "news and current affairs", at least as pertains to plurality. As distributed via social media, the *Sun* is a very different product.
- 4.51 An analysis of the top 100 stories in the *Sun's* Facebook newsfeed as of 10am on 30 June 2017 shows that just 6 related to politics or current affairs.⁴⁸ Sport and human interest stories were more than half the total, with roughly a quarter in the categories crime and celebrity & entertainment.
- 4.52 By contrast to the *Sun's* 6 stories, the BBC and the *Guardian* had 36 and 38 politics and current affairs stories in their top 100. Thus the *Sun's* reach via Facebook is less significant than it might seem.
- 4.53 21CF also notes that the Report's discussion of social media omits to mention Twitter – a news source used by 5.3% of respondents in Ofcom's news consumption survey, only slightly behind the *Sun* in print (6.7%).⁴⁹ As 21CF has previously submitted, neither the *Sun* nor the *Times* have particularly significant followings on Twitter (Figure 2).

⁴⁷ Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017, p. 415. 21CF noted in Annex 2 of its Initial Submission to Ofcom (p. 11) that focusing on Yahoo News is uninformative, given its position as one, relatively minor aggregator.

⁴⁸ Covering immigration, Brexit, school funding, circumcision in Turkey, the Hyde Park Justice Campaign, and Jon Snow at Glastonbury.

⁴⁹ Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017, p. 413.

Figure 2: Twitter followers (m), April 2017⁵⁰

Consumption via social media is less ‘influencing’

- 4.54 Social media and aggregators extend reach for the *Sun*, the *Times* and Sky to some degree. However, there are several reasons to believe that this matters less to influence than the Report suggests.
- 4.55 First, social media and aggregators extend the reach of *all* media outlets, and the critical question is the relative redistribution of influence as a result. For example, Ofcom’s figures suggest similar numbers of Facebook likes for the *Sun* and the *Guardian*. However, given their starting points, this would suggest that the incremental benefit of Facebook distribution would increase the influence of the *Guardian* relative to the *Sun*’s.
- 4.56 Second, as noted above, content distributed via social media is often lighter (at least for the *Sun*), with less potential for influence.
- 4.57 Third, such distribution takes place in an inherently plural environment, with greater potential for consumption of opposing views (from other media outlets or otherwise). According to Charlie Becket, director of LSE media think-tank Polis:

“Social media means that whenever The Sun or Mail comes out with something, there’s thousands of people coming out saying ‘oh go away’. People can see other people being much more sceptical. It’s now cool to say ‘get lost’ to the mainstream press. I think generally people are much less vulnerable to that manipulation.”⁵¹

The Report draws inappropriate conclusions regarding share of references

- 4.58 The above points are particularly important given the Report’s later claim that:

“evidence suggests that Sky News and The Sun in particular may have significant reach through their website and through intermediaries, which may not be reflected in our News Consumption Survey. The true share of reference of Fox/Sky and News Corp may therefore be significantly higher than is reflected in our analysis.”⁵²

⁵⁰ Communications Chambers analysis of Twitter data, excluding individual accounts with fewer than 100,000 followers (such as @guardianweekly), and those aimed at an international audience (such as @bbcworldservice and @GuardianAus). Totals are not duplicated – for example, an individual who follows both @SkyNews and @SkyNewsBiz counts as two followers for Sky’s total.

⁵¹ Jasper Jackson, *“Labour’s success shows the political hegemony of the right-wing press is ending”*, *New Statesman*, 10 June 2017.

⁵² Para. 6.46.

4.59 This is entirely speculative. Share of references – as with influence – will not be redistributed by via mechanisms which extend the reach of *all* players equivalently.

4.60 Further, the question that underlies share of references is “*which of the following do you use for news nowadays*”. In making the claim above, by implication the Report is asserting – without any evidence whatsoever – that it knows better than respondents why they use outlets such as the *Sun* website.

5. THE REPORT OVERSTATES THE ABILITY OF THE MFT AND MEMBERS OF THE MURDOCH FAMILY TO INFLUENCE THE NEWS AGENDA AND POLITICAL PROCESS, AND FAILS TO DEMONSTRATE HOW THE TRANSACTION WILL INCREASE THIS ALLEGED INFLUENCE

5.1 The Report suggests that the transaction may give MFT greater influence over public opinion via greater control of the news agenda and the political process. In particular, the Report argues that:

- (i) news providers can set the wider news agenda by breaking stories, amplifying their influence;
- (ii) traditional providers retain much of their ability to set the news agenda;
- (iii) the press is particularly influential;
- (iv) the transaction may amplify the ability of the News Corp titles to set the news agenda; and
- (v) the transaction may increase the influence of members of the MFT over the political process.

5.2 21CF would respectfully disagree with each of these contentions, for reasons set out in turn below. In particular when more recent evidence is taken into account, it is clear that the Report substantially overstates the ability of the MFT and the Murdoch family to influence the news agenda and political process. Further, the Report fails to demonstrate how the Transaction will increase this alleged influence.

The Report does not demonstrate that ‘agenda-setting’ enhances the influence of the News Corp titles or the MFT

5.3 Influence is necessarily a zero-sum game. If two organisations are competing to influence an individual’s opinions or votes, then if one organisation gains greater influence, the other necessarily has less.

5.4 An implication of this is that if there is a particular effect that enhances the reach of a certain organisation, it only matters for influence if it does not equally enhance the reach of all organisations. For example, as set out above, if online distribution doubled the reach of all media, then it would not change the influence of any one organisation.

5.5 Similar logic applies to agenda setting. A given media organisation may, on occasion, be able to set the agenda of other outlets. However, if those other outlets in turn occasionally set the agenda of the first media organisation, then agenda setting may have limited impact on the share of influence of the various organisations.

5.6 In practice, agenda setting is of particular importance to smaller news outlets, since they are in greater need of the amplification it provides. For example, if the *Mail* breaks a story but it is then

picked up by the *FT*, it makes relatively little difference to the number of people who see it. Conversely, if the *FT* breaks a story and it is then covered by the *Mail*, this greatly increases its audience. Put another way, agenda setting mitigates the share of influence of more powerful news providers, and enhances the power of smaller providers.

- 5.7 The Cardiff University study Ofcom cites⁵³ reflects this. The newspapers whose stories received the *least* coverage on TV news were the *Mail*, the *Sun* and the *Express*. The *Sun*'s stories received coverage at a third of the rate of the *Telegraph*'s, for example. This is empirical evidence of 'agenda setting' acting to *dilute* the *Sun*'s influence vis-à-vis other newspapers, not enhance it.

The Report overstates the agenda-setting power of traditional news providers

- 5.8 The Report relies on two sources in support of the claim that traditional providers retain much of their ability to set the news agenda. The first is a paper by Weimann & Brosius.⁵⁴ The Report quotes:

*"though the traditional media lost some of their agenda-setting potential, their impact is maintained in the new media environment"*⁵⁵

- 5.9 However, the same paper also states or quotes others as stating:

"The flow from Twitter to the media agenda has been revealed in several studies" (p. 29)

"weblogs contributed to setting the agendas of the traditional media elite" (p. 29)

"alternative online media played a decisive role in setting mainstream media agendas [in the aftermath of a Chinese rail accident]" (p.29)

"agenda setting processes can now regularly intersect and cross amateur and professional boundaries" (p. 30)

"The dynamic nature of the current agenda setting process may also be explained by the reduced impact of traditional gatekeepers" (p. 30)

"Twitter messages commenting on political parties followed different dynamics from the coverage of the same actors in traditional media." (p. 31)

"Today, journalists cannot ignore the fact that the most important news on the web is the one that most people are searching for ... this fact is creating a shared agenda of news that can no longer be separated into a media and a public agenda, a really new (and maybe alternative) agenda-setting paradigm" (p. 32)

"There is still evidence of a direct media effect on the public agenda, but the causal, one-way relationship should be replaced by more multifaceted and multidirectional flow ... Moreover, it is not a two way street, but in fact a multilane highway when audiences are exposed to a multitude of sources, including online and offline media and/or online and offline personal communications. Thus instead of media agenda shaping public agenda, we often see more of "agenda bleeding" from various sources" (p. 35-36)

"online news does not simply follow the lead of traditional sources" (p. 36)

⁵³ Cushion et al, *Newspapers, Impartiality and Television News*, 28 April 2016.

⁵⁴ Weimann, G. and Brosius, H. "A New Agenda for Agenda-Setting Research in the Digital Era" in *Political Communication in the Online World: Theoretical Approaches and Research Designs*. Ed. Vowe, G. & Henn, P., December 2015.

⁵⁵ Paras.8.11.

“the agenda itself is altered by user behaviour, and users and journalists are part of a collective gatekeeping process; the audience determine the prominence of issues” (p. 38)

5.10 This fuller set of quotes from the paper Ofcom cites suggest that the agenda-setting power of traditional providers has been significantly diluted, by new actors online; by the ways in which news is consumed and shared online; and by how traditional media’s output is in turn influenced by these changes.

5.11 The Report’s second source for its claim that traditional media retain much of their ability to set the news agenda is a study from King’s College.⁵⁶ Ofcom suggested that according to the study:

“the news agendas of ‘political influencers’ on Twitter closely mapped that of the mainstream media during the General Election 2015”⁵⁷

5.12 However, the relevant key findings of the study were actually:

“The press rarely altered the news agenda of the lead parties during the campaign; few stories significantly disrupted or subverted the issues put forward by one or both of the two main parties. ...

“Political influencers also kept closely to the agenda of issues set by the parties and mainstream media.”

5.13 This is an entirely different picture from that painted by the Report. Political influencers’ agenda was not the same as that of the traditional media because the former followed the latter, but rather because *both* were driven by the political parties.

5.14 Further, as the Report acknowledges, these influencers often critiqued or subverted the agenda. According to the King’s College report:

“influencers – many of whom were themselves mainstream journalists – were more likely to challenge the narrative of the parties and of mainstream media. They were more likely to bring attention to inconsistencies between party claims and independent analysis, to point people to original sources that contradicted party or press claims, and to satirise stage managed announcements and events.”

5.15 If mainstream media’s power over the online news agenda is simply to select which of their stories are debunked on the internet, this is a particularly feeble form of influence.

The Report does not demonstrate that the press is particularly influential

5.16 The Report argues that:

“evidence suggests newspapers may have greater influence over public opinion than consumption metrics alone might suggest, through the ability to set the wider news agenda.”⁵⁸

5.17 However, the Report does not make the case for this proposition and, in particular, does not demonstrate that the News Corp newspapers are more influential than their (small) share of references suggests.

⁵⁶ Martin Moore & Gordon Ramsay, *UK Election 2015 - Setting the agenda*, October 2015.

⁵⁷ Para. 8.12.

⁵⁸ Para. 2.25.

Opinion of Lord Justice Leveson

- 5.18 Ofcom's first evidence for this claim is a statement from Lord Justice Leveson that the press can "*set the news agenda, shape culture and change perceptions*". However, the Leveson Inquiry dates from 2011-12 with its evidence from even earlier – certainly predating much of the transformation of agenda-setting discussed above. Moreover, in Lord Justice Leveson's view, this agenda setting power derived from "*the authoritative quality of the press, combined with its access to mass audiences*" (emphasis added).⁵⁹ However, since his Inquiry, the access of the press to mass audiences has greatly diminished. Since 2011 print readership is down 38%.⁶⁰ According to Ofcom's news consumption surveys, the cross platform reach of the News Corp titles (for example) has fallen from 32% in 2010 to 14% in 2016.⁶¹ It follows that – on Lord Justice Leveson's logic – the agenda setting power of the press must have fallen.

Newspaper reviews of broadcasters

- 5.19 Ofcom's second piece of evidence is the fact that some broadcasters' news programmes include press reviews. Such reviews certainly are an easy and cheap way to fill a few minutes of airtime. Ofcom notes that The Andrew Marr Show has such a review, and has an audience of 1.6m viewers (para. 8.15). However, viewing of this press review comprises just 0.3% of TV news viewing, and thus is essentially irrelevant as evidence of newspaper agenda-setting via TV. Sky News' Press Preview programme may well have even smaller share than this.
- 5.20 Further, such reviews are inherently plural. They compare and contrast many titles, necessarily limiting the influence of any one. They also dilute any power derived from circulation (as with agenda setting more generally). Such reviews do not spend time with different titles in proportion to their circulation, but rather will give equal prominence to smaller titles, notably the broadsheets. Again, this acts to reduce the influence of News Corp vis-à-vis other newspaper groups.

Cardiff study of agenda setting for TV

- 5.21 In arguing for the agenda setting power of the press, the Report also cites the Cardiff University study,⁶² claiming that the study found that "*morning newspapers continued to share a similar agenda to the evening television news bulletins during the General Election 2015*". In fact, the study found that of the 140 policy stories covered by TV, just 31% had appeared in newspapers previously. This suggests that broadcasters are making highly independent agenda decisions.
- 5.22 Further, this 31% includes many items that it would be hard to imagine TV *not* covering, regardless of whether they had previously appeared in print, such as: a Conservative promise not to increase tax; the parties' plans for the NHS; and the launch of Labour's manifesto. To see TV coverage of such stories as evidence that TV has its agenda set by the press is clearly incorrect.
- 5.23 An additional issue with the Cardiff study is that it focused on policy stories that *could* have been previously covered by the press. It set aside process stories carried by TV which could not have been previously covered. In so doing, it inherently overstates the influence of the press, since it ignores the portion of the TV news agenda which *could not* be set by newspapers. In other words, it ignores the fact that on any view, TV news will set a portion of its news agenda unaffected by newspapers.

⁵⁹ [The Leveson Inquiry into the culture, practices and ethics of the press](#), November 2012, p. 77.

⁶⁰ NRS. Net national dailies. (*Metro* and similar titles excluded since net figures including these are unavailable).

⁶¹ Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010; Kantar Media [for Ofcom], [Ofcom News Research 2016](#), 30 June 2017, p. 458- 459.

⁶² Cushion et al, [Newspapers, Impartiality and Television News](#), 28 April 2016. 21CF previously highlighted a number of the limitations of this study in its Initial Submission to Ofcom ((Annex 2, p. 14).

- 5.24 Moreover, the study starts with TV and works backwards. That is, it examined TV items to see which had previously been in the press. However, since the press in aggregate cover very many stories each day, it is unsurprising that a percentage of TV items had indeed been previously covered somewhere.
- 5.25 Not only is the study limited, the Report also appears to misunderstand what it did. For example, Ofcom claims that of TV election related items “23% originated from News Corp titles” (para. 2.26). This simple claim is wrong or misleading in three ways:
- (i) the scope of the study is only *policy* items on TV, not all election related items;
 - (ii) ‘originated’ implies that these were all cases where the News Corp coverage led to the TV coverage. But as we have seen, it may be that a significant story was bound to be covered by TV, regardless of whether or not it had previously been in newspapers;
 - (iii) the 23% is a share of story/prior newspaper coverage combinations. For instance, if a single TV story had appeared previously in the *Mirror*, *Mail*, *Telegraph* and *Times*, this would give News Corp a 25% share of ‘originations’. But in such a scenario is it meaningful to say that any one paper has set the agenda of TV? (The average story in the study that had previously been covered by a newspaper had been covered by 2.4 print titles – suggesting that many stories were of such a nature that they would have been covered by TV news regardless).
- 5.26 Finally, the Report claims the study “explored agenda setting between newspapers and television broadcasters” (para. 8.24). But in fact it was narrower – it only examined how TV might be influenced by newspapers, not vice-versa. Without any examination of influence in the other direction, the study says little about the relative power of different media in agenda setting.

No consideration of agenda-setting online

- 5.27 The Report also narrowly focuses on the influence of press on TV, but has not considered its (limited) influence online.
- 5.28 BuzzFeed has conducted a study of the sharing of election-related items in 2017, and this demonstrated the limits of the newspapers’ ability to set the agenda. For example, it found that Facebook users shared more stories about fox hunting than about Brexit during the campaign, despite the latter getting far more press attention. On Facebook, Brexit only ranked 8th as a topic.⁶³
- 5.29 In a study earlier in the campaign, BuzzFeed found that:

“six of the 20 most-shared election-related links on Facebook during the first fortnight of the election were from media sources that sit well outside the mainstream media.”⁶⁴

- 5.30 These sources were bloggers and The Canary. Of the fourteen links from mainstream media, the only newspapers represented were the *Independent* and the *Guardian*. Larger newspapers, and in particular the *Sun* and the *Times*, were conspicuous by their absence. According to BuzzFeed:

“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

⁶³ Tom Phillips, *“People On Facebook Didn't Think This Was The ‘Brexit Election’”*, BuzzFeed, 8 June 2017.

⁶⁴ Jim Waterson & Tom Phillips, *“People On Facebook Only Want To Share Pro-Corbyn, Anti-Tory News Stories”*, BuzzFeed, 7 May 2017.

online, and have often been dwarfed in terms of social media readership by alt-left sites such as The Canary and Evolve Politics.”⁶⁵

Inconsistency in treatment of agenda-setting

- 5.31 In any event, the Report adopts an inconsistent approach to agenda-setting. It suggests that through agenda-setting, newspapers (including those of News Corp) may have greater influence than their share of references might suggest. However, given the zero-sum nature of influence discussed above, if one accepts the Report’s assertion that TV news agendas are set by newspapers, this also implies that the impact of the acquisition of Sky News is *less* than quantitative data might indicate. If Sky is not in control of its own news agenda (and of course must apply impartiality to the stories it does cover), then ownership of Sky brings its proprietor little additional influence. This is not reflected in the Report.

The Report does not show that the Transaction will increase the MFT’s influence over the news agenda

- 5.32 The Report begins its discussion of its claim that the Transaction will increase MFT’s influence over the news agenda by further discussing the Cardiff study, to make the case that News Corp titles already have significant influence. However, whether one takes the Cardiff study (and the interpretation of it in the Report) at face value or not, it is clear whatever influence newspapers provide to the MFT, this is not changed by the Transaction. The proposed acquisition is of Sky, not News Corp.

The Report does not show that the Transaction will increase the influence of members of the MFT over the political process

- 5.33 One of the Report’s key findings was that:

“The transaction may increase the influence that members of the Murdoch Family Trust have over the political process. Respondents to our invitation to comment argued that members of the Murdoch Family Trust already hold significant political influence, citing evidence that includes the Leveson Inquiry. The transaction could increase the perception among some politicians that members of the Murdoch Family Trust are more able to shape the editorial direction of Sky News, in order to favour one side of a political debate over another. Our assessment, therefore, is that there is a risk that the transaction may increase the political influence of members of the Murdoch Family Trust.”⁶⁶

- 5.34 This concern is unwarranted. In relying on out-dated evidence, it significantly overstates any political influence attributable to members of the MFT. In addition, the Report does not convincingly explain how the Transaction would increase this influence to any significant extent.

The Report relies on out-dated evidence regarding political influence

- 5.35 As noted above, the Leveson Inquiry was held in 2011-12, and much of the evidence presented to it pertained to events even longer ago. However, the Report simply says:

“[T]he news market continues to develop since the Leveson Inquiry’s findings were published, with decline in the circulation of the major national newspapers. That decline

⁶⁵ Jim Waterson & Tom Phillips, *“Not Even Right-Wingers Are Sharing Positive Stories About Theresa May On Facebook”*, BuzzFeed, 3 June 2017.

⁶⁶ Para. 1.10.

*may have affected the relationship between the press and politicians but on the basis of current evidence this cannot be determined.*⁶⁷

- 5.36 A critical development has been the 2017 election, but here too Ofcom has taken a highly cautious approach, saying:

*“We are aware of the discussion suggesting that print newspapers had a reduced influence, and that social media had a greater influence (especially among young people), in the General Election 2017. It is in our view too early to make a definitive judgement.”*⁶⁸

- 5.37 21CF would respectfully suggest that Ofcom’s caution in this regard is unwarranted. In particular, there is near-universal agreement that the 2017 election provided further evidence that the influence of newspapers is on the wane. (As discussed in 21CF’s previous submissions, the 2016 London mayoral election told a similar story.)⁶⁹

- 5.38 According to Suzanne Moore, writing in *The Guardian* under the headline “*The Sun and Mail tried to crush Corbyn. But their power over politics is broken*”:

*“[V]ast numbers of voters took no notice of the rightwing tabloids. Young voters were not put off Labour by the rightwing press, or they just don’t read it. This is huge: part of the readjustment of power now having to be made. The sudden thrust in the direction of the future, youth and possibility means that the dictum that politicians have to crawl to the Sun or the Mail is overturned.”*⁷⁰

- 5.39 Media commentator Ray Snoddy makes a similar point:

*“The whole point about Murdoch’s “power” over the general election outcome is how diminished it now is compared with 1992. The entire national newspaper industry, with the exception of the Daily Mirror and the Guardian, came out against Jeremy Corbyn and Labour - and a lot of good it did them.”*⁷¹

- 5.40 Similarly, according to Roy Greenslade (quoted in the *New Statesman*):

“Spending basically two weeks demonising a man, a leader, and still they don’t pull off a victory for their chosen one, suggests they are out of touch, out of touch with the electorate as a whole, though not necessarily their readers. It’s the end of the hegemony of news print from the right. ...

*“It’s a tipping point. No one will be able to take for granted their power again. It has leaked away, this election shows it at its lowest ebb”*⁷²

- 5.41 George Monbiot in the *Guardian* said:

*“The election was a crushing defeat – but not for either of the major parties. The faction that now retreats in utter disarray wasn’t technically standing, though in the past it has arguably wielded more power than the formal contestants. I’m talking about the media. The rightwing press threw everything it had at Jeremy Corbyn, and failed to knock him over. In doing so, it broke its own power.”*⁷³

⁶⁷ Para. 8.40.

⁶⁸ Para. 2.15.

⁶⁹ See p48, Robert Kenny, *News Plurality in the UK, 2017*, 17 March 2017 (Annex 1 to 21CF’s Initial Submission to Ofcom).

⁷⁰ Suzanne Moore, “*The Sun and Mail tried to crush Corbyn. But their power over politics is broken*”, *The Guardian*, 9 June 2017.

⁷¹ Ray Snoddy, “*The decline of Murdoch’s influence*”, *MediaTel*, 14 Jun 2017.

⁷² Jasper Jackson, “*Labour’s success shows the political hegemony of the right-wing press is ending*”, *New Statesman*, 10 June 2017.

⁷³ George Monbiot, “*The election’s biggest losers? Not the Tories but the media, who missed the story*”, *The Guardian*, 13 June 2017.

- 5.42 Peter Peston, also in the *Guardian*, wrote under the headline “*This election proves that media bias no longer matters*”:

“The printed press ... has seldom seemed more overwhelming. Labour cries of “fix” and “grotesque” were rising again as a reason/excuse for defeat, with the BBC added to that hate list. In the end, though, it didn’t matter ...

“In the changed world of 2017, this ought to kill many media preconceptions for good. Print circulations have shrunk and shrunk again even since 2015. Fewer faithful to read the tablets from on high. More balky floaters bent on doing their own thing ...

“[T]here are also signals, in an era of startling swings, that the old ways of press hegemony, just like those of party loyalty, have had their day.”⁷⁴

- 5.43 Will Gore, for the *Independent*, spoke directly to plurality, saying:

“So what conclusion should we draw [from the election]? One is that the readership of the right-wing tabloids has declined to the degree that partisan headlines simply don’t influence the number of people they once did. Another is that readers don’t make judgements purely on the basis of their preferred newspaper’s editorial line. In this era of ever-greater media plurality, people are better equipped to make political decisions because they can examine a range of views and sources. ...

“[M]ake no mistake, this is an extraordinary moment for Britain’s right-wing press, which for so long has been perceived to have a hold over the electorate. The Express is on the ropes. The Daily Mail is bruised. The “Currant Bun” is crumbling”⁷⁵

- 5.44 According to Prof James Curran of Goldsmiths, University of London (a founder of the Media Reform Coalition and a strong opponent of the Transaction):⁷⁶

“[T]he reign of the tabloids is over. For weeks, the ancient bazookas controlled by Murdoch, Dacre and other press oligarchs were trained on Corbyn and McDonnell ... The campaign failed because the British press is more distrusted than any other press in Europe (as revealed by the 2016 Eurobarometer survey), its circulation is in freefall, and young people in particular get their news and political information from the internet.”⁷⁷

- 5.45 Mick Temple, Professor of Journalism and Politics at Staffordshire University, summed up his views as follows:

“The future looks bleak for printed newspapers and, after 2017, perhaps even bleaker for their political influence via any medium.”⁷⁸

- 5.46 James Rodgers, Senior Lecturer in Journalism at City University, wrote:

“In an age when so much more opinion is shared on social media, 2017 may well come to be seen as the election which ended the ‘Sun wot won it’ era.”⁷⁹

- 5.47 *Vanity Fair*’s UK editor, Henry Porter, put it this way:

⁷⁴ Peter Peston, “*This election proves that media bias no longer matters*”, *The Guardian*, 11 June 2017.

⁷⁵ Will Gore, “*The right-wing press no longer wields absolute power in modern Britain. This election proves it*”, *The Independent*, 9 June 2017.

⁷⁶ See, for example, Dr Justin Schlosberg et al, “*UK news plurality and Fox-Sky merger*” [Letter], *The Guardian*, 5 March 2017

⁷⁷ Prof James Curran, “*The day the myths of press power and the centre ground died*”, *The Guardian*, 11 June 2017.

⁷⁸ Prof Mick Temple, “*It’s the Sun wot lost it*”, *Election Analysis*, June 2017.

⁷⁹ James Rodgers, “*The election wot The Sun (and the rest of the UK tabloids) never won*”, *The Conversation*, 9 June 2017.

“[A]mong the biggest losers were the tabloids themselves, whose influence at election time, along with their sales, is on the wane. ... Like everyone else, I assumed the impact of the coverage in the Daily Mail, Daily Express, and Rupert Murdoch’s Sun would be crucial, but it turns out I was wrong.”⁸⁰

5.48 Una Mullally, writing in the *Irish Times*, said:

“With such a large array of information available to people, the conservative British tabloids are now the equivalent of an aul fella shouting in the corner of a pub.

“Sure, they make a lot of noise and occasionally cause enough controversy for other punters to shout “Ah, here!” in response to their ramblings. But ultimately they are irrelevant. No one is listening, no one is paying attention, their influence has waned and they are out of touch and unfashionable.

“Tabloid screaming may have worked at a time when the dominant force in information was the old media across press, radio and television. But now it’s the internet, and Photoshopping Corbyn in a bin on a front page doesn’t actually have an impact.

“It’s worth mentioning that Rupert Murdoch’s papers are the ones that have struggled the most to carve out a relevant online presence.”⁸¹

5.49 While none of these analyses represent a forensic examination of the election, their certainty and consistency is striking. At a minimum they suggest that the *perception* of the power of the press has changed radically.

5.50 Thus, it is entirely inappropriate for Ofcom to give such weight to the report of the Leveson Inquiry in its consideration of influence over the political process, when it has substantial and far more recent evidence regarding perceptions of press power available.

The Report does not show that the Transaction will increase political influence

5.51 As with influence over the news agenda, any existing political influence derived from newspapers is entirely separate from the impact of the transaction. MFT’s control of newspapers is not changed by the transaction.

5.52 As regards the incremental influence gained by the acquisition of Sky – which is the critical issue – the Report has remarkably little to say. It simply asserts:

“First, the addition of another important news provider may raise questions in the mind of politicians as to whether the level of “personal and political support” which may be offered by members of the Murdoch Family Trust is increased.

“Second, the ability to choose the relative importance given to stories on Sky News may be capable of further influencing the political process through the implied threat of negative or no coverage and the prize of positive coverage for politicians.”⁸²

5.53 Crucially, the Report also fails adequately to explain how the Transaction will result in the MFT or members of the Murdoch family having an increased ability to influence the news agenda, taking into account the actual extent of their control. In reaching this conclusion, the Report relies on the fiction that the Transaction will bring together news outlets owned by News Corp and Sky (in

⁸⁰ Henry Porter, “*Strong and stable my arse*”: How Theresa May blew the British general election”, *Vanity Fair*, 9 June 2017.

⁸¹ Una Mullally, “*Corbyn’s success is a result of youth discontent*”, *Irish Times*, 12 June 2017.

⁸² Para. 8.37-8.38.

particular, News Corp's newspaper titles and Sky News) under common control. As described in detail above, this approach entirely disregards the judgement of the Court of Appeal in *Sky/ITV* by failing to engage with the actual extent of control that the MFT will exercise over these news outlets post-Transaction.

5.54 In addition to the points discussed above concerning the safeguards that will exist post-Transaction as a result of the legal structure and governance of 21CF and News Corp, there are other strong, mutually reinforcing reasons why the MFT would not have the ability or incentive to exert influence over editorial decisions at Sky News post-Transaction, including:

- (i) impartiality requirements under the Broadcasting Code;⁸³
- (ii) the strong culture of editorial independence in television news, which means that editors would resist any intervention from the board or shareholders, and would be likely to bring any breach of impartiality requirements caused by shareholder influence to Ofcom's attention (a point noted by the CC in *Sky/ITV*); and
- (iii) audience expectations of impartiality, which make the commercial success of TV news providers dependent upon providing a service which meets these expectations.

5.55 The Report largely dismisses each of these constraints, concluding that none of them "*are sufficient of themselves*" to ensure that the editorial stance of Sky News does not become aligned with that of other news outlets under the influence of the MFT (para. 9.12). However, the Report fails to consider the *cumulative* effect of these factors and the corporate/governance safeguards described above. 21CF is confident that when these issues are examined in more detail by the CMA, it will conclude that, even if no one factor is sufficient on its own, together, they provide powerful safeguards against influence by the MFT over Sky News.

5.56 The Report also suggests that the concerns around the influence of the MFT are more acute because the Transaction involves Sky News than would be the case for a news provider with a lower level of trust (para. 7.16). However, again, this concern is not developed further or substantiated. 21CF submits that a more detailed consideration of this point would highlight the following:

- (i) one of the reasons TV is powerful is because TV news providers are trusted as impartial news sources (demonstrating the potency of impartiality rules). Sky News is highly trusted, albeit (per Ofcom's news consumption survey) slightly less so than the BBC, ITV and Channel 4;
- (ii) there are also multiple outlets across other media which enjoy higher trust than Sky, including the BBC (radio and online) the Guardian (in print and online), the Telegraph and the Independent; and
- (iii) the Report takes an asymmetric approach in considering the potential relevance of consumer trust. If consumer trust in Sky News is important, Ofcom must also factor in the more sceptical approach taken by readers of the Sun, which would work in the other direction (para. 7.14).

⁸³ As set out in the opinion of leading counsel previously provided to Ofcom, while impartiality is not absolute: *Nonetheless, a very great deal of the mischief which the public interest consideration of plurality seeks to achieve is addressed by the regulatory requirement of due impartiality... the provisions in the 2003 Act and the Code governing impartiality help to ensure that, in practice, the owner of a television station (or the news editor) could not intervene to require news items on their own television news service to receive lesser (or indeed greater) prominence, or no coverage, for political reasons.*" (Legal opinion of Lord Pannick QC and David Lowe dated 15 December 2010, submitted as Annex 1 to News Corporation's response to Ofcom's Issues Letter in relation to the News Corporation / Sky bid, paras. 30 and 33.)

5.57 Thus in practice Ofcom has provided no convincing evidence that the Transaction will increase the MFT's political influence. Moreover, by focussing on historic evidence and ignoring more recent data, it has greatly overstated the existing influence of the MFT. 21CF believes that a detailed review by the CMA would confirm that these concerns are without merit in today's media landscape and, *a fortiori*, going forward; in particular given the role of online intermediaries in diluting the agenda-setting role of news outlets, and the cumulative effect of the commercial and cultural safeguards that will exist post-Transaction to ensure the editorial independence of Sky News.

6. 21CF'S PROPOSED UNDERTAKINGS REPRESENT AN EFFECTIVE MEANS TO ADDRESS THE CONCERNS IN OFCOM'S REPORT

6.1 Notwithstanding 21CF's view that the Transaction does not raise public interest concerns in relation to the Media Plurality PIC, 21CF was prepared to offer undertakings to the Secretary of State in order to avoid a protracted reference to the CMA for an in-depth review. 21CF put forward draft undertakings to Ofcom for its consideration, and subsequently offered the Proposed Undertakings formally to the Secretary of State in lieu of reference. These undertakings included:

- (i) a commitment to maintain Sky's current arrangements for complying with broadcasting standards;
- (ii) a commitment to maintain a Sky-branded news services in the UK for at least five years (including similar levels of operational net investment in the service to those currently made by Sky, taking into account inflation);
- (iii) a commitment to establish a Sky News Editorial Board to guarantee the editorial independence of Sky News, comprised of a majority of independent members (initially selected by the independent directors of Sky, and subsequently by the Nomination and Corporate Governance Committee of the 21CF board). The approval of a majority of the independent members of the Editorial Board will be required for the appointment, removal or any material changes to the authority or reporting relationship of the Head of Sky News;
- (iv) a commitment to ensure that, subject to general compliance procedures and oversight, no employee or officer of 21CF, or a member of the 21CF Board who is a trustee or beneficiary of the MFT, will influence or attempt to influence the editorial choices made by the Head of Sky News (including the selection of news stories or the political comment and opinion to be broadcast on the Sky News channel); and
- (v) a commitment to enhance Sky News' Editorial Guidelines, to contain provisions ensuring that the Head of Sky News will retain control over editorial matters and the instructions given to editorial staff (including journalists), and to maintain those Guidelines.

6.2 The Report recognises that the Proposed Undertakings mitigate its concerns in relation to the Plurality PIC, and provides a clear legal basis on which the Secretary of State could accept the Proposed Undertakings in lieu of a reference. For the reasons described further in the remainder of this section, the Secretary of State's provisional decision not to accept them is unwarranted.

Ofcom's Report provide the Secretary of State with a clear legal basis to accept the Proposed Undertakings in lieu of a reference to the CMA

6.3 21CF believes that the Proposed Undertakings comprehensively address the plurality concerns identified by Ofcom, and welcomes the Report's conclusion that they "*mitigate the public interest concerns*" (pages 6 and 8). In particular, Ofcom considered that:

- (i) the Proposed Undertakings “*would insulate the Head of Sky News (and therefore the Sky News editorial position) from other bodies within the merged entity*” (para. 11.18);
- (ii) the Proposed Undertakings thereby mitigate the concerns identified in respect of the ability to influence public opinion by maintaining internal plurality through the editorial independence of Sky News (para. 11.18);
- (iii) the provision in the Proposed Undertakings for 21CF to ensure that employees of 21CF and members of the board of 21CF which are trustees or beneficiaries of the MFT will not influence the editorial position of Sky News mitigates concerns that the Transaction risks increasing the influence over the political process which members of the MFT may enjoy (para. 11.19); and
- (iv) the provision in the Proposed Undertakings for transparency by clear lines of reporting to Ofcom and public reporting, as well as enforceability directly by the Secretary of State, means that the undertakings are more robust than the commitments that were made binding in the context of the acquisitions of The Times and Dow Jones (paras. 11.20-11.21).

6.4 As recognised in her provisional decision, it is sufficient for the Secretary of State to consider that undertakings in lieu mitigate public interest concerns in order for her to accept those undertakings in lieu of a reference to the CMA. As such, Ofcom’s conclusions provide a clear legal basis on which the Secretary of State could accept the Proposed Undertakings, and Ofcom advised that this is a course open to her.⁸⁴

The Secretary of State’s provisional decision places undue weight on a distinction between ‘behavioural’ and ‘structural’ undertakings

6.5 The Secretary of State’s provisional decision not to accept the Proposed Undertakings places undue weight on a rigid distinction between ‘behavioural’ and ‘structural’ undertakings. The relevant question is not which of these labels attaches to a given set of undertakings (which in any event is not necessarily binary), but whether those undertakings are an effective solution to the specific concerns raised in a particular case.

6.6 Indeed, this is clear from guidance adopted by the CMA, which acknowledges that it “*does not inevitably refuse behavioural undertakings*” at Phase I, and that such remedies may indeed be suitable at that stage, depending upon the facts.⁸⁵ It is further confirmed by the existence of several examples of UK merger control decisions where, in specific circumstances, the CMA/OFT found that its concerns with the transaction were able to be addressed with behavioural remedies at Phase I.⁸⁶ Nor is the use of such remedies excluded in other developed jurisdictions. Taking an international perspective, the number of behavioural remedies being accepted at Phase I has in fact risen in recent years, with 51% of Phase I conditional clearances in the last year including behavioural remedies, indicating that authorities are increasingly viewing Phase I as an appropriate forum for agreeing this type of commitments.⁸⁷

6.7 In this case, the concerns Ofcom raised related to the possibility of influence being exerted over the editorial agenda of Sky News. The Proposed Undertakings were tailored to address this issue, by providing substantial safeguards for the editorial independence of Sky News, as Ofcom’s advice

⁸⁴ “Overall advice and recommendation”, page 6.

⁸⁵ OFT Guidance “*Mergers: Exceptions to the duty to refer and undertakings in lieu of reference*”, December 2010, paragraph 5.43.

⁸⁶ See, for example, *Regus / Avanta* (2016); *InterCity Railways / InterCity East Coast (ICEC) franchise* (2015); *Arriva plc / Wales and Borders Rail Franchise* (2004); and *IVAX International GmbH / 3M* (2004).

⁸⁷ Allen & Overy, ‘Global trends in merger control enforcement’ (2016), pages 10-11. (Based on analysis of 26 jurisdictions, including the UK.)

recognised. It is therefore disappointing that the Secretary of State is nevertheless minded to apply a formalistic distinction, rather than considering the specific merits of 21CF's proposal, as well as the specific analysis carried out by Ofcom, in this light.

- 6.8 In addition, guidance adopted by the CMA makes clear that behavioural remedies will often be considered (both at Phase I and Phase II) in situations where pure divestment or structural separation is not possible.⁸⁸ This is precisely the view reached by Ofcom in this case, who expressed significant concerns that the structural separation of Fox News from Sky “*may lead to the risk of the scale of Sky News decreasing over time, given the inherent difficulties in sustaining a loss-making unit outside of the Sky corporate structure*” (para. 11.22). Ofcom went even further to say that a degradation or loss of Sky News could potentially present risks to plurality “*equal to or greater than those presented by the transaction itself*” (para. 11.22). Once again, and without prejudice to 21CF's views as to a possible structural undertaking, it is surprising that the Secretary of State has based her decision not to accept undertakings in lieu of a reference on the fact that the Proposed Undertakings offered are not purely structural, but behavioural, despite Ofcom's advice and in reliance upon a superficial and formalistic reading of CMA guidance.
- 6.9 21CF would have expected the Secretary of State to consult in an open and transparent manner with the CMA regarding the appropriateness of the Proposed Undertakings – 21CF believes the CMA would also have supported Ofcom's conclusions without the need for a lengthy and expensive Phase II review, or the consequent delays to the Transaction.
- 6.10 Moreover, the distinction between structural and behavioural undertakings is not always clear cut or binary, and remedies packages increasingly constitute a “hybrid” solution containing elements of both types of undertakings. In this case, the provision in the Proposed Undertakings for the creation of a separate editorial board, tasked with guaranteeing the editorial independence of Sky News, goes beyond a simply “behavioural” remedy, in that it provides for a specific structural separation of governance for Sky News, decisively removing any scope for influence to be exerted over the editorial policy of Sky News.
- 6.11 What these considerations highlight is that the Secretary of State's decision regarding the Proposed Undertakings offered by 21CF should not be made on the basis of arbitrary distinctions between the labels of ‘behavioural’ and ‘structural’ formats. The relevant question, as set out by the CMA, is whether the Proposed Undertakings are clear cut, effective and capable of ready implementation.⁸⁹ It is clear from the nature of the concerns identified by Ofcom, the undertakings offered, and Ofcom's assessment of them, that the undertakings meet all of these criteria.
- 6.12 In its Report to the Secretary of State, while confirming that the Proposed Undertakings mitigated its concerns in relation to the Media Plurality PIC, Ofcom left open the possibility that the Proposed Undertakings may be further strengthened in relation to the following two areas: (i) the on-going arrangements for the appointment of independent board members of the Sky News Editorial Board; and (ii) the duration of 21CF's commitment to maintain its investment in Sky News (para. 11.23).
- 6.13 In relation to the on-going arrangements for the appointment of independent board members, the Proposed Undertakings currently provide that the independent board members of the Sky News Editorial Board will initially be appointed by the independent directors of Sky. Selection of subsequent independent board members will be by the 21CF Nomination and Corporate Governance Committee which comprises solely independent board members of 21CF. 21CF is of the view that this committee is well equipped and best placed to make these appointments based on the requirements for independent board members as set out in the Proposed Undertakings, in particular due to the fact that all of its board members are independent.

⁸⁸ OFT Guidance “*Mergers: Exceptions to the duty to refer and undertakings in lieu of reference*”, December 2010, para 5.43. Competition Commission Guidance on Merger Remedies, 2008, para 4.1.

⁸⁹ CMA Jurisdictional Guidance, para 8.3.

6.14 With regard to the duration of 21CF's commitment to maintain its investment in Sky News, 21CF believes that the current duration of five years is more than sufficient in such a dynamic and fast-moving market.

7. COMMITMENT TO BROADCASTING STANDARDS

7.1 21CF welcomes the Secretary of State's intention not to make a reference on the grounds of the Broadcasting Standards PIC, consistent with Ofcom's conclusion, as the expert regulator with responsibility for monitoring and enforcing broadcasting standards, that "*we consider there are no broadcasting standards concerns that may justify a reference by the Secretary of State to the Competition and Markets Authority*" (para. 1.13).

7.2 As a long-standing holder of broadcasting licences in the UK, 21CF is fully committed to the attainment of broadcasting standards objectives. 21CF values Sky's excellent track record of compliance and intends to ensure that this is maintained in future.

8. CONCLUSION

8.1 For the reasons described above, a reference of the Transaction to the CMA is wholly unnecessary. 21CF regrets and is disappointed that the Secretary of State is minded to instigate a protracted and costly review of the Transaction, despite 21CF's willingness to address the concerns raised by Ofcom in an effective manner. As a result, the benefits of the Transaction – to the UK creative economy as a whole, as well as to the parties and their shareholders - will be unnecessarily delayed.

8.2 However, 21CF remains committed to working constructively with the UK authorities and will put its case to the CMA, should the Secretary of State so require. 21CF would encourage the Secretary of State to take her final decision on this at her earliest convenience, so as to avoid unnecessary delay, in particular given the review timetable has already been extended significantly as a result of the general election.

Allen & Overy LLP

7 July 2017

Robert Kenny

**News Plurality in the UK and
the impact of 21CF's acquisition of Sky**

27 September 2017

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This is an independent report funded by 21st Century Fox.

The opinions offered herein are purely those of the author. They do not necessarily represent the views of 21st Century Fox, nor a corporate view of Communications Chambers.

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1. Executive summary

The Communications Act of 2003 creates a public interest test for mergers of media enterprises, to ensure that a transaction does not result in insufficient plurality. Ofcom has defined plurality as a “diversity in the viewpoints that are available and consumed” and the absence of “any one media owner, or voice, having too much influence over public opinion and the political agenda”.¹

In the context of the potential increase in 21st Century Fox’s holding in Sky from the 39% to 100%, I here provide an assessment of the current state of media plurality in the UK and the impact of the proposed transaction.

I draw on Ofcom’s framework for measuring plurality, which covers: availability of news outlets; consumption (making use of standard metrics and specific consumer research); impact; and contextual factors.² Ofcom’s framework is the result of extensive consultation with industry, academics and stakeholders. It also has been developed through Ofcom’s experience of previous media transactions with plurality considerations. It is designed to address aspects of news provision and consumption which are critical for an understanding of plurality, but which would not be considered in a standard competition analysis. I therefore believe it is the appropriate starting point for analysing the current transaction.

The acquirer

21st Century Fox (21CF) owns TV and film businesses globally. It does not own newspapers or radio stations broadcasting in the UK, nor news channels targeted at a UK audience. As such the combination of 21CF and Sky does not result in a consolidation of UK news outlets.

In 2013 News Corporation separated into two entities – 21CF, holding the film and television assets, and a new entity News Corp, which owns the *Sun* and the *Times*. The Murdoch Family Trust owns approximately 39% of the voting stock of each of 21CF and News Corp.

I understand that each of these companies have their own listings, boards (with a majority of independent directors), management

¹ Ofcom, [Measurement framework for media plurality - Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#), 5 November 2015

² Ibid

and investors; the proposed merger does not concern News Corp; and it will not affect the separation of these companies.

The news landscape

Commercial context

TV and radio news are both on a broadly stable financial footing. Budgets for Public Service Broadcaster (PSB) news declined up to 2014, but have since increased slightly. While there is continuing pressure on BBC spend as a result of the licence fee settlement, commercial players had (until recently) been assisted by a recovery in the advertising market. However, TV advertising has contracted in 2017.

Newspapers face severe challenges. Falling print readership has dragged down circulation revenues, as well as advertising. The latter fell from £1.5bn in 2011 to £0.9bn in 2016. This decline has been only partially offset by increased digital ad revenues, up from £120m to £230m for newspapers.

Total online advertising (search and display) has seen substantial growth, rising from £4.8bn to £10.3bn between 2011 and 2016.³ However, much of this is flowing to providers of search or social media, rather than content. Paid-for search captures 48% of UK digital adspend.⁴ Of display advertising (38% of UK digital adspend) almost half is spent on social media.⁵

News availability & consumption by platform

TV continues to be the most important news source measured by reach, with 69% of adults making use of it⁶ (though hours of TV news consumption have been in gradual decline). The BBC channels' share of news viewing has seen steady growth since 2005, primarily at the expense of ITV. It now stands at 76% (compared to Sky's 7%).

Print is now the #4 platform for news by reach (having dropped from #2 four years ago), and is used by just 29% of adults. Print newspapers' decline has accelerated since the 2008-09 recession, with a 40% drop in national readership since 2010 - a loss which has certainly not been offset by time spent with newspapers' online outlets. The *Sun*, with a print readership decline of 53%, has

³ [AA/WARC](#), Communications Chambers analysis

⁴ IAB, [Mobile drives digital ad spend past £10 billion threshold](#), 12 April 2017

⁵ Ibid

⁶ Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017

suffered particularly badly. As a result DMGT (via the *Mail* and *Metro*) is now the largest national newspaper publisher.

Due to the decline of print newspapers, radio is now the #3 platform for news by reach, used by 33% of adults. Radio is the second platform where the BBC leads, with listening share of 52% in 2016. (Its share of radio news consumption is likely higher, given the news focus of Radio 4 and Radio 5 Live). Both volume of listening and market shares for radio as a whole have been relatively steady for many years.

The Internet is now as important as TV as a news platform, based on Ofcom's 'share of references' metric (described below), and the #2 platform for news based on reach (48% of adults), well ahead of radio and print. Adoption continues to grow, and smartphone take-up has risen to over 70%, up from 26% in 2010. Overall hours online have increased by over 50% since 2010, and more than doubled since 2003.

As with TV and radio, the BBC has a strong lead in online (with 56% reach amongst users of online news in Ofcom's survey)⁷.

The BBC is followed by Facebook (27%). Facebook has seen rapid growth, up ten percentage points since 2014. It is now a powerful player in determining which news is seen online by citizens. It also captures substantial online ad revenue, giving it influence over industry economics.

Sky has reach of 15%, the *Sun* and the *Times* just 2% each.

Amongst traditional outlets, share online can be very different from that offline. For instance, Ofcom's news consumption survey found that online the *Guardian* is well ahead of the *Sun*. There are also important new news-gathering organisations online – the Huffington Post, launched in 2011 in the UK, now ranks above the *Telegraph* online in Ofcom's survey, for example. (By contrast, the number of news outlets has been little changed on other platforms).

News availability & consumption cross-media

Because there is no single common measurement system across the platforms of TV, internet, radio and print newspapers, Ofcom has developed a 'share of reference' metric to compare platforms, news outlets and news organisations. This metric is calculated

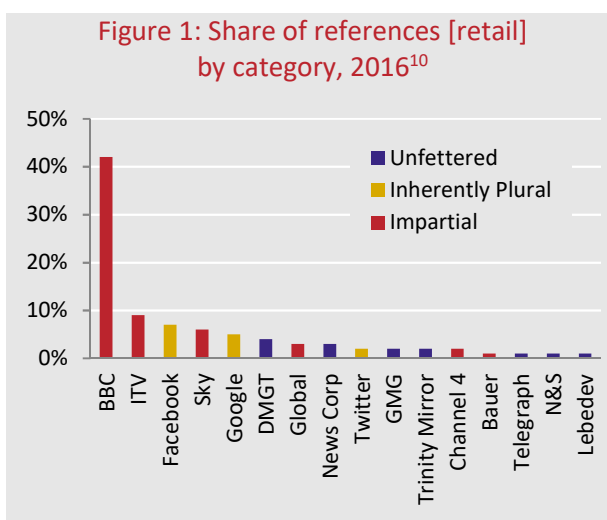
⁷ Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017

based on the reach of different outlets, weighted by the frequency with which they are used. It is based on consumer surveys.

Among news organisations, the BBC remains the most important by a wide margin, with 42% ‘share of references’.⁸ This is a share equal to the next nine players combined, and roughly five times that of ITV, its nearest rival. The BBC has always been the leading player in UK online news, but this position has become more important as online consumption has rapidly grown. In addition, the BBC’s absence from print matters less and less, as newspaper readership rapidly falls. Indeed, in terms of news in its home market, the BBC is one of the most powerful public service broadcasters in the world, ranking #2 for online reach and #4 for broadcast reach.⁹

Beyond the BBC, share is widely distributed. ITV, Facebook and Sky have 9%, 7% and 6% respectively. News Corp, with a 3% share, ranks #8.¹¹

UK news providers include many who either have an impartiality obligation or who (as social media or aggregators) are ‘inherently plural’. These inherently plural outlets do not create their own news content, but they do have their own news agenda and offer consumers a range of perspectives from multiple underlying providers. In combination, impartial and inherently plural sources have over 80% share of references. Overall this pattern of consumption suggests a robustly plural market.



Impact

Consumption and impact, while related, are not the same. Organisations with high trust are likely to have greater impact per unit of consumption, for example. The BBC is one such example – 49% of UK consumers cite one of its outlets as their most important news source (a higher figure than its share of references), and it scores highly for both trust and for offering a range of opinions.¹² By

⁸ I provide here figures on a ‘retail’ basis. Figures on a ‘wholesale’ basis (based on the underlying provider of the news in question) are available in the body of the report, but the two different perspectives do not lead to materially different conclusions about the state of news consumption or plurality

⁹ Reuters Institute, *Digital News Report 2016*, 14 June 2016

¹⁰ Ofcom, *News Consumption in the UK: 2016*, 29 June 2017

¹¹ Communications Chambers calculation, based on Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017

¹² Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017

contrast, most mass-market newspapers score poorly on these dimensions, reducing their impact.

The wider context

The nature of influence in news is changing very rapidly. Ownership of traditional news outlets now brings much lesser ability to shape opinions, for several reasons:

- News outlet content (both online and off) is increasingly driven by user choices. The stories users read and share online can influence editorial decisions, diluting the power of editors (and of a hypothetical interventionist owner). Editors are also having to reshape their content to meet the imperatives of distribution via social media and aggregators
- The news agenda set by editors is gradually diminishing in importance, as users increasingly consume stories piecemeal, via social media (particularly Facebook), aggregators or otherwise. Such outlets now provide a multiplicity of news agendas. Meanwhile the proportion of users looking at homepages (of traditional news providers) has dropped from 59% to 40% in just two years.¹³ According to Emily Bell (formerly of the *Guardian*, now a media academic): “news publishers have lost control over distribution”¹⁴
- The news media is being disintermediated, with politicians (and others) speaking directly to consumers. @Number10gov has 5.3m followers, larger than the readership of the *Sun*. Donald Trump has said that Twitter is “like having your own newspaper”¹⁵
- Multisourcing (consumption from different sources, news outlet or otherwise) is giving citizens exposure to multiple perspectives and the ability to cross-check, thereby reducing the influence of any one source

¹³ Reuters Institute, [Digital News Report 2016](#), 14 June 2016

¹⁴ Emily Bell, [“Facebook is eating the world”](#), *Columbia Journalism Review*, 7 March 2016

¹⁵ Donald Trump, [Tweet](#), 17 October 2012

The 2017 election has provided powerful evidence of these trends. Full throated support for the Conservatives from most of the press appeared to have little impact. Labour was able to reach mass audiences directly, with (for example) a video of Jeremy Corbyn in conversation with Grime star Jme being viewed 2.5m times. Mick Temple (Professor of Journalism and Politics at Staffordshire University) concluded:

“The future looks bleak for printed newspapers and, after 2017, perhaps even bleaker for their political influence via any medium.”

These factors were unimagined in 2003, and even since 2010 have grown far more important. As the power of traditional media diminishes as a result, ownership of news outlets is less significant than it once was. Put another way, sufficient *overall* plurality can be delivered, even if hypothetically there were fewer owners of traditional news outlets.

Conclusion

Several factors have been acting to increase plurality in the UK since 2003, including:

- The growth of news consumption online, supporting multisourcing
- The advent of new news sources online
- The different market shares for traditional players online vs other platforms, acting to rebalance overall news ‘voice’
- The effect of the internet in reducing the linkage between ownership and influence, and in particular the shift in power over story selection and prominence to outlets such as Facebook
- More balanced market share within print newspapers

Based on the above, I believe the UK news landscape remains highly plural, and (even taking into account the acquisition of Sky by 21CF) more so than in 2003 and 2010.

Indeed, *even if* (wrongly) the transaction was deemed to result in the assets of Sky and News Corp coming under common control, this combination would have just 10% wholesale share of references, significantly behind the BBC and also lagging ITN. This hypothetical merger would represent a moderate strengthening of the #3 player, with no more than a tenth of news consumption

post-transaction, and would not represent a threat to sufficient plurality.

Accordingly, it is doubly implausible that the actual combination of 21CF and Sky would lead to insufficient plurality and there is no reasonable basis on the available evidence to reach a contrary view.

2. Introduction

The public interest test for plurality

Media plurality is valuable since it supports a well-functioning democracy by contributing to an informed citizenry. Many countries have legislation to protect media plurality. In the UK the Communications Act of 2003 creates a public interest test for mergers, to ensure that sufficient plurality is preserved.¹⁶

In particular, it permits the Secretary of State to intervene in mergers to support:

“the need ... for there to be a sufficient plurality of persons with control of the media enterprises serving that audience”.¹⁷

The definition of plurality

The Act itself defines neither ‘sufficient’ nor ‘plurality’. However in its most recent on report on measurement of plurality Ofcom defines it as:

“Ensuring that there is diversity in the viewpoints that are available and consumed, across and within media enterprises; and

Preventing any one media owner, or voice, having too much influence over public opinion and the political agenda”¹⁸

Plurality in practice

Three applications of the public interest test have taken place since 2003 (BSkyB/ITV, News Corporation/BSkyB and Global/GMG Radio). These various exercises have resulted in a number of principles regarding plurality, including:

- A primary focus on news and current affairs provision, with less concern regarding plurality of other content types
- The inclusion of online-only news outlets in the assessment of plurality. (Though they are not ‘media enterprises’ under the Act, they may nonetheless contribute to sufficiency of plurality)¹⁹

¹⁶ [Enterprise Act 2002](#), as amended. §58

¹⁷ *Ibid*

¹⁸ Ofcom, [Measurement framework for media plurality - Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#), 5 November 2015

¹⁹ See, for instance, ¶12.19 of Ofcom, [Report on public interest test on the acquisition of Guardian Media Group’s radio stations \(Real and Smooth\) by Global Radio](#), 11 October 2012

- A primary focus on cross-media plurality in assessing sufficiency, rather than a ‘single platform’ view²⁰
- The need to consider consumption via various news outlets, not simply their availability
- The extent of control actually exercised over news outlets is relevant to any plurality assessment²¹

Measurement of plurality

Against this background, Ofcom has developed a measurement framework for plurality.²² This framework reflects input from industry, academics and others, and is in itself widely supported (though naturally opinions on its application may differ).

The framework includes consideration of:

- *Availability.* The number and range of news outlets available to consumers
- *Consumption.* The levels of use of different news outlets, quantified via industry standard metrics on a per-media basis, and via specific consumer research on cross-media consumption of different news organisations, to understand their relative importance (based in part on a ‘share of references’ metric, discussed below)
- *Impact.* The degree to which consumption of a news outlet results in influence, assessed primarily through consumer research
- *Contextual factors.* This heading allows for issues which may be relevant but not captured through the largely quantitative approach above

In addition to the plurality assessments in the context of specific transactions (discussed above), Ofcom also periodically publishes reports updating the quantitative evidence specified in its framework. It most recently did so alongside its report to the Secretary of State.²³

Advantages of Ofcom’s framework

Ofcom’s plurality framework has been developed both with regard to the UK market context, and to the requirements of the

²⁰ Ibid, ¶1.21

²¹ *Sky v Competition Commission* [2010] EWCA Civ 2, at ¶121

²² Ofcom, [Measurement framework for media plurality - Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#), 5 November 2015

²³ Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017

Communications Act. However, it is not the only possible framework to use.

The UK plurality regime is somewhat unusual in being primarily²⁴ based on a judgement (albeit informed by data). Many other countries rely on 'bright line' tests, such as explicit limits on ownership or numbers of outlets. If a regime is based on bright lines, there is no need for a framework for assessing plurality – a given transaction either crosses the bright line or it does not.

Given that most UK media mergers must be assessed absent bright lines, Ofcom has therefore been required to develop a more sophisticated framework than those elsewhere.

Other approaches do exist. For instance K.U. Leuven developed a plurality framework for the European Commission.²⁵ However, this is primarily focused on comparing aspects of plurality across countries, rather than on assessing the impact of a merger within a country. Ireland's approach to media mergers²⁶ is based on judgement, like the UK, but its framework is considerably more recent, and (given the small scale of the market) necessarily less detailed.

For the reasons set out above, I believe Ofcom's framework is the appropriate starting point for an assessment of plurality.

An important element of Ofcom's framework is its analysis of 'share of references'. This analysis is based on a survey asking consumers which news outlets they 'use for news nowadays', and then weighting outlets based on the frequency of use the respondent reports. For instance, four respondents using Sky News once per month would have the same weight as another respondent saying she used Sky weekly. These weighted responses are then used to calculate 'share of references' cut by platform, outlet, provider and so on.

Share of references has two crucial advantages as a metric to use when assessing news plurality. Firstly, it is a unique 'common currency' to use across media, allowing (say) newspaper usage to be compared to TV news usage. This enables assessment of cross-

²⁴ The UK regime does include some bright lines - for instance, the prohibition on a party holding 20% of a channel 3 licence as well as newspapers with a 20% share of that market

²⁵ K.U. Leuven et al, [Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach](#), April 2009

²⁶ DCCA, [Finalised Guidelines on Media Mergers](#), 15 June 2015

media mergers, and allows consideration of an entity or transaction within the context of *all* news media used by citizens.

Secondly, it focuses on usage specifically for news. Traditional consumption metrics (for instance, newspaper readership) are less helpful in understanding whether news is the driver of consumption, instead of – say -celebrity gossip or sports. It is news that is most important for considering plurality.

For these reasons, Ofcom’s share of reference figures are an important input to this paper.

The proposed acquisition of Sky

The plurality regime is currently relevant because of the offer for 100% of Sky by 21st Century Fox (an increase from its current 39% holding). This is a media merger, and Secretary of State has referred it to the CMA to consider its implications for plurality.

21st Century Fox (21CF) owns TV and film businesses globally. It does not own newspapers or radio stations broadcasting in the UK, nor news channels targeted at a UK audience. As such the combination of 21CF and Sky does not result in a consolidation of UK news outlets.

21CF was created as a result of the 2013 separation of News Corporation – that company’s newspaper assets (including the *Sun* and the *Times*) are now held by a new entity, News Corp. The Murdoch Family Trust owns approximately 39% of each of 21CF and News Corp.

I understand that each of these companies have their own stock market listings, boards (with a majority of independent directors), management and investors, and that the proposed merger would not affect the separation of these companies.

Contents of this paper

I have been asked by 21CF to provide an assessment of the current state of media plurality in the UK and the impact of the proposed transaction (based in part on Ofcom’s framework). I provide:

- A discussion of the commercial and financial context of news provision (Section 3)
- A review of news availability, and quantitative evidence regarding consumption, for each platform (Section 4) and cross-media (Section 5)

- An assessment of what this quantitative evidence tells us regarding the state of UK media plurality (Sections 4 & 5)
- Evidence regarding the impact of various news sources (Section 6)
- A discussion of the wider contextual factors, and in particular the impact of the rise of social media and other new players in online news (Section 7)
- A discussion of news media and the 2017 election, by way of a case study (Section 8)
- An overall assessment of the effect of the transaction on plurality (Section 9)

3. Commercial & financial context

News in the UK is provided by a mix of commercial and public players. Trends in advertising, consumer purchasing and the scope and level of the licence fee all impact the funds available for news provision. I here set out recent trends for each of the key platforms.

TV

Overall the TV industry, and news providers in it, are in reasonable health. BBC budgets have been under pressure as a result of the licence fee settlement. Conversely ITV and Channel 4 have (in recent years) seen revenue growth, in part due to the general advertising recovery, though this has stalled in 2017. PSB spend on news and current affairs declined steadily in the period 2005-2014, but has since increased slightly to £323m in 2016.²⁷

Non-PSB commercial news is funded by both advertising and subscription fees, both of which have been healthy. In 2016, spend was £105m.²⁸

A number of news channels are government funded, such as RT (Russia), PressTV (Iran) and CGTN (China).

Note that all broadcasters (TV and radio) carry an impartiality obligation as a condition of their licence.²⁹

Newspapers

The commercial environment for newspapers continues to be very challenging. Declining copy sales (detailed below) put pressure directly on circulation revenues, and indirectly on advertising revenues. Advertising revenues are also threatened by the increasing shift of ad-spend to the internet.

Of all media, print newspapers have seen the sharpest drop in advertising, falling from £1.5bn in 2011 to £0.9bn in 2016. This decline has been only partially offset by increased digital ad revenues for newspapers, up from £120m to £230m. (Even more worryingly, growth in newspaper digital ad revenues appears to

²⁷ Ofcom, [PSB Annual Research Report 2017](#), 7 July 2017

²⁸ Ofcom, [Communications Market Report 2017](#), 2 August 2017

²⁹ See Section 5 of [The Ofcom Broadcasting Code](#), April 2017

have stalled). By contrast, ad revenues of pure digital players grew £5.2bn in the same period.³⁰

Despite long-running investment in their digital operations, print revenues (circulation and advertising) still accounted for 87% of UK national newspaper revenues in 2015.³¹

All newspapers have reacted to this challenging environment with strong cost controls, although the savings are often outstripped by revenue losses, resulting in falling profits or increased losses. DMG Media reported a 23% underlying drop in operating profit in 2016, for example.³²

This environment has not been attractive to new entrants, though publishers with existing infrastructure have felt able to launch new titles, including News' *Sun on Sunday*, the Independent's *i*³³ and Archant's *New European*.

Radio

Radio industry revenue has risen from £1.14bn in 2010 to £1.25bn in 2016, thanks primarily to increased commercial revenue.³⁴ The commercial sector has also benefited from reduced costs, due in part to consolidation (discussed in more detail below) and lighter regulation. However, smaller players without scale have faced more challenging economics, and consequently there have been few organic new entrants (though some players have entered the market via acquisition).

Spend on radio news is unavailable, being reported by neither the BBC nor the commercial players.

³⁰ [AA/WARC](#), Communications Chambers analysis

³¹ Enders Analysis

³² DMGT, [Annual Report 2016](#), 9 December 2016

³³ Now owned by Johnson Press

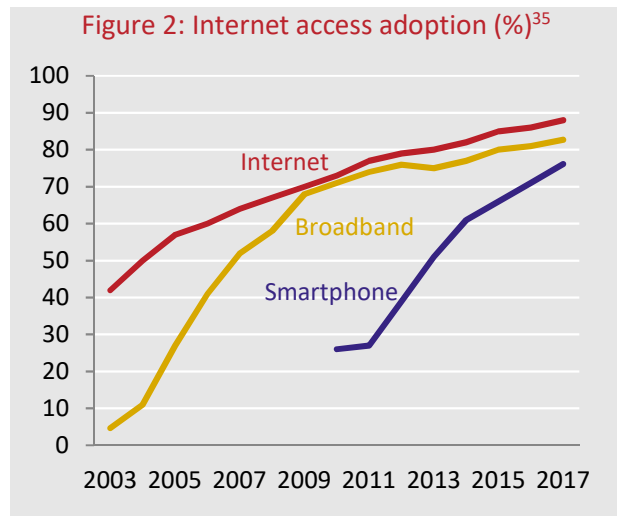
³⁴ Ofcom, [Communications Market Report 2016](#), 4 August 2016; Ofcom, [Communications Market Report 2017](#), 2 August 2017

Internet

Internet adoption and usage

Internet adoption continues to grow. While internet access and broadband access may be approaching saturation, smartphones continue to experience rapid growth. Since the launch of the initial iPhone in 2007, smartphone adoption has reached 76%. Approximately half the population have become smartphone users since 2010.

In 2015 61% of those online reported that a mobile device (phone or tablet) was their first choice for news consumption.³⁶ For sites in comScore's 'news and information' category, almost 80% of usage (by minutes) is now via mobile devices.³⁷



Time spent online was 23 hours per week per internet user in 2016, over double that for 2005 and up by more than half since 2010.³⁸

Commercial context

Online advertising has seen substantial growth, rising from £4.8bn to £10.3bn between 2011 and 2016.³⁹ However, much of this flows to providers of search or social media, rather than content.⁴⁰ Paid-for search captures 48% of UK digital adspend.⁴¹ Of display advertising (38% of UK digital adspend) almost half is spent on social media.⁴² Enders Analysis estimate that Facebook and Google captured 89% of the growth in UK digital adspend in 2016.⁴³ These two companies are also important in terms of time spent, representing 33% of UK online time.⁴⁴

Despite the limited digital advertising revenues available to third parties, most news providers have nonetheless taken a primarily ad-funded approach online, and virtually all native-digital news creators (such as the Huffington Post and BuzzFeed) have done so.

³⁵ Ofcom, [Communications Market Reports](#). Ofcom, [Ofcom Nations & Regions Technology Tracker - H1 2017](#), 27 April 2017. Figures are generally for Q1, though with minor variation in certain years

³⁶ Ofcom, [Adults' media use and attitudes Report 2016](#), April 2016

³⁷ comScore, June 2017

³⁸ Ofcom, [Adults' media use and attitudes Report 2017](#), June 2017

³⁹ AA/WARC, Communications Chambers analysis

⁴⁰ Further, ad spend with content providers is very widely distributed – only a fraction goes to news providers

⁴¹ IAB, [Mobile drives digital ad spend past £10 billion threshold](#), 12 April 2017

⁴² Ibid

⁴³ Enders Analysis, [Internet trends: Consumer behaviours driving market trends](#), 13 December 2016

⁴⁴ UKOM, [UK Digital Market Overview – March 2017](#), March 2017

Some newspapers charge for their online services. The *Times* and the *FT* both currently have paywalls, and the *Telegraph* offers only a limited number of free articles. However, the *Sun* has recently pulled back from its paywall. Several titles have a free website, but offer iPad editions for a charge. The *Guardian* offers paid membership, but makes its online content freely available.

Market entry by new native-digital players is facilitated by the relatively low barriers to entry online, where the required production and distribution infrastructure is minimal.

The growing role of social media and aggregators

A further challenge for online ad-funded news providers is that their traffic and revenue increasingly flow via the likes of Facebook and Google. While these companies do not create their own news content, they are increasingly important in the discovery, aggregation and distribution of news created by others

A year ago Facebook was already the source of 17% and 15% of traffic to the *Guardian* and *Daily Mail* sites, for instance.⁴⁵ Moreover, offers such as Facebook's 'Instant Articles' mean that content from news providers is often consumed within Facebook, rather than the publishers' own site. (In this case, Facebook will take a 30% share of any advertising it sells around that content).

Social media platforms can bring news providers additional reach. In addition, advertising on platforms such as Facebook is not vulnerable to ad-blockers, in contrast to advertising on providers' own sites. Such factors give providers strong reasons to deepen their relationship with platforms.

However these trends all mean that Facebook (and to a lesser extent other social media and search providers) are developing a gatekeeper role in online news, influencing which stories are seen by audiences. As Ofcom has noted, influence on the news agenda is a relevant aspect of plurality, quite separate from the content of the underlying stories.⁴⁶ Thus social media and aggregators constitute significant additional editorial voices in news provision.

I discuss these issues and their implications for plurality in more detail in section 7.

⁴⁵ Enders Analysis, *The rise of platforms and news distribution*, 22 March 2016

⁴⁶ Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010

4. News availability & consumption by media

In this section I consider the current state of news availability and consumption in the UK, and how it has developed over time for each of the main media types. I draw on a range of third party sources and Ofcom's research in this area.

I begin this section by looking at the changing importance of different media for news, and then discuss each of the individual media types in turn.

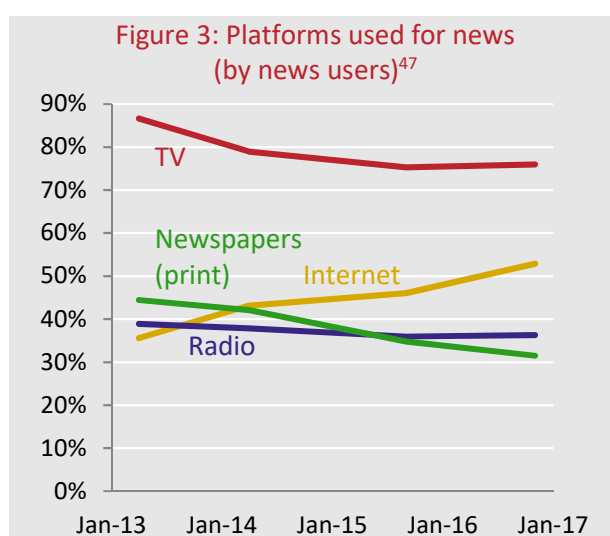
The changing importance of different media

TV remains the most widely used source of news, with 76% of consumers who use any platform for news reporting that they make use of TV (Figure 3) – down from 87% in 2013. (Of *all* consumers, 69% use TV for news)

Print newspapers have also seen a decline, dropping from 44% to 32% reach amongst news users between 2013 and 2016 (or 29% of adults in 2017). In 2013 print newspapers were the second most widely used platform, but have dropped to fourth place.

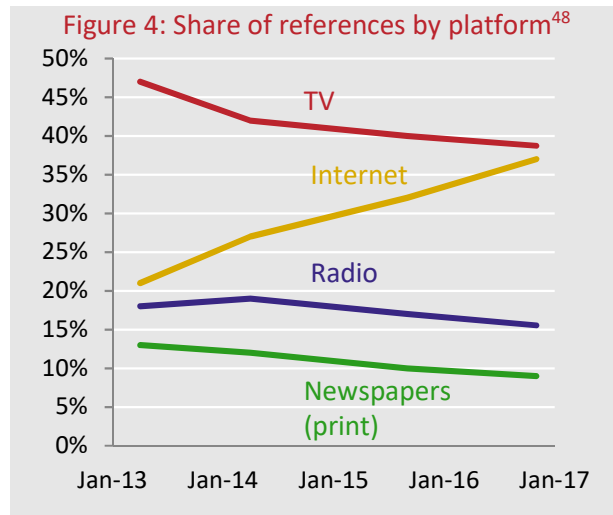
The decline of TV and print newspapers reported by consumers is entirely consistent with trends in measured consumption – as we will see, volumes of TV news viewing and print circulations have both been falling for some time.

Radio has seen slight declines. Perhaps unsurprisingly, the internet is the only platform that has seen consistent growth, and it is now the second most popular news platform.



⁴⁷ Communications Chambers analysis of Ofcom, [News consumption in the UK -2015 report](#), 16 December 2015 and Ofcom, [News consumption in the UK - 2016 data](#), 13 February 2017

Indeed, on Ofcom’s ‘share of references’ metric, which takes account of frequency of use, the internet matches TV in importance as a news source, with 37 and 39% share of references respectively. Conversely, print newspapers have fallen to 9% (Figure 4).



Television

Key figures⁴⁹

	2003	2010	2016
Hours of news viewing / yr	116	105	96
BBC share	59%	72%	76%

Availability

There has been little change in the number of TV news providers for a number of years. The BBC and ITV are the main providers of TV news, followed by Sky, Channel 4 and Channel 5, but there are also several smaller providers such as RT, CNBC, Euronews and so on. Since 2003, ‘pure’ news channels (Sky News, BBC Parliament, BBC News) have become much more readily available to audiences as a result of digital switchover. In that year, only half of TV households had access to channels beyond the main five – today all do. There has also been a more limited benefit from internet TV catch-up services, which have increased convenience of access to TV news.

Consumption and share

Consumption of TV news remains high at 96 hours per individual per year, but has been declining since a 2011 peak (Figure 5). This decline appears to be part of a longer term trend, perhaps in part due to the increasing range of alternatives available to consumers in peak viewing hours.

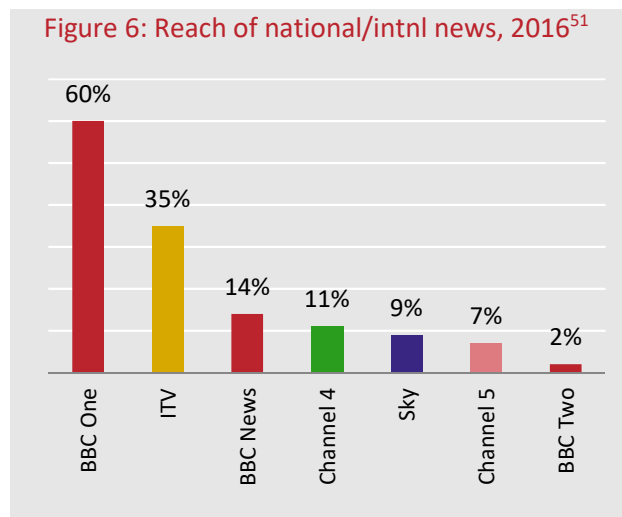
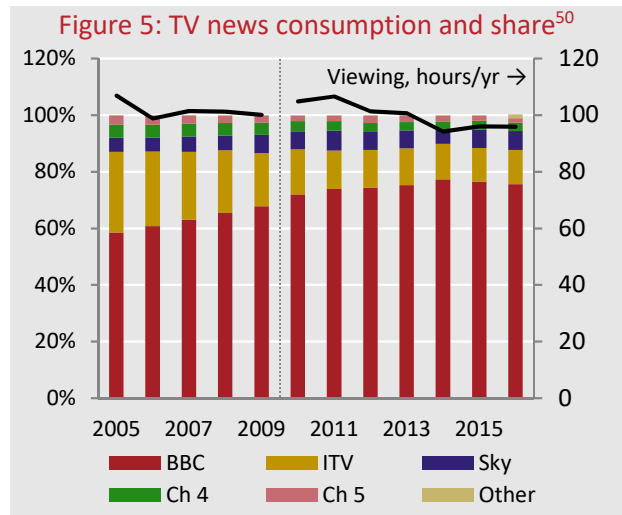
⁴⁸ Communications Chambers analysis of Ofcom, [News consumption in the UK -2015 report](#), 16 December 2015 and Ofcom, [News consumption in the UK - 2016 data](#), 13 February 2017

⁴⁹ BARB, adapted from Ofcom, [PSB Annual Research Report 2016 TV viewing annex](#), July 2016; Ofcom, [News consumption in the UK](#), 29 June 2012. Series break in 2010

Turning to individual providers, the BBC dominates TV news. Its share of news viewing rose every year from 2005 to 2014. (It has fallen back 1.2 percentage points since). Currently the BBC captures over three-quarters of all TV news consumption.

ITV has seen its share fall steadily over the same period, and it now stands at 11.8%. However, this share is still as large as all the other non-BBC players combined. Sky is the third largest player at 6.6% of viewing (Figure 5). Sky's share grew with the rise of multi-channel TV, but has been largely flat over the last five years (albeit with some volatility).

Reach figures tell a similar story to the viewing share figures. Over 60% of adults watch news on BBC One in an average week (with a higher figure seeing the BBC News across all the Corporation's channels). ITV is a relatively distant second, with a reach of 35%. Fewer than one in ten adults watch Sky News in an average week.



⁵⁰ BARB, adapted from Ofcom, [PSB Annual Research Report 2016 TV viewing annex](#), July 2016. Series break in 2010

⁵¹ Adults 16+, 3 minute consecutive weekly reach. Ofcom, [Public interest test for the proposed acquisition of Sky plc by 21st Century Fox, Inc.](#) 20 June 2017. ¶6.12

Newspapers (print)

Key figures

	2003	2010	2016
Circulation (weekday, m)⁵²	14.0	11.5	8.0
Share of largest group⁵³	29% (News)	34% (News)	34% (DMGT)

Availability

There continues to be wide availability of printed newspapers, notwithstanding the closure of the *News of the World* in 2011 (replaced by the *Sun on Sunday*) and the print edition of the *Independent* in 2016. (Its sister publication the *i*, launched in 2010, continues in print).

There are 10 national dailies available, plus two major regional dailies with substantial national news, the *Metro* and the *Standard*.

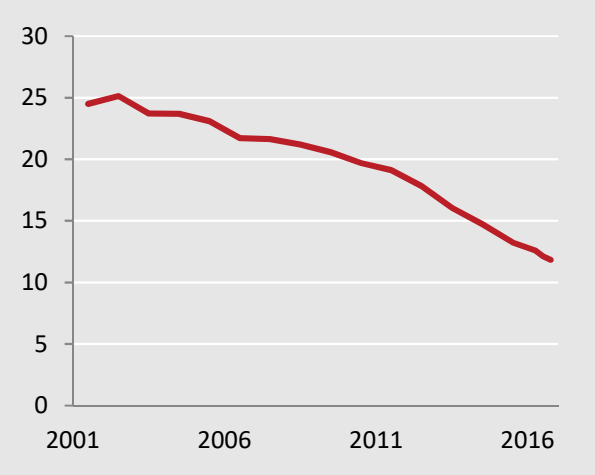
Consumption and share

Trends in readership

Newspaper readership is in long term decline, a decline which has arguably accelerated in this decade. Since 2003, the number of people reading a daily paper has fallen by almost half, and just since 2010 there has been a 40% drop. Today fewer than one in four adults reads a national print newspaper on an average day.

This decline has affected all national paid titles, though there are some important differences. While the *Sun* is still the most read paper (with 3.7m readers or 7.0% of adults), it is not far ahead of the *Mail* (3.2m, 6.1%). The *Sun* has suffered a steeper decline than any other national or leading regional, dropping 53% since 2010, compared to the *Mail's* 32% decline and the *Guardian's* 19% (Figure 8). The *Sun on Sunday* has performed even worse, with a 56% drop (compared to its predecessor the *News of the World*) over the same period.

Figure 7: Daily Nat'l Newspaper readership (m)⁵⁴



⁵² ABC

⁵³ Includes *Evening Standard*, *Metro*

⁵⁴ [NRS](#), various dates. Figures are on net basis (people reading any national paper). Note that NRS no longer covered the FT from 2014. Figures exclude the *Metro* and *Evening Standard*, for which NRS does not provide integrated reach figures

Significance of regional titles

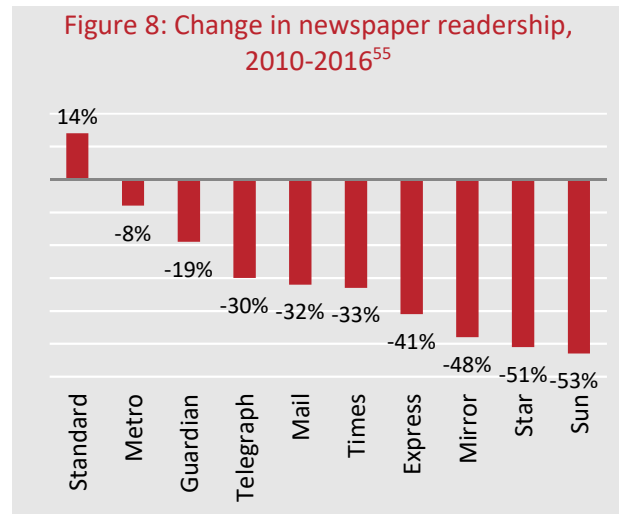
By contrast to the paid nationals, the *Metro* and *Evening Standard* have been far more resilient, thanks to their free distribution. The *Metro* has only dropped 8% since 2010, and the *Standard* is up 14%.

The *Metro* is focussed on national news, is distributed in over 50 cities across the UK,⁵⁶ and has circulation second only to the *Sun* and the *Mirror*. Based on monthly print reach, it is actually the largest UK paper, and it is undoubtedly an important news source. Despite its geographic limits,⁵⁷ its reach across all nations (except Northern Ireland), all English regions, and in both rural and urban areas, is at least as high as (say) the *Sun*'s website, according to Ofcom's news consumption survey.⁵⁸

The *Evening Standard* has narrower distribution, but is nonetheless influential in national news, both because of its own substantial readership and because most other news outlets are based in London and so their editors and journalists see it regularly. During the 2017 election, for example, the *Telegraph* published over 50 articles mentioning the *Evening Standard* (or more than one per day).⁵⁹

Its profile has been increased by the appointment of George Osborne as editor, who is also helping it reach national audiences by promoting it on Twitter (where he has over 200,000 followers). His presence makes the *Standard* part of the Westminster story, and led to significant coverage elsewhere.⁶⁰

While smaller in circulation terms, Scottish titles such as the *Daily Record* also provide national news.



⁵⁵ [NRS](#)

⁵⁶ [East Midlands, Metro](#) [Accessed 30 June 2017]. This page describes Metro's offering to advertisers in the East Midlands, but notes that the *Metro* is distributed "in over 50 cities across the UK"

⁵⁷ I note that Ofcom, in its report to the Secretary of State, often referred to 'UK wide' newspapers, without offering a rationale for this narrowing of focus. Not only is this narrower focus inappropriate, but even if it were to be used, then the *Sun* and the *Scottish Sun* would need to be set aside, since neither is a UK wide title

⁵⁸ Kantar Media [for Ofcom], [Ofcom News Research 2016](#), 30 June 2017

⁵⁹ [Google Search](#)

⁶⁰ See, for example: Joe Watts, "[George Osborne's London Evening Standard labels Theresa May's manifesto 'most disastrous in history'](#)", *The Independent*, 30 May 2017; Jane Martinson, "[Osborne's first Evening Standard edition shows resolve to take on May](#)", *The Guardian*, 2 May 2017; "[All of George Osborne's anti-Theresa May Evening Standard front pages](#)", *The Telegraph*, 26 June 2017; BBC, "[Brexit leads first Evening Standard under George Osborne](#)", 2 May 2017;

Share of readership

As an individual title, the *Sun* remains the most read newspaper, with 8% reach and 20% share of readership⁶² (Figure 9). However, DMGT, which owns both the *Metro* and the *Mail*, is now the largest UK newspaper group, with readership across the week 22% higher than that of News Corp (*Sun*, *Times* and their respective Sundays).

Of course, newspaper groups should not be seen as monolithic. There is internal plurality both within these various individual titles, and between titles in each group. The *Times* and *Sunday Times* took opposing views on Brexit, for instance, and are subject to different editorial governance provisions. The *Sun* and *Scottish Sun* backed different parties in the 2017 election.

Figure 9: Readership share, 12m to March 2017⁶¹

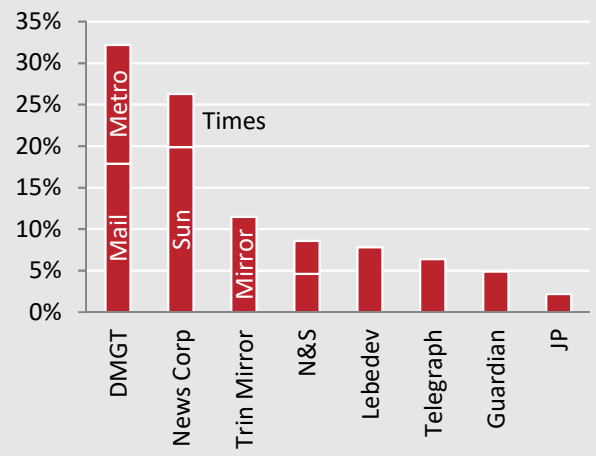


Figure 10: Election-day front pages, *Sun* and *Scottish Sun*



Print declines 'offset' by online growth?

I discuss online news in more detail below, but note here that it is sometimes argued that online consumption of newspapers has offset their contraction in print.

Certainly most newspapers have significant monthly reach online – that is, many people visit a given newspaper at least once a month. However, a few visits per month (or less) to a newspaper site is

⁶¹ NRS, Communications Chambers analysis. All titles include a pro-rated allocation of the readership for their Sunday equivalents (where they exist)

⁶² Share of readership is calculated by dividing a title's readership by the summed (non-de-duplicated) readership of all titles. Total includes *Evening Standard*

clearly very different in terms of its capacity to influence from daily readership of a print edition.

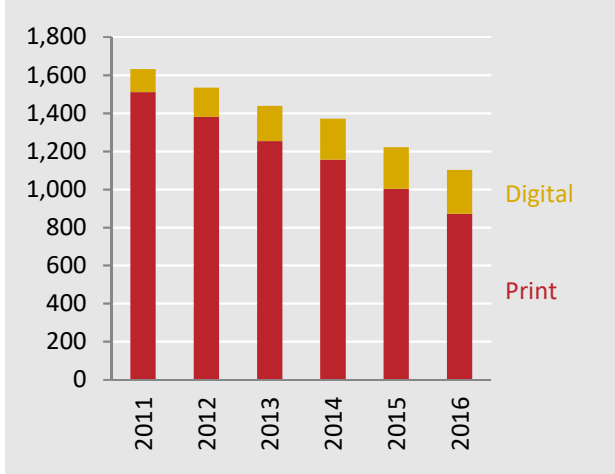
Indeed, this is one of the key challenges to the business model of newspapers – advertisers do not believe that they are nearly as influential online as offline, given lower volume and frequency of user engagement.

A further factor depressing newspapers' online ad revenues is the relative lack of knowledge regarding their audiences, compared to players such as Google and Facebook. For example, most newspapers do not require their audiences to register or identify themselves

As a result, though newspapers have gained some digital ad revenue (and substantial digital reach), this has been far more than offset by the decline in print revenue.

Hence the industry cliché that newspapers are replacing analogue dollars with digital cents.⁶⁴

Figure 11: National newspaper ad revenues (£m)⁶³



⁶³ [AA/WARC](#), Communications Chambers analysis

⁶⁴ See, for example, Rory Cellan-Jones, [The FT and the value of digital news](#), BBC, 24 July 2015

Radio

Key figures⁶⁵

	2003	2010	2016
Listening, hours per week	22	20	19
BBC Share of listening	53%	55%	52%

Availability

Until 2008, the number of radio stations saw steady growth, though there has been a slight drop-off since then. The industry saw consolidation in the period up to 2009, with the creation of Global Radio and Bauer Radio as major radio players with a wide portfolio of channels. Since 2010 there has been greater stability, albeit with some smaller acquisitions: by Global of some GMG stations; Bauer of Absolute Radio; and News Corp of Wireless Group. (None gave rise to plurality concerns.)⁶⁶

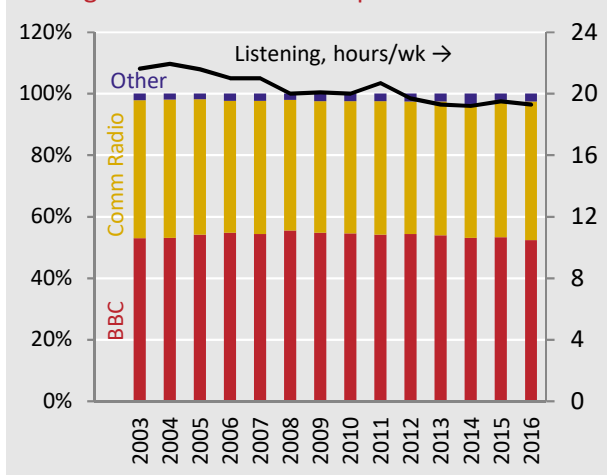
Consumption and share

Radio listening share has been largely stable, with the BBC capturing as much listening as all the commercial and community stations combined. (Though its share has dropped from a 2008 peak of 56% to 52% in 2016).

Within BBC share, news-heavy Radio 4's share has been steady at around 12% of total listening. Radio 2 has gained somewhat at Radio 1's expense.

The results of Ofcom's news consumption survey show a greater lead for the BBC, with 64% reporting they use BBC UK-wide stations⁶⁸ as a news source (amongst radio users), compared to 42% for commercial radio.⁶⁹ This is likely to be at least partially due to more purposeful use of Radio 4 and Five Live for news, by contrast to the more incidental consumption of news on commercial stations.

Figure 12: Radio consumption and share⁶⁷



⁶⁵ RAJAR

⁶⁶ Ofcom did review the Global/GMG transaction, but found that it did not operate against the public interest. Ofcom, [Report on public interest test on the acquisition of Guardian Media Group's radio stations \(Real and Smooth\) by Global Radio](#), 11 October 2012

⁶⁷ Communications Chambers analysis of RAJAR data. Figures are for June of each year

⁶⁸ A higher figure would use any BBC station (including regional and local), but this figure cannot be derived from the data Ofcom has published

⁶⁹ Ofcom, [News consumption in the UK - 2016 data](#), 13 February 2017

Internet

I now turn to the internet. In its report to the Secretary of State, Ofcom struck a cautious note, stating:

“The online news market is still evolving, and we recognise the potential for this to bring about significant changes in the consumption and impact of traditional news providers *in the future*” [emphasis added]⁷⁰

Elsewhere Ofcom has been less hesitant, saying in March 2017: “the internet has ... transformed the way in which audiences access news”.⁷¹

The internet has indeed been transformative, and continues to see (and drive) substantial, rapid and complex change. I therefore consider it in greater detail than the traditional media platforms.

Key figures

	2003	2010	2017
Internet penetration ⁷²	42%	73%	88%
Broadband penetration	5%	71%	83%
Smartphone penetration	-	26%	76%
Hours online / week (for users) ⁷³	9.9 (2005)	14.2	22.9 (2016)
Lead online news provider ⁷⁴	BBC	BBC	BBC

Availability

Online news provision has seen extraordinary expansion since the Communications Act in 2003. At that time, the *Daily Mail* website did not yet exist, for example. All traditional providers are now well established online, but new online-only news sources continue to appear. For instance, since 2010 BuzzFeed and The Huffington Post have launched UK editions, and now have online reach of 23% and 24% respectively (not far behind Sky News at 31%, and ahead of

⁷⁰ ¶12.15. See also ¶16.55 and ¶16.56. ¶16.56 seeks to argue against the significance of the internet by saying (in part) “older people and C2DE groups are significantly less likely to use the internet for news than younger people and ABC1 groups”. However, one could equally accurately say “younger people and C2DE groups are significantly less likely to use newspapers”. Ofcom makes no attempt to argue against the importance of newspapers on this basis however

⁷¹ Ofcom, [Annual Plan 2017/18](#), 30 March 2017. ¶12.2

⁷² Ofcom, [Communications Market Reports](#) (for all penetration metrics). Ofcom, [Ofcom Nations & Regions Technology Tracker - H1 2017](#), 27 April 2017. Figures are generally for Q1, though with minor variation in certain years

⁷³ Ofcom, [Adults' media use and attitudes Report 2017](#), June 2017

⁷⁴ The Register, [BBC news site facing extinction?](#), 28 August 2003; Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010; Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017

Johnston Press at 19%).⁷⁵ BuzzFeed now has 76 UK editorial staff, including “one of the best-resourced investigative units in British journalism”, according to The Drum.⁷⁶ HuffPo has 40 UK journalists.⁷⁷ Other smaller new launches include Politico, The Canary and the Bureau of Investigative Journalism.

Facebook, now a potent force in news distribution, was not founded until 2004. Even in 2010 its role in news was relatively moderate. It then provided around 6% of referral traffic⁷⁸ to news sites,⁷⁹ compared to around 40% today.⁸⁰ It also enables substantial news consumption within its own site. Twitter, now also significant, was launched in 2006.

Finally, as more people have moved online, the ready availability of internet news sources to citizens has increased.

Thus availability of online news has increased on a number of dimensions.

Consumption and share (direct)

In considering online consumption, I first look at evidence regarding direct consumption, and then turn to the somewhat more limited data available regarding indirect consumption (via social media, for example).

For direct consumption, I consider: consumption metrics; whether online news is simply an extension of off-line consumption; and multi-sourcing.

Consumption of online news

Online news consumption continues to be highly diverse. According to comScore’s technical measurements,⁸¹ eight distinct sources have online reach of 15m or more (Figure 13).

⁷⁵ comScore, June 2017

⁷⁶ The Drum, [BuzzFeed to Fleet Street – 'We're figuring out the future of journalism'](#), 9 June 2016

⁷⁷ Reuters Institute, [Digital-born news media in Europe](#), 6 December 2016

⁷⁸ Referral traffic is a visitor that arrives at a given website via a link from another site, rather than as a result of the visitor entering the destination website’s address directly into a browser

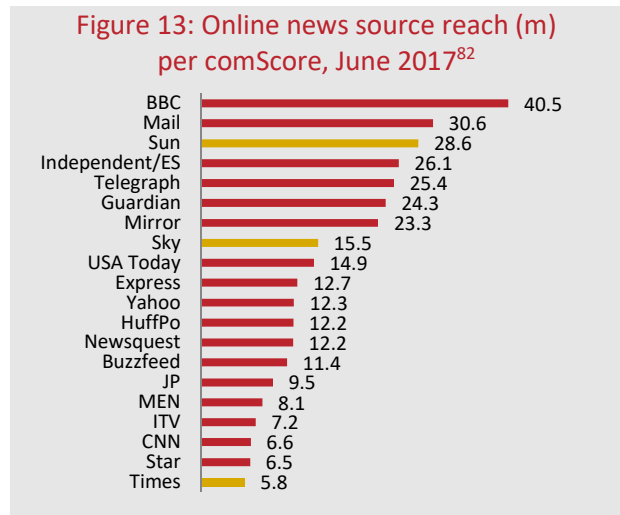
⁷⁹ Nic Newman, [Mainstream media and the distribution of news in the age of social discovery](#), Reuters Institute of Journalism, September 2011

⁸⁰ Parse.ly, [Network Referrers Dashboard](#) [accessed 5 July 2017]

⁸¹ comScore uses tracking and measurement software on both publisher servers and on the devices of a panel of consumers to estimate usage

The BBC has the most visitors, reaching roughly 40m each month, followed by the *Mail*, the *Sun* and the *Independent/Evening Standard*. (comScore does not include sites such as Facebook in its News & Information category). Sky and the *Times* rank #8 and #20. (The *Times* is far behind BuzzFeed, the Huffington Post and the *Express* on this metric).

The BBC also has the only news-specific app in the UK's top 20 apps.⁸³



Technical measurements such as comScore's are precise as to the number of visitors, but cannot tell us why a given person comes to a site. For instance, someone may arrive at the *Mail* site to read celebrity gossip linked from Twitter. Or a *Sun* user may in fact be only using the Sun's companion 'Dream Team' fantasy football site.⁸⁴

It is the nature of online consumption that use of a news site does not imply use of news content. (By contrast, it would be hard to read a print newspaper without at least taking in the front page). This distinction applies to other media too – for example, it is why our analysis of TV consumption focuses on news programming on BBC One (say), not all programming.

The best evidence to address this issue is Ofcom's news consumption survey. Any consumer survey has its limits, not least that they are limited by respondents' recall. In the current context, this may lead to underreporting of sites visited incidentally as a result of a link on social media, for example.

However, Ofcom's survey has the crucial advantage that it allows us to understand the purpose of consumers' visits. The question Ofcom asks is "which of the following [news sources] do you *use for news* nowadays" (emphasis added). This will exclude, for example, the fantasy footballers on the Sun's portfolio of sites. 'Nowadays' will likely exclude some respondents who had only trivial use of a site in the course of the last month. (Note that average daily unique visitors for an online site can be well under a tenth of the monthly

⁸² comScore. Total Digital Population

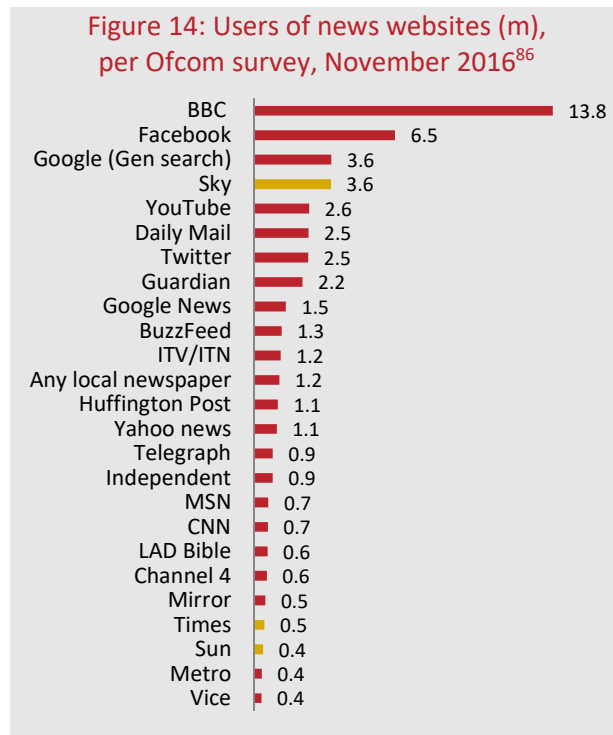
⁸³ Similarweb, [Mobile App Ranking](#) (UK, Google Play and iOS) [accessed 6 July 2017]

⁸⁴ comScore brackets this traffic together with visits to the main newspaper site in its reporting

unique visitors, meaning that the vast majority of monthly users *don't* visit daily).⁸⁵

Ofcom's survey approach gives some notably different results regarding the importance of different online sources (Figure 14). Most dramatically the *Sun's* audience drops from 25m (online visitors) to 0.4m (online news users),⁸⁷ and its ranking drops from #3 to #23 - behind the Huffington Post and LAD Bible.⁸⁸ (This makes clear that online use has not offset declines in print usage – the 0.4m compares to a 2.2m drop in those using the *Sun* or *Sun on Sunday* in print, just since 2013).⁸⁹

Sky too sees a drop (7.9m visitors to 3.6m users), but it moves up the rankings to #4, given that most other players see larger drops. The *Times*, behind its paywall, is small on both metrics.



The survey also highlights the importance of online-only players for news, with respondents ranking Facebook #2 and Google Search #3. (If Google's various outlets⁹⁰ are combined, their aggregate reach is similar to Facebook's). Twitter stands at #7. I discuss news consumption via such services below.⁹¹

The internet's impact on traditional outlets' share of voice

It is sometimes argued that the internet has had little impact on the influence of traditional media. For example, Ofcom (in its report to the Secretary of State) claimed:

⁸⁵ See, for instance, ABC, [The Sun Online Property Activity Certificate](#), May 2017

⁸⁶ Kantar Media [for Ofcom], [Ofcom News Research 2016](#), 30 June. Providers' Sunday editions and apps included. Survey results scaled for UK population 18+

⁸⁷ Ofcom uses this difference to argue that "evidence suggests that Sky News and The Sun in particular may have significant reach through their website and through intermediaries, which may not be reflected in our News Consumption Survey. The true share of reference of Fox/Sky and News Corp may therefore be significantly higher than is reflected in our analysis" [¶6.46 of the report to the Secretary of State]. However, in making this argument Ofcom is asserting that it knows better than respondents *why* they use outlets such as the *Sun* website. There is no evidence to support this assertion

⁸⁸ The Reuters Institute Survey had similar results for the Sun website. See Reuters Institute, [Digital News Report 2017](#), June 2017

⁸⁹ Communications Chambers analysis of data from Ofcom News Consumption surveys

⁹⁰ Google Search, Google News, YouTube

⁹¹ See page 31

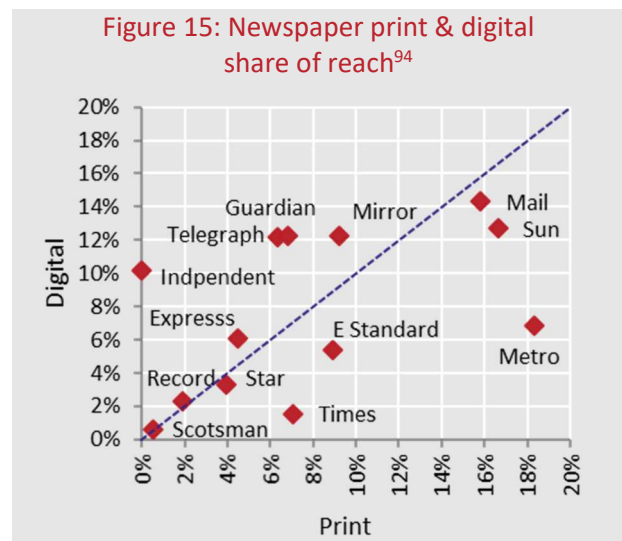
“We believe that the rise in consumption of news online is unlikely at this stage to have materially reduced the strength of traditional news sources’ voice.”⁹²

As I discuss later, the internet has in fact had a dramatic impact on the influence of traditional media.⁹³

However, what is striking in Ofcom’s claim is that it refers to traditional news sources’ *voice*, singular. Even if this were true, it would still allow for the possibility that the internet had had material impact on the strength of individual traditional media outlets. Indeed, this is exactly what has happened. The outlets which are strong offline are not necessarily those which are strong online, and vice versa

Figure 15 compares the share of reach, print and digital, for newspapers. For example, the online reach of the *Times* is relatively much lower than its offline reach (2% share of reach vs 7%), because it operates behind a paywall. The *Sun* too underperforms online (13% vs 17% - and as discussed above, even this 13% may not be using the site for news).

Conversely, the *Guardian* has moderate print readership and the *Independent* none at all. But both have substantial digital reach, comparable to the *Sun* and not far behind the *Mail*.



Such reach means that on a cross-media basis, the significance of different newspapers is very different from that within print alone – the benefits of digital reach are not distributed in proportion to each title’s print reach.⁹⁵

Note that I do not argue that one user reached via digital is equivalent to one reached via print – on the contrary, the typical digital user will spend less time with the outlet in question than the typical print user will spend. But this does not alter the fundamental point that online consumption is relatively much more important for some outlets than others.

⁹² ¶2.18

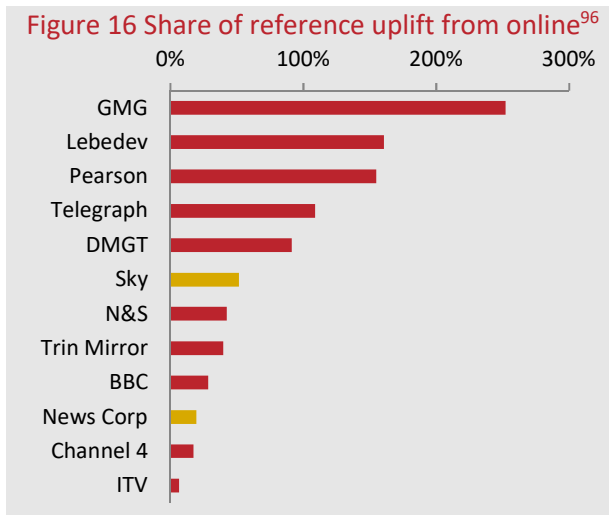
⁹³ See section 7

⁹⁴ Communications Chambers analysis of NRS, [NRS NPADD September 2016](#), 29 November 2016

⁹⁵ For the avoidance of doubt, I do not suggest the influence attributable to print and digital reach are equivalent

An analysis of share of references tells a similar story. Figure 16 shows the relative uplift in a provider's share of references from online consumption. For example, if a newspaper had a 2% share of references derived from print, and 1% derived from online, then online would provide a 50% uplift.

As the figure shows, different providers receive very different benefits from the addition of online. For GMG, it more than triples their share. For News Corp, the impact is much more marginal. This is further evidence that (at absolute minimum) the internet has had an important impact in redistributing share of consumption between different traditional players.



Impact of the internet on multi-sourcing

An important aspect of plurality is multisourcing – the extent to which the average citizen consumes news from multiple outlets.

This is a vital additional perspective to consumption share. Consider two scenarios. In the first scenario, person A visits website x-news.com twice per day, and person B visits website y-news.com twice per day. In the second scenario A and B each visit x-news.com and y-news.com once per day.

The two scenarios are identical in volume of consumption and the market share of the two sites. However, the second scenario is more plural in that each person is exposed to a diversity of views. There is less risk they will be ‘spoon fed’ a particular perspective by a site they are solely dependent on.

The rise of the internet has acted to support multi-sourcing. Each year more people use the internet for news, and the number of online sources accessed by these users is also steadily increasing.

As consumers add the internet to their platforms used for news, they likely add additional news sources. As we have seen, the mix of newspapers used online is very different than that used in print, for example. Users do not simply add online consumption of the sources they are using already.

⁹⁶ Communications Chambers analysis of data from Kantar Media [for Ofcom], [Ofcom News Research 2016](#), 30 June 2017

According to the Reuters Institute:

“Internet users have access to more and more information from more and more different sources, increasing the opportunities people have to use diverse sources and encounter different perspectives.”⁹⁷

Some have sought to downplay the impact of the internet on multi-sourcing across media. For instance, Ofcom (in its report to the Secretary of State) said:

“According to our News Consumption Survey, people use an average of 3.8 different news sources, measured across all platforms. This figure has remained broadly the same since 2013, despite the wide range of sources available online”.⁹⁸

However this misses the shift in sources used. Since 2013 there has been a 0.3 drop in the number of newspaper sources used by the average person. However, there has been a 0.5 *increase* in the number of online sources used per person.⁹⁹ Moreover, in this analysis Ofcom treats each social media and aggregator as a single source. As we will see, such outlets are in fact gateways to multiple sources.

The above refers to sources, treating (say) BBC One and the BBC website as two distinct providers. However, even on a wholesale basis, the average news user uses news from 2.8 sources.¹⁰⁰ That the typical user is seeing almost three different perspectives on the news (or more, if their sources include social media) strongly mitigates against any one owner having undue influence.

Consumption and share (indirect)

I now turn to indirect consumption of news online, via social media and aggregators. Such sites do not create their own content, but they bring (de facto) distinct news agendas, support multi-sourcing and act to redistribute share amongst underlying providers (since, for example, the *Guardian's* share of referral traffic for social media may be very different from its share of direct traffic).

⁹⁷ Reuters Institute (for the Council of Europe), [Challenges and opportunities for news media and journalism in an increasingly digital, mobile, and social media environment](#), October 2016

⁹⁸ ¶6.49

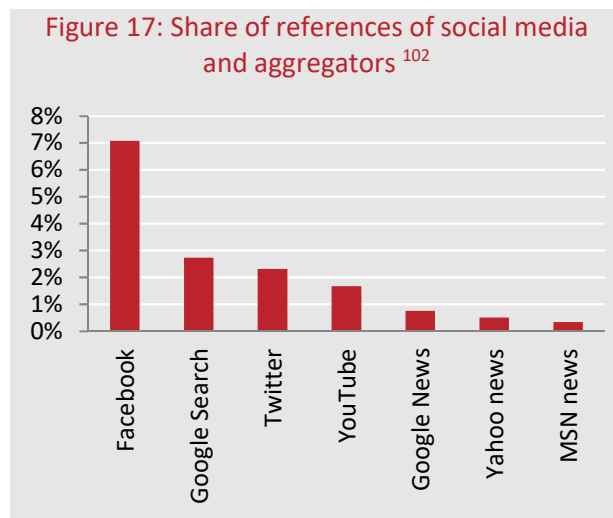
⁹⁹ Communications Chambers calculations based on figures from Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017. Blended figures across all news users

¹⁰⁰ Ibid

News content appears in social media either because publishers place it there themselves (for instance, the BBC News Twitter account), or because consumers share news stories.

In 2016 18% of consumers online reported that they shared news stories on social media, up from 12% just two years earlier.¹⁰¹ Since one sharer can place articles in all their friends’ news feeds, this suggests that virtually every Facebook user is seeing such articles. This is significant since it means that Facebook is an important means by which news reaches ‘passive’ users, those who might not otherwise have sought out news.

Social media and aggregators have grown to have enormous importance. According to Ofcom’s news consumption survey, Facebook is now the #3 news source, only slightly behind ITV.¹⁰³ This change has been rapid. As recently as 2010, Facebook was not generally recognised as a player in news - it was not even mentioned in Ofcom’s 2010 report on news plurality,¹⁰⁴ nor (for example) in an MIT paper on ‘The Internet and the future of news’ written that year.¹⁰⁵



Understanding the implications of this indirect consumption is complicated both by limited data, and by the fact that for some outlets, the product they offer via social media is very different from that either on their website or via print or broadcast (as appropriate). However, the available evidence suggests that consumption via social media dilutes, not enhances the influence of Sky and News Corp.

I focus on Facebook, Google and Twitter, the groups with material share of references.¹⁰⁶

¹⁰¹ Reuters Institute, *Digital News Report 2016*, 14 June 2016

¹⁰² Communications Chambers analysis of data from Kantar Media [for Ofcom], *Ofcom News Research 2016*, 30 June 2017

¹⁰³ Retail share of references basis

¹⁰⁴ Ofcom, *Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation*, December 2010

¹⁰⁵ Paul Sagan & Tom Leighton (MIT), “The Internet & the future of news”, *Daedalus*, 2010

¹⁰⁶ I note Ofcom’s discussion of Sky’s distribution via Yahoo News in its report to the Secretary of State [¶16.37.1].

However, just 2% of respondents in Ofcom’s news consumption survey say they use Yahoo News. Further, Ofcom relied on a submission by MRC which suggested that Sky content dominated Yahoo News in February 2017. Certainly that is not reflective of recent content on the site. I reviewed the top 50 stories at three randomly chosen times (7am, 3 July; 8am, 8 July; and 3pm 16 July 2017). Across these three times, there was just one Sky story out of 30 in the top 10, and just 12 out of 150 in the top 50.

Facebook

In September 2016, 36.6m UK adults visited Facebook (or used its app)¹⁰⁷ and more than 10 minutes of every hour spent online are spent with Facebook.¹⁰⁸

According to Facebook CEO Mark Zuckerberg:

“We don’t write the news that people read on the platform. But ... we do a lot more than just distribute news, and we’re an important part of the public discourse.”¹⁰⁹

He has described Facebook’s goal as “build[ing] the perfect personalised newspaper for every person in the world”.¹¹⁰

Content from news outlets reaches audiences via Facebook in a variety of ways. A user may ‘like’ a particular source; a user’s friends may share news content; or Facebook may select a news story as a ‘trending’ topic.

Note that none of these guarantee a user will see the content. Facebook uses an algorithm to determine what appears in each user’s ‘newsfeed’¹¹¹, to present the most engaging content for each user, thereby encouraging them to spend more time on Facebook. This ranking of posts in newsfeeds (or, in effect, agenda setting) is pivotal to Facebook. According to the company:

“[M]ore than a billion people have joined Facebook, and today they share a flood of stories every day. That’s why stories in News Feed are ranked—so that people can see what they care about first, and don’t miss important stuff from their friends. If the ranking is off, people don’t engage, and leave dissatisfied. So one of our most important jobs is getting this ranking right.”¹¹²

Even as far back as 2014, the average Facebook user was potentially exposed to 1,500 stories a day (all the shares from their friends, sources they had liked and so on) – but actually saw only 100 per day.¹¹³ Thus the newsfeed algorithm - in selecting which stories to

¹⁰⁷ UKOM, [Social Networks: Changing Profiles](#), October 2016

¹⁰⁸ UKOM, [UK Digital Market Overview – September 2016](#), October 2016

¹⁰⁹ Samuel Gibbs, [“Mark Zuckerberg appears to finally admit Facebook is a media company”](#), *The Guardian*, 22 December 2016

¹¹⁰ Eugene Kim, [“Mark Zuckerberg Wants To Build The ‘Perfect Personalized Newspaper’ For Every Person In The World”](#), *Business Insider*, 7 November 2014

¹¹¹ Note that this is news in the broadest sense, including posts on any subject by a user’s friends

¹¹² Facebook, [Building a Better News Feed for You](#), 29 June 2016

¹¹³ Eugene Kim, [“Mark Zuckerberg Wants To Build The ‘Perfect Personalized Newspaper’ For Every Person In The World”](#), *Business Insider*, 7 November 2014

prioritise into the top 100 – is playing a fundamental role in which content the user consumes.

Newsfeed visibility of a post¹¹⁴ is a function of:

- The creator of the post in question: how much interest has the user in question shown in that creator in the past (for instance via a ‘like’)
- The individual post’s performance: has it been of interest to other users?
- The type of post (photo, link etc): does this match the user’s preference?
- Recency: how new is the post?

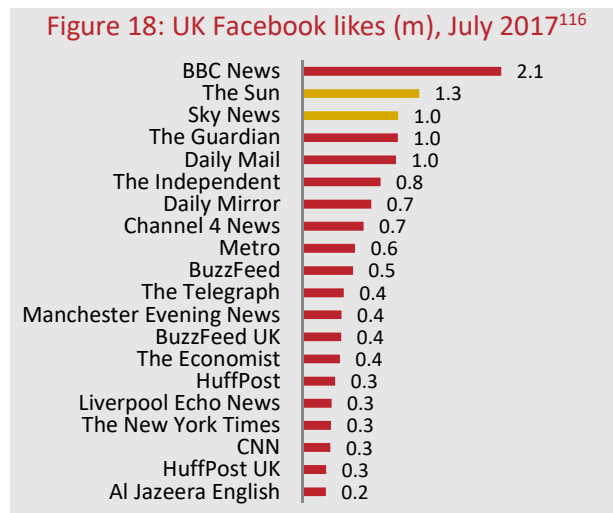
Facebook has also recently made adjustment to de-prioritise stories which are likely to be fake news, and is working with third-party fact checkers to flag such stories as ‘disputed’ when a user views them.¹¹⁵

In addition to a user’s personalised newsfeed, Facebook also offers ‘trending topics’ (which appear alongside rather than within the newsfeed). These too are selected algorithmically.

Ofcom has attached significance to the fact that *The Sun* and Sky rank relatively highly for Facebook likes from UK audiences.¹¹⁷ (The Times ranks #33 however).

However, this simple finding needs to be treated with caution for several reasons.

First, as we have seen, ‘likes’ of brands are but one input into a highly complex algorithm which drives what individuals see. Certainly it does not guarantee that content from the outlet in question is appearing in this many news feeds.



¹¹⁴ For a more detailed discussion, Josh Constine, “[How Facebook News Feed Works](#)”, *TechCrunch*, 6 September 2016

¹¹⁵ Facebook, [Working to Stop Misinformation and False News](#), 6 April 2016

¹¹⁶ Social Bakers, [Facebook Media stats - United Kingdom fans only](#) [Accessed 7 July 2017]

¹¹⁷ Ofcom, [Public interest test for the proposed acquisition of Sky plc by 21st Century Fox, Inc.](#), 20 June 2017. ¶6.37.2

‘Shares’ of specific content are a much better guide as to what is seen on Facebook. To explore the strength of different outlets on this metric, I have examined Facebook shares of content related to the Grenfell fire, as a case study.¹¹⁹ Figure 19 shows the results.

The *Independent* leads by a significant margin – and its sister brand, Indy100, ranks sixth. Sky and the *Sun* rank 12th and 13th, just slightly ahead of Skwawkbox and the Canary. (The *Times*, behind its paywall, ranks #57)

The *Sun*’s lack of prominence was not because it wasn’t covering the story - 172 *Sun* stories on Grenfell were shared on Facebook, more than both the Huffington Post and Indy100.

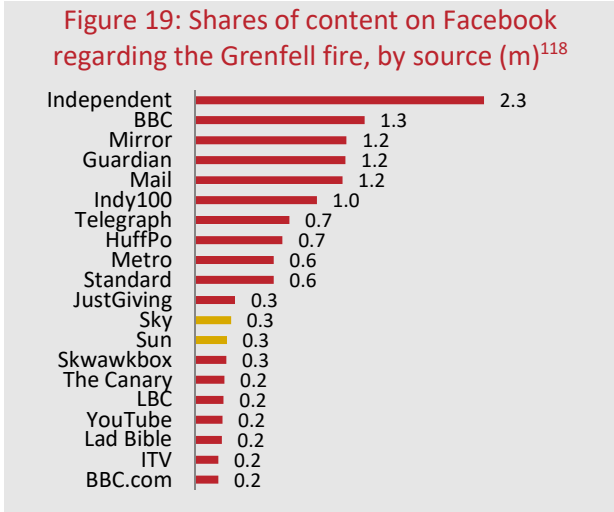
This analysis suggests that Facebook acts to dilute the *Sun*’s relative influence, not enhance it per Ofcom’s supposition.

A second reason to be cautious of Ofcom’s analysis of Facebook likes is that they are widely distributed. The *Sun*’s 1.3m likes represents a share of less than 8% of UK likes for news outlets, for example.

Third, a news outlet’s content online can be very different from that of its traditional outlet. The *Sun*’s Facebook content is particularly light. An analysis of the top 100 stories in the *Sun*’s Facebook newsfeed as of 10am 30 June 2017 shows that just 6 relate to politics or current affairs.¹²⁰ Sport and human-interest stories were more than half the total, with roughly a quarter in the categories crime and celebrity & entertainment.

By contrast to the *Sun*’s 6 stories, the BBC and the *Guardian* had 36 and 38 politics and current affairs stories in their top 100. Thus the *Sun*’s reach via Facebook is less significant for news consumption than it might seem.

Finally, in terms of share of influence, the gain through Facebook needs to be seen in the context of each organisation’s starting



¹¹⁸ Communications Chambers analysis of Buzzsumo data, for month following the Grenfell Fire

¹¹⁹ BuzzFeed had conducted a similar study based on the 2017 election, with similar results. This is discussed in this paper’s analysis of the election, at page 68

¹²⁰ Covering immigration, Brexit, school funding, circumcision in Turkey, the ‘Hyde Park Justice Campaign, and Jon Snow at Glastonbury

point. For instance, Sky News and the *Guardian* have equal likes on Facebook. However- Facebook aside - Sky is an appreciably more important news source than the *Guardian* (as measured by share of references, for example).¹²¹ Thus the effect of Facebook is to increase the *Guardian's* share of influence relative to Sky. Indeed, Facebook boosts several smaller players, such as the *Guardian*, *Independent* and *Mirror*, inevitably at the expense of larger players.

Google

Ofcom's survey found that over 40% of online news users said they 'sometimes', 'often' or 'most times' use aggregators to access news. These aggregators play a very different role than Facebook. They respond to user's search for a particular news term ('Brexit', say), whereas a user's story selection on Facebook is passive. Conversely, news via Facebook is influenced by which sources (friends or media organisations) a user has previously specified. News via aggregators generally does not depend on this specification.¹²²

Google is by some margin the most important aggregator, and provides three such sources – its main search engine, Google News and YouTube. Leading Google News results are offered as the first results of searches on the main Google page, if the search in question relates to a news item. Users can also search exclusively for news results on the Google News page (or simply review the stories identified as most important by Google).

Google's search results for news are the result of a complex and evolving algorithm. Key drivers of the algorithm are set out in a patent filing (see Figure 20).

News may be consumed (in headline form) on Google's pages, or by clicking through to the underlying provider.

To understand Google's influence on news consumption, I have reviewed the page-one results for ten different current news-related search terms.¹²⁴ Of the 50 results from news organisations, 14 were from the *Guardian*

Figure 20: Google news ranking metrics, per patent¹²³

- Volume of production of the news provider
- Article length
- Depth of coverage by provider for the topic
- Speed of coverage ('breaking news score')
- Click-through frequency to the provider
- "Human opinion" (eg number of Pulitzers)
- Traffic to the provider
- Staff size (per number of bylines for the provider)
- Number of provider bureaus
- Number of names mentioned in story
- Breadth of news provider
- Global reach of news provider
- Writing style (spelling, grammar ...)

¹²¹ See page 40 onwards

¹²² Note that Google News does have an option to specify particular sources, but this is not applied by default

¹²³ Frederic Filloux, "[Google News: the secret sauce](#)", *The Guardian*, 25 February 2013

¹²⁴ Search terms were Brexit, Jeremy Corbyn, Theresa May, Donald Trump, Grenfell Fire, Charlie Gard, G20, North Korea, Superbug and House prices. Searches conducted on an incognito browser in the UK on or around 10am 7 July 2017

and 9 from the BBC. There were 2 each from the *Sun* and Sky (fewer than the 3 from the *Express*), and none from the *Times*.

Thus the effect of news consumption via Google is that users will be led to sources that are relatively weak offline (such as the *Guardian*). Necessarily this dilutes the influence of sources that are stronger offline, such as the *Sun* and Sky.

In combination, Google and the other aggregators - each with their own algorithms and business models - ensure not just a news agenda distinct from traditional outlets, but also a diversity of aggregator agendas.

Twitter

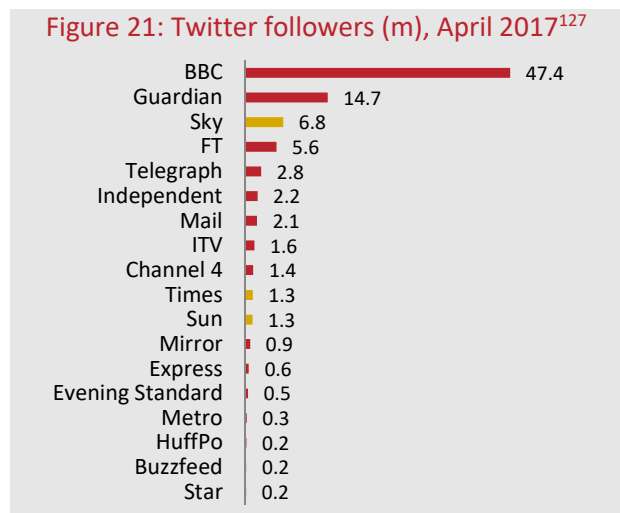
Just over 20m UK adults used Twitter,¹²⁵ and the Ofcom 2016 survey found that 5% of respondents used Twitter for news (or 9% of those using the internet for news).¹²⁶

In terms of Twitter followers, the BBC's various accounts have in aggregate 47m followers, a figure that dwarfs those of other UK media organisations. (I note that the BBC, as with other outlets, will have material ex-UK followers). Sky has 7m, or less than half the *Guardian*. Its share of followers (amongst the various outlets shown in Figure 21) is just 8%.

Sky is followed by the *FT*. Premium publishers like the *FT* have generally placed more emphasis on Twitter than on Facebook. (Most media companies have far more followers on Facebook than Twitter – the *FT* has roughly similar numbers on both).

Both the *Sun* and the *Times* have relatively limited Twitter followings, well below the *Independent*, for example.

In addition to seeing a particular source by following it, a user may see it as a result of link sharing or retweeting.



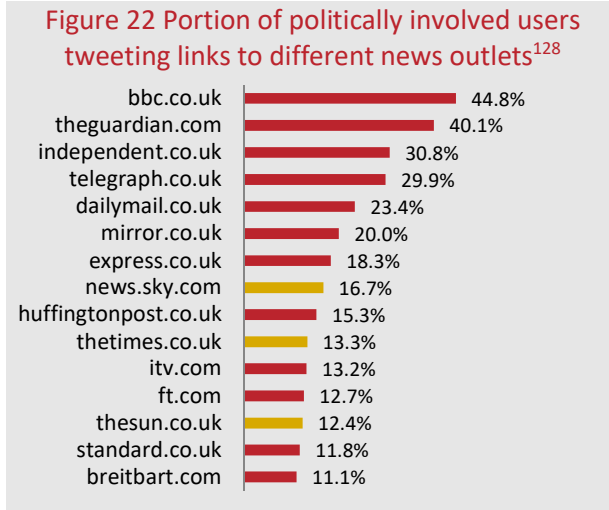
¹²⁵ UKOM, *Social Networks: Changing Profiles*, October 2016

¹²⁶ Communications Chambers analysis of Ofcom, *News consumption in the UK - 2016 data*, 13 February 2017

¹²⁷ Communications Chambers analysis of Twitter data. I have excluded individual accounts with fewer than 100,000 followers (such as @guardianweekly, and those aimed at an international audience (such as @bbcworldservice and @GuardianAus). Totals are not de duplicated – for example, an individual who follows both @SkyNews and @SkyNewsBiz counts as two followers for Sky's total

A recent Demos study analysed link sharing using a sample of 1.25 million tweets from 2,263 politically-involved users in the UK. It found that Sky ranked #8 amongst news sources, shared at less than half the rate of the *Guardian* for example. The *Times* was at #10, behind the Huffington Post and the *Sun* at #13, just after the *FT* (Figure 22).

This evidence suggests that as with Facebook and Google, Twitter will dilute the influence of Sky and News Corp, since other sources see much greater relative benefit from this new route to citizens.



Contribution of social media and aggregators to multi-sourcing

Free access to most online news sources and low barriers to switching (immediate availability of multiple sources on demand; the possibility to ‘snack’ on individual articles; and so on) mean that multi-sourcing is high via the internet. However, social media and aggregators online make their own contribution. According to the Reuters Institute:

“Users of search, social media, and online aggregation services are significantly more likely to see sources they would not normally use.”¹²⁹

This is a particularly helpful mode of multi-sourcing, in that it may be more likely to take a consumer to conflicting views – from media outlets or otherwise. In other modes a consumer may deliberately source from a set of (perhaps) concordant sources.

According to Charlie Becket, director of LSE media thinktank Polis:

"Social media means that whenever *The Sun* or *Mail* comes out with something, there's thousands of people coming out saying 'oh go away'. People can see other people being much more sceptical. It's now cool to say 'get lost' to the mainstream press. I think generally people are much less vulnerable to that manipulation." ¹³⁰

¹²⁸ Alex Krasodonski-Jones [for Demos], *Talking To Ourselves? Political Debate Online and the Echo Chamber Effect*, September 2016. Data is from the period 6 October to 16 November 2016 This study also looked at retweeting of corporate accounts, though this was appreciably less common. Sky ranked #2 in this category, after the BBC

¹²⁹ Reuters Institute, *Digital News Report 2017*, June 2017

¹³⁰ Jasper Jackson, *“Labour’s success shows the political hegemony of the right-wing press is ending”*, *New Statesman*, 10 June 2017

A King's College study of the 2015 election found that:

“Political influencers [on Twitter] kept closely to the agenda of issues set by the parties and mainstream media.

These influencers – many of whom were themselves mainstream journalists – were more likely to challenge the narrative of the parties and of mainstream media. They were more likely to bring attention to inconsistencies between party claims and independent analysis, to point people to original sources that contradicted party or press claims, and to satirise stage managed announcements and events.”¹³¹

(If mainstream media's power over the online news agenda is simply to select which of their stories are debunked on the internet, this is a particularly feeble form of influence.)

Social media and the transition to mobile for news

A significant majority of time online (63%) is now spent on mobile devices.¹³² This transition is important, since it is not just a change of screen. The way in which news is consumed is different on mobile devices. According to the Reuters Institute:

“[T]he move to smartphone goes hand-in-hand with the move to distributed content. When we ask people about the MAIN way in which they come across news stories we see that people use social media more on the smartphone, whilst they are less likely to use a branded entry such as a website or app”.¹³³

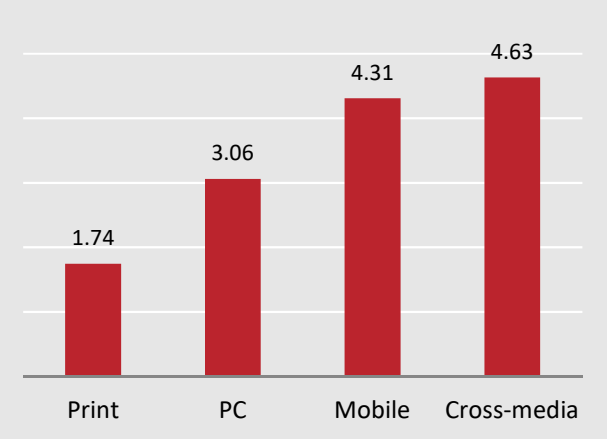
¹³¹ Martin Moore & Gordon Ramsay, *UK Election 2015 - Setting the agenda*, October 2015

¹³² UKOM, *UK Digital Market Overview – June 2017*, August 2017

¹³³ Reuters Institute, *Digital News Report 2016*, 14 June 2016

One consequence of this is that multi-sourcing is particularly high for users of news via mobile. Taking newspaper brands as an example, NRS-PADD figures show that those who use a newspaper via any platform on average access 4.63 different newspaper brands in a month (Figure 23). Looking at individual platforms, print readers read only 1.74 different brands *in print*, and PC users read 3.06 brands via PC. But mobile readers read 4.31 brands via mobile. Clearly mobile is a platform much more given to multi-sourcing than print or even the PC.

Figure 23: Number of newspaper brands used by users of different platforms (12m to Mar 2017) ¹³⁴



This is a positive development. In the past there was a concern that that the use of news apps on mobile phones would result in narrower usage.¹³⁵ Use of social media appears to be offsetting this, since users are exposed to news shared by their friends which might be from sources they would otherwise not have seen.

Overall, given mobile’s importance for news consumption and multi-sourcing, the very rapid growth in smartphone adoption over the last five years - coupled with social media use - represents a significant contribution to plurality.

¹³⁴ Communications Chambers analysis of NRS, *Print/PC/Mobile & Tablet*, 29 June 2017

¹³⁵ See for instance Damian Tambini & Sharif Labo, *Monitoring Media Plurality after Convergence*, December 2015, citing data from Reuters Institute, *Digital News Report 2014*, 12 June 2014

5. News availability & consumption cross-media

Having considered the individual media, I now turn to a cross-media analysis of plurality.

Different media do have distinct roles, may enjoy different levels of trust from citizens and so on. However, an individual ultimately synthesises these inputs into a single perspective. Individuals do not divide their worldview up by media – the brain does not split ‘things I learned from TV’ and ‘things I learned from newspapers’. There is simply knowledge and opinion. If a citizen is exposed to a fallacious argument in a newspaper, it does not matter whether that argument is rebutted by another newspaper she reads or a TV programme she sees. What matters is that the argument has been rebutted.

Thus the paramount perspective in an examination of plurality should be cross-media, rather than having an undue focus on share within any particular media type. An organisation with a very strong position in one type of media might not be cause for concern if diluted by significant plurality in other media.

This view that a cross-media perspective should be paramount is consistent with Ofcom’s approach:

“[A]ny assessment of the sufficiency of media plurality must ultimately be carried out on a cross-media basis, taking account of news and current affairs provided by the merging parties and other providers on radio, television, newspapers and online.”¹³⁶

To quantify cross-media news consumption I draw on Ofcom’s ‘share of references’ approach.

¹³⁶ ¶1.21 of Ofcom, [Report on public interest test on the acquisition of Guardian Media Group’s radio stations \(Real and Smooth\) by Global Radio](#), 11 October 2012

The BBC's position

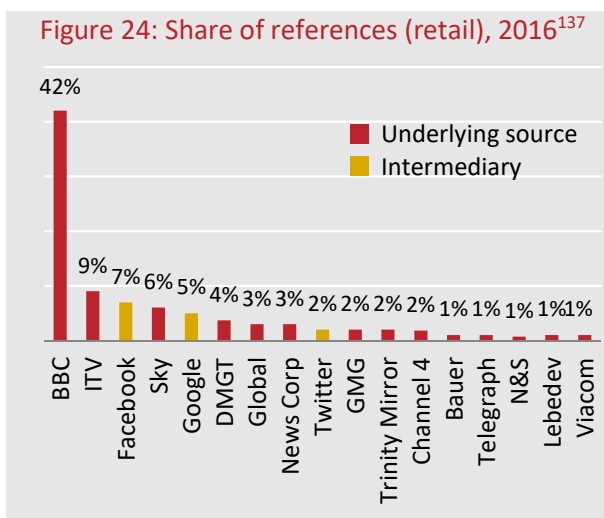
Looking at share of references by provider, the BBC is clearly far more important to UK news consumption than any other player, thanks to its significantly leading position in each of TV, radio and online. It has a cross-media share equal to the next nine players combined, and roughly five times that of ITV, its nearest rival.

The BBC has steadily increased its share in TV, and maintained its share in radio. It has always been the leading player in UK online news, but this position has become more important as online consumption has rapidly grown. Conversely, the BBC's absence from print matters less and less, as newspaper readership rapidly falls.

Indeed, in terms of news in its home market, the BBC is one of the most powerful public service broadcasters in the world. For its international report on news consumption, the Reuters Institute surveyed 26 countries. In terms of the reach of the main public service broadcaster in each market, the UK (in the form of the BBC) ranked #2 for online reach, and #4 for broadcast reach.¹³⁸

A number of features of the BBC ensure that its output is both balanced and internally plural:

- It is expected to operate in the public interest, with impartial, independent and trustworthy news
- It is subject to a special governance regime under its board and by Ofcom
- It is subject to particular scrutiny by a range of other stakeholders, including other media outlets, parliamentarians and so on
- Its licence fee funding gives it a powerful incentive to be as universal as possible, meeting the needs of all segments of society
- Non-commercial funding allows it to address topics in a range or depth that might not be possible for a commercial player



¹³⁷ Ofcom, [News Consumption in the UK: 2016](#), 29 June 2017

¹³⁸ Reuters Institute, [Digital News Report 2016](#), 14 June 2016

In part for these reasons, the BBC is a highly trusted news brand, and indeed one that users consciously use to cross check other sources. A 2014 survey found that over half of those online would use the BBC site to “check whether something I've heard is true”.¹³⁹

Thus the BBC's strength is an important bulwark for diverse and impartial coverage in UK news. Certainly it would act as a powerful counterbalance to a hypothetical influential commercial player.

Beyond the BBC

ITV

The largest single player after the BBC is ITV, with a 9% share. ITV has seen a gradual decline in recent years, possibly due to its comparatively weak position online. That said, it remains highly important, and it has grown in scope via its acquisition of UTV in 2015.

Facebook and Google

Third is Facebook, which has an 7% share. As we have seen Facebook's significance has grown dramatically since 2010, and the fact that it has (in consumers' eyes) become the third largest single source of news in just six years shows just how fluid the news market is. In 2014 it ranked behind Sky and News Corp, but while Facebook has been rapidly gaining, these players have been losing share of references, dropping to #4 and #8 respectively in 2016.

After Facebook, the most important online-only player is Google, ranked #5. As we have noted, its outlets include its main search engine, Google News and YouTube. (Of users of video sharing sites, 31% report that they use them for news and current affairs).¹⁴⁰

Sky

Sky is at #4 with 6% share of references, down from 7% in 2013.

The newspaper groups

In line with their declining circulation, newspaper groups are not particularly prominent. The largest are DMGT, News Corp and GMG, at #6, #8 and #10 (with 4%, 3% and 2% share of references respectively). GMG has been gaining in importance because of its success online – its website provides approximately 70% of its share of references. On the trajectory of share of references since 2013, GMG looks set to overtake News Corp this year.

¹³⁹ Mediatique [for the BBC], [The provision and consumption of online news – current and future](#), December 2014

¹⁴⁰ Ofcom, [Adults' media use and attitudes](#), June 2017

Conversely News Corp's drop to #8 has been particularly sharp. In 2010 Ofcom determined News Corp to be the #2 player for retail share of references.¹⁴¹ However, since then the *Sun* has seen more rapid circulation decline than most newspapers. For instance, in 2010 it had readership 63% higher than the *Mail*, and more than twice that of the *Metro*. Today it is 20% or less above each of them. News Corp's position in news consumption is further weakened by the *Times*' paywall strategy. While this may well be commercially rational, it certainly reduces reach. The *Sun*'s website, though not behind a paywall, is not regarded by consumers as an important source of news, and captures less than 0.2% share of references.

The nature of news supply

Another perspective on 'share of references' is the mix of share by category of provider - that is, impartial providers, inherently plural providers, and unfettered providers.

By impartial providers I mean the broadcasters, who are subject to an impartiality obligation. Strictly this obligation applies only to broadcast output,¹⁴² but in practice all broadcasters carry it over to their online output.

By 'inherently plural' providers, I mean those whose business model is based on the distribution of a wide variety of underlying sources. Facebook, Google and Twitter are all examples. Note that such providers may provide a narrower range of sources to an individual user, but overall each provider has a high degree of internal plurality.

Our third category is the 'unfettered' providers, those who are able (though not obliged) to take a particular editorial stance – most notably, newspapers. Of course, such providers generally do provide a range of opinion (internal plurality), but they need not do so.

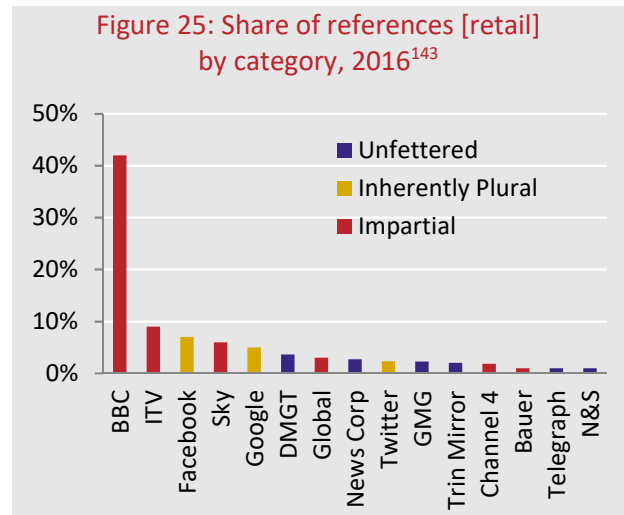
¹⁴¹ On the basis of 'all news sources used'. On the basis of 'single main source of news', News Corp's rank was #4 in 2010. Note that neither metric is exactly comparable to the approach currently taken by Ofcom. Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010

¹⁴² Except for the BBC, which also has an impartiality obligation for its online content

If we consider share of references from this perspective, we see that impartial and inherently plural sources dominate, with a total share of references of over 80%. All of the top five players are in one of these two categories.

Unfettered sources hold less than 20% share of references in aggregate.¹⁴⁴ The largest single unfettered player is DMGT, with just 4% share.

Of course players of all types - certainly including unfettered players – contribute to plurality. However the dominance of UK news consumption by impartial and inherently plural sources is a further bulwark against any one media owner having undue influence.



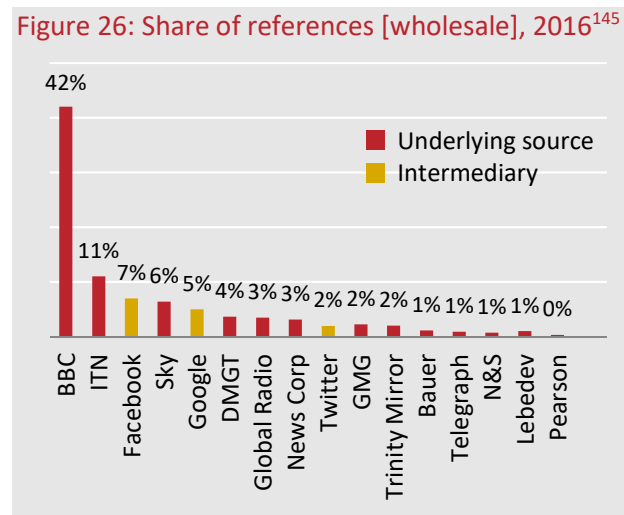
Wholesale supply of news

Our understanding is that the statutory framework requires an assessment of plurality primarily at retail level, in terms of availability to audiences. However, in its assessment of plurality, Ofcom also considers share of references on a ‘wholesale’ basis – that is, based on the underlying supplier of news content (such as ITN for Channel 4) rather than the retail outlet.

The patterns on a wholesale basis are broadly similar to those on a retail basis.

The BBC again dominates, and is four times as large as ITN, its nearest rival. ITN in turn is roughly as large as any two other providers combined. Put another way, *no* merger of any other companies (not even Sky+DMGT or Sky+News) could displace ITN as the #2 player in the market.

Changes over time to the wholesale picture have primarily been driven by the same trends that have affected the retail picture,



¹⁴³ Ofcom, *News Consumption in the UK: 2016*, 29 June 2017

¹⁴⁴ I have conservatively assumed the group of ‘other’ sources are all unfettered, though in reality this group includes Channel 5, for example

¹⁴⁵ Ofcom, *News Consumption in the UK: 2016*, 29 June 2017

notably the decline in the newspaper groups and News Corp in particular.

Sky, while still important on a wholesale basis, is much less so than Ofcom perceived it to be in 2010. Sky, which was the previous supplier of news bulletins to five, lost the contract to ITN in 2012.¹⁴⁶

Conclusion re cross-media news consumption

The BBC continues to be a dominant force in UK news, with over four times the share of references of its nearest rival, ITV (or ITN on a wholesale basis). Beyond these two leaders, news share is widely distributed, across broadcasters (TV and radio), print and online.

However, the particular constraints on the BBC ensure that it makes a positive contribution to plurality. Indeed a strong BBC coupled with the significant aggregate share of impartial and inherently plural sources would greatly limit the power of any single voice, even if (hypothetically) one other than the BBC were to have a significant position in news.

¹⁴⁶ There has also been a technical change in Ofcom's treatment of wholesale providers. In its 2010 analysis, Ofcom considered commercial radio's wholesale supplier to be Sky News. While Sky did (and does) have a contract to supply Independent Radio News (which in turn supplies commercial radio stations), this service was simply one input to bulletins which individual stations created locally, retaining editorial control. Thus Ofcom has since changed its approach, and now (rightly) deems commercial radio groups such as Bauer and Global to be their own wholesale suppliers

6. Impact

While consumption is clearly important, not all consumption is created equal. If a consumer watches two news bulletins, one from a channel she believes is highly reliable, and the other from a source she regards with scepticism, then the former bulletin is likely to have greater impact.

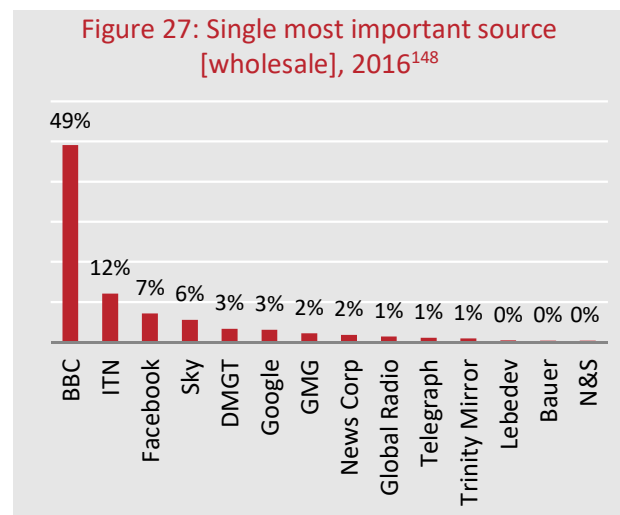
Ofcom consumer research regarding news consumption therefore asks about proxies for impact. In particular, it looks at which sources consumers regard as most important, as well as reported levels of five attributes: accuracy, trust, impartiality, diversity ('offers a range of opinions') and the extent to which a news source helps people make up their minds.¹⁴⁷

Most important source of news

In broad terms, the news sources people report as most important corresponds well with the 'share of references' measure. (Compare Figure 27 to Figure 26). The BBC is a strong leader, followed by ITN, Facebook and then Sky.

However, the BBC outperforms somewhat on the 'single most important source' metric, with 49% of respondents identifying the BBC, compared to the Corporation's 42% share of references. This is suggestive that BBC consumers regard what the BBC has to say as particularly influential.

Just 6% say Sky is their most important source, and less than 2% identify News Corp titles.



¹⁴⁷ Ofcom, [Measurement framework for media plurality - Ofcom's advice to the Secretary of State for Culture, Media and Sport](#), 5 November 2015

¹⁴⁸ Kantar Media [for Ofcom], [Ofcom News Research 2016](#), 30 June 2017

Attributes of news sources

The five attributes Ofcom considers are generally quite highly correlated with each other. For example, the ratings respondents give for ‘accuracy’ are very similar to the ratings they give for ‘trustworthy’, perhaps unsurprisingly. The main exception is the attribute ‘Offers a range of opinions’.

Figure 28 shows the scores given in Ofcom’s 2016 survey for ‘range of opinions’ and ‘trustworthy’, for the most used news outlets. In general the broadcast brands are scored highly by their users on both these dimensions, perhaps as a result of the impartiality obligations they carry. That said, the broadsheets (and in particular the *Guardian*) also score highly.

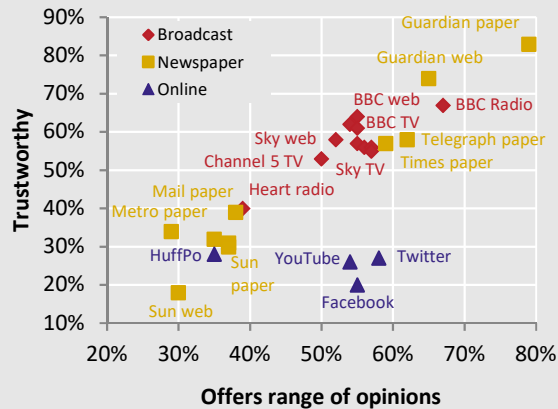
Social media scores poorly for trustworthiness, but highly for diversity. Facebook, for instance, receives one of the lowest scores of all outlets for trustworthiness, but for ‘offers range of opinions’ it receives similar a score to the broadcast outlets with their impartiality obligations.

This suggests consumers understand well social media’s strengths and weaknesses. They are aware that not everything on Facebook is true, though this is very different from saying (for example) that they don’t trust BBC news stories that they happen to see via Facebook.

It is also plausible that these survey results understate social media’s diversity. Respondents will be describing their own experience of the platform. But if two respondents have selected (say) primarily right-wing and left-wing outlets to follow respectively, then each will have a relatively narrow experience, even if the platform as a whole is highly diverse.

As with the ‘most important source’ metric, attributes such as trustworthiness also suggest that the BBC’s importance may be somewhat understated by pure consumption metrics. Important though it is in terms of consumption, the high level of trust consumers have in the Corporation implies that in terms of

Figure 28: ‘Trustworthy’ and ‘Offers range of opinions’ for selection of news outlets¹⁴⁹



¹⁴⁹ Ofcom, [News consumption in the UK - 2016 data](#), 13 February 2017. Figures are the percentage of users of each outlet that score it 7 out of 10 or more for the attribute in question.

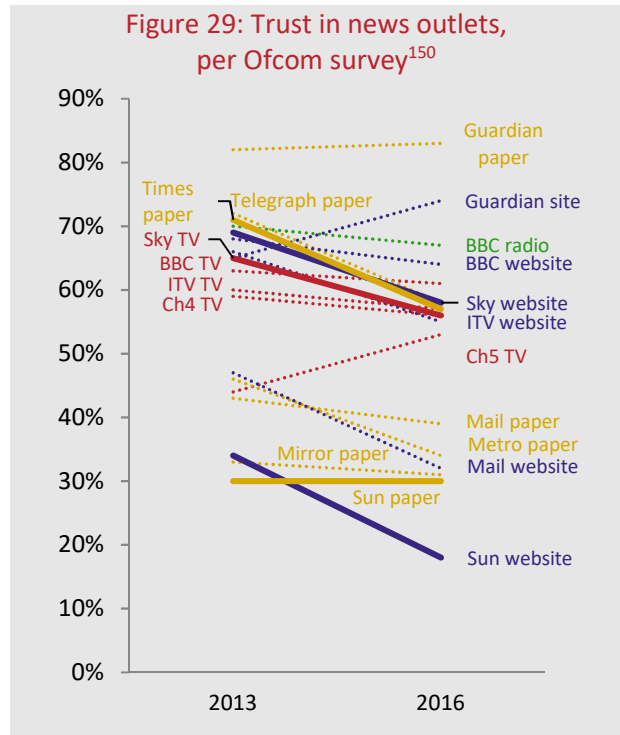
influence it may be even more important. By contrast, consumption metrics may overrate the importance of the *Mail* and the *Sun*, which are relatively less trusted by their audiences. (That said, such outlets do have the freedom to advocate particular positions, whereas broadcasters with impartiality obligations may not).

Trust over time

The Ofcom survey also allows us to assess how trust of different outlets has developed over time (Figure 29). In contrast to most other outlets, virtually all the News Corp and Sky outlets have seen a sharp decline in ratings for trust since 2013. For example, the *Times* (in print) has seen its score fall from 71% to 57%, dropping from #3 to #9 in the trust rankings. The Sky website has seen a similar decline (69% to 58%) while Sky TV has fallen from 65% to 56%.

While trust in the *Sun* newspaper has held steady (albeit from a very low base), the *Sun* website has seen its trust rating fall from 34% to 18%.

A few other outlets have seen equivalent falls to these (notably the *Telegraph*, the *Metro* and the *Mail* website), but most have seen moderate declines or even growth. This suggests – quite apart from any consumption changes – the impact of News and Sky outlets has been waning, as consumers become more sceptical of their output relative to that of other news providers.



¹⁵⁰ Ofcom, [News consumption in the UK - 2016 data](#), 13 February 2017; Ofcom, [News consumption in the UK - 2013 report - Data Tables](#), 25 September 2013. Figures are the percentage of users of each outlet that score it 7 out of 10 or more for trust

7. Contextual factors

Thus far I have taken a highly quantified view of plurality, primarily anchored in consumption and impact metrics. However, as Ofcom has noted:

“[T]here are also aspects of the market that cannot be measured in a quantitative manner at all. ... Qualitative contextual factors are therefore an integral part of the framework [for assessing plurality]”.¹⁵¹

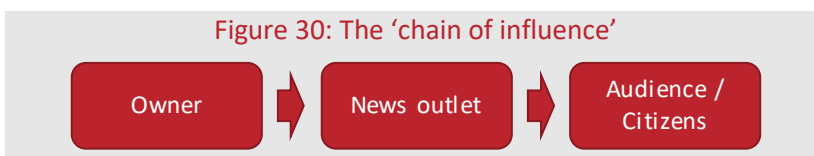
In addition to a diversity of consumption, Ofcom’s definition of plurality calls for:

“Preventing any one media owner, or voice, having too much influence over public opinion and the political agenda”¹⁵²

An assessment of influence is inevitably somewhat more qualitative. Clearly it is related to consumption, but this is not determinative. I now turn to a discussion of how media owners’ influence has been affected by wider market changes, and implications for plurality.

The Chain of Influence

Plurality legislation is based on an implicit assumption of a ‘chain of influence’ that links ownership with an ability to shape opinion and the political agenda. In this chain, the opinions of owners or proprietors influence the output of the media outlets they own. This output in turn has impact on the knowledge and opinions of the audience, which is particularly relevant when they are acting as citizens engaged in the democratic process and political debate.



In practice neither of the links in this chain is static. The degree of linkage can wax or wane, and in practice both links have become much weaker over the last decade, as I will show. This means that ownership of traditional media matters less to the objectives of

¹⁵¹ Ofcom, [Measurement framework for media plurality - Ofcom’s advice to the Secretary of State for Culture, Media and Sport](#), 5 November 2015

¹⁵² Ibid

plurality – diverse viewpoints and control of opinion. In other words the threshold of ‘sufficient’ plurality of media ownership might fall. A level of concentration that in the past might have been regarded as concerning might today be regarded as entirely acceptable (even if there had been no change in consumption patterns).

I now consider the links in the chain, and the factors that have been weakening them.

Waning influence of owners on news outlet content

The ability of a hypothetical owner to dictate what news is consumed is being diluted by two factors. Firstly, audience metrics and social media are increasingly driving which stories are covered and how. Secondly, a news outlet’s decisions about the news agenda are increasingly being rendered irrelevant, as consumers go to individual stories directly, rather than following the outlet’s hierarchy.

I take these in turn.

Increasing impact of the audience and platform on story choice

Historically the choice of an outlet’s news agenda and the lines stories took would have been made entirely on the basis of editors’ and journalists’ judgement. However, online consumption is giving all news outlets (whether digitally native or not) far more information about audience interests and preferences. News organisations are now tracking an increasing range of metrics, such as unique visitors, page views, time-on-site, bounce rate¹⁵³ and so on.

In addition, news is increasingly delivered via social media platforms, and these exert their own influences on what stories and content are produced.

Conforming to audience interests

In 2010 Alan Rusbridger (then editor of the *Guardian*) asked:

“What seems obvious to journalists in terms of the choices we make is quite often markedly different from how others see it – both in terms of the things we choose to cover and the things we ignore. The power of tens of thousands of people articulating those different choices can wash back

¹⁵³ Portion of visitors who visit a single page and then leave a site

into newsrooms and affect what editors choose to cover. We can ignore that, of course. But should we?"¹⁵⁴

The evidence of recent years is that new outlets have certainly not ignored this information. On the contrary, it has become a key input to editorial decisions. In effect, the audience has become a participant in setting the news agenda, voting with their clicks.

For example, Weimann & Brosius say (in a paper cited by Ofcom¹⁵⁵ in its report to the Secretary of State):

"News organizations often monitor and react to online search trends ... which leads to 'reverse agenda setting'" .¹⁵⁶

They go on to say:

"the agenda itself is altered by user behaviour, and users and journalists are part of a collective gatekeeping process; the audience determine the prominence of issues" .¹⁵⁷

According to media consultancy O&O (in a report for Ofcom):

"A variety of qualitative studies have demonstrated unequivocally that these metrics are increasingly adopted in digital newsrooms, and interviews and fieldwork based research suggest they are influencing what is published ... Quantitative work too has shown that such metrics appear to have a systematic impact, with well read articles remaining longer on the front pages of digital editions" .¹⁵⁸

A statistical study of content in the *New York Times*, *Post* and *Daily News* found that:

"data aggregation of audience clicks plays an intricate and dynamic role in influencing whether and how online newsroom editors decide to feature certain news stories" .¹⁵⁹

¹⁵⁴ Alan Rusbridger, "[Alan Rusbridger: Why Twitter matters for media organisations](#)", *The Guardian*, 19 November 2010

¹⁵⁵ Ofcom use a single quote from this paper to argue for the continuing power of traditional media to set news agendas [¶8.11]. However, the overall thrust of this paper is that this power has been greatly reduced

¹⁵⁶ Weimann, G. and Brosius, H. "A New Agenda for Agenda-Setting Research in the Digital Era" in *Political Communication in the Online World: Theoretical Approaches and Research Designs*. Ed. Vowe, G. & Henn, P., December 2015. p31

¹⁵⁷ Ibid, p38

¹⁵⁸ Oliver & Ohlbaum (for Ofcom), [Measuring Online News Consumption and Supply](#), July 2014

¹⁵⁹ Lee, Lewis & Powers, "[Audience Clicks and News Placement: A Study of Time Lagged Influence in Online Journalism](#)", *Communications Research*, 2014

A similar study of content in Dutch newspapers (in print and online) found that audience clicks had a significant impact on subsequent content in the print *and* digital editions.¹⁶⁰

In some cases this process is partially automated. The *New York Times* uses an algorithm which recommends which stories to promote, for example, based on past patterns of consumption.¹⁶¹

In addition to usage metrics, there are also more substantial reader interactions. Already by 2014, 75% of UK journalists were on Twitter, with most of them having 500 followers or more. This puts those journalists in direct contact with their audience, and roughly half of journalists report monitoring discussions of their content on social media.¹⁶² According to Weimann & Brosius:

“The flow from Twitter to the media agenda has been revealed in several studies”¹⁶³

Information on what issues are ‘trending’ on social media also influences editorial. The *Guardian* recently advertised for a ‘Deputy Audience Editor’, who will:

“continually monitor fast-moving search terms and trending topics to advise editorial staff on the most popular stories and editorial opportunities.”¹⁶⁴

Of course, an editor will have the final say in story selection, and may well cover a story she deems important even if audience metrics suggest otherwise. But the evidence above points to new and important influences on editors’ decisions.

Conforming to the requirements of social media platforms

As well as being an information source regarding consumer interests, social media has influence because news outlets are increasingly dependent on platforms such as Facebook for distribution. Publishers’ content therefore needs to adapt to social media’s requirements – ranging from the algorithms they use to prioritise posts, to the audience’s expectations when they use such sites. Examples of content adaptation include: a shift to ‘softer’

¹⁶⁰ Welbers et al, “[News selection criteria in the digital age: Professional norms versus online audience metrics](#)”, *Journalism*, 2016

¹⁶¹ NiemenLab, *The New York Times built a Slack bot to help decide which stories to post to social media*, 13 August 2015

¹⁶² Cision, *2015 Global Social Journalism Study*, 30 July 2015

¹⁶³ Weimann, G. and Brosius, H. “A New Agenda for Agenda-Setting Research in the Digital Era” in *Political Communication in the Online World: Theoretical Approaches and Research Designs*. Ed. Vowe, G. & Henn, P., December 2015. p31

¹⁶⁴ The Guardian, *Deputy Audience Editor* [accessed 13 December 2016]

content; ‘click-bait’ headlines; and preference for content that may be viral.

Emily Bell and Taylor Owen of the Tow Center for Digital Journalism have described it as follows:

“Publishers are making micro-adjustments on every story to achieve a better fit or better performance on each social outlet. This inevitably changes the presentation and tone of the journalism itself. Publishers might say that metrics are only one indicator of performance, and that the core values of a news organization are not shaped by them. However, the central role of audience strategists and social platform editors in deciding which stories are commissioned is increasing. One publisher said that if their audience team doesn’t think a story will perform, it may not be assigned”.¹⁶⁵

They go on to say:

“There is a range of benefits publishers can derive from using social platforms, but these vary between platforms, making the strategic approach to adoption a more complicated equation. As one local publisher said, “sometimes what optimizes to one platform goes against what would optimize for another one.” Our research showed we are seeing the end of singular social media strategies in newsrooms, as multivariate approaches increase. In our interviews, for example, it became clear that Snapchat is understood by publishers to be a resource-intensive way to build a brand recognizable to young audiences, and that Instant Articles are a way to reach wider audiences easily, but not profitably.”

That publishers are customising their product for each different social media platform shows just how important social media has become as a shaper of news content.

Thus there are now a variety of ways in which audiences and platforms have influence over news outlets. This is certainly not to argue that these groups *dictate* the news agenda. Agenda setting remains a complex system, with editors in a critical role, outlets influencing each other, and so on. However, if audiences and

¹⁶⁵ Emily Bell & Taylor Owen [Tow Center for Digital Journalism]. [*The platform press: How Silicon Valley reengineered journalism*](#), April 2017. Note that the paper primarily addresses US media

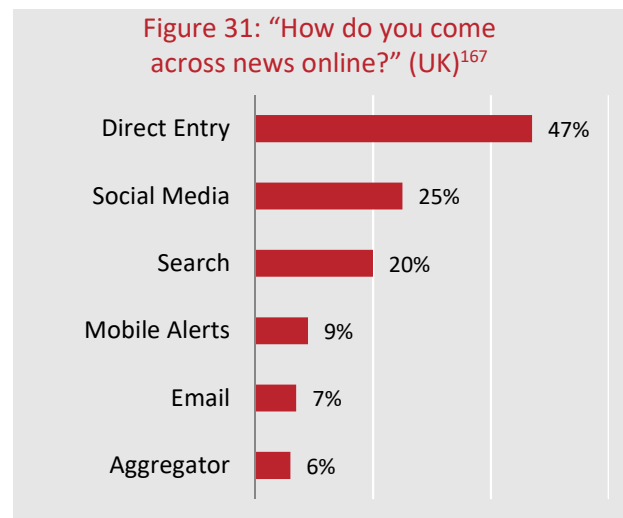
platforms have greater influence, it follows that media owners now have less.

Declining relevance of the editorial news agenda¹⁶⁶

Historically, an outlet's view of the news agenda – its choice of stories and their hierarchy – was critical. Stories deemed important would be on the front page, at the top of a bulletin and so on. These stories were far more likely to be seen by audiences.

However, news consumption online is much more atomized. Audiences increasingly do not consume (in order) a slate of news from a particular provider. Already less than half say that direct entry to a provider's website is the way they come across news online (Figure 31). The proportion looking at homepages has dropped from 59% to 40% in just two years.¹⁶⁸

News organisations' own apps are also limited in their ability to specify a news agenda. According to Enders Analysis:



"News publishers cannot hope that any but their most loyal readers will keep their app on the home screen. For most, the key news apps are the browser and Facebook ... the discovery channels and consumption platforms ... are being transformed".¹⁶⁹

Further, consumption via social media and aggregators makes the news agenda choices of the underlying sources far less relevant. A user referred to a particular story on a site neither knows nor cares whether the outlet considered the story their lead, or their tenth most important story of the day. According to Mediatique:

"[D]iscoverability has been transformed by the role of social media in driving traffic directly to specific content rather than to branded home pages"¹⁷⁰

The transition to such modes of consumption means that news organisations are beginning to lose control of the distribution of

¹⁶⁶ Some – including Ofcom – have argued that newspapers have a particularly important role in setting the news agenda. See Appendix 1 (p 72) for a review of this claim

¹⁶⁷ Reuters Institute, *Digital News Report 2016*, 14 June 2016

¹⁶⁸ Ibid

¹⁶⁹ Enders Analysis, *The rise of platforms and news distribution*, 22 March 2016

¹⁷⁰ Mediatique [for the BBC], *The provision and consumption of online news – current and future*, December 2014

news. Intermediaries (such as Facebook, Apple and Google) and end users are increasingly driving which stories receive most attention. Or, as a senior media executive put it to the Reuters Institute:

“The power of ... Google, Apple, Facebook and Amazon ... is both an opportunity to address more/different users and a critical risk to our media role of hierarchizing messages”.¹⁷¹

According to the Reuters Institute:

“The news you get will increasingly depend on who you are, where you are, and what the publisher or platform you access news via know about you, people like you, and people around you. This development worries some journalists and public intellectuals. Personalised recommendations may undermine editorial control. Many journalists think they, not recommendation engines or social filters, ought to determine what news people get.”¹⁷²

However, the Institute found that consumers were comparatively happy with development. While 20% reported that story selection by editors and journalists was a good way to get news, 31% said that algorithmic selection based on past consumption was a good way.

Emily Bell (writing in the *Columbia Journalism Review*) has spoken to the consequences of this for plurality:

“[N]ews publishers have lost control over distribution.

Social media and platform companies took over what publishers couldn't have built even if they wanted to. Now the news is filtered through algorithms and platforms which are opaque and unpredictable. ...

[T]he inevitable outcome of this is the increase in power of social media companies.

The largest of the platform and social media companies, Google, Apple, Facebook, Amazon, and even second order companies such as Twitter, Snapchat and emerging messaging app companies, have become extremely

¹⁷¹ Nic Newman [for Reuters Institute], *Journalism, media, and technology trends and predictions 2017*, January 2017

¹⁷² Reuters Institute, *Digital News Report 2016*, 14 June 2016

powerful in terms of controlling who publishes what to whom, and how that publication is monetized.”¹⁷³

The power of distribution (and by extension agenda setting) is being wrested away from traditional news outlets, weakening the ‘chain of influence’, and contributing to increased plurality.

Ofcom has in the past recognised the importance of agenda setting power to plurality. In arguing against the importance of the impartiality obligations on broadcasters as a protection for plurality, Ofcom has said:

“[Impartiality] rules would not necessarily prevent an individual with control of a media organisation from influencing the news agenda through the selection or omission of stories. ... The regulatory framework, while relevant to the plurality of news and hence the public interest assessment, does not on its own ensure a sufficiency of plurality of news.”¹⁷⁴

In other words, control of the news agenda would give an owner power, and the potential to reduce plurality (if combined with other assets), regardless of the balance of the underlying news stories. By implication, the shift in control of the news agenda from traditional outlets to Facebook and others represents an *increase* in plurality, whether or not the latter are generating their own stories.

Waning influence of news outlets on citizens

As we have seen, the ability of news owners to dictate which news content is consumed is waning. However, even when news is consumed, its impact on citizens is lessening. This stems from - firstly - the disintermediation of the media. Politicians and others can now speak directly to consumers, establishing a narrative quite separate from that of the media. Secondly, consumers are increasingly making use of a range of sources, often quite deliberately. This inevitably dilutes the influence of any one source. Thirdly, the online version of some news outlets’ offers is considerably lighter than the offline version, with less hard news. (Note that these factors are distinct from - though likely related to - the loss of impact due to declining trust in some media outlets).

I first consider disintermediation.

¹⁷³ Emily Bell, “[Facebook is eating the world](#)”, *Columbia Journalism Review*, 7 March 2016

¹⁷⁴ Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010

Disintermediation of the media

Part of the rationale for the plurality rules in the Communications Act in 2003 was that:

“A free and diverse media are an indispensable part of the democratic process. They provide the multiplicity of voices and opinions that informs the public, influences opinion, and engenders political debate. They promote the culture of dissent which any healthy democracy must have.”¹⁷⁵

While the media still provide a multiplicity of voice, they no longer have a *monopoly* of such provision. Many voices (politicians in particular) can and do speak loudly to citizens, using social media to disintermediate¹⁷⁶ news outlets, and thereby reducing what level of plurality of traditional media is sufficient. Further, for better or worse, a ‘culture of dissent’ is hardly lacking on social media.

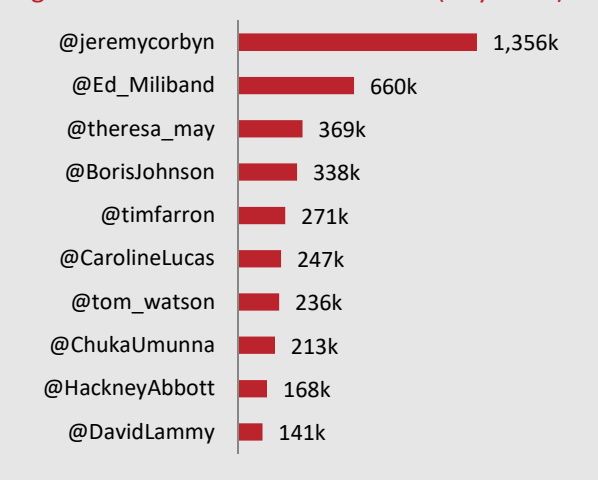
According to Dr Margot Buchanan:

“Social media have much to offer politicians as they enable the political parties to control their representation and campaign messages in a way that is not possible on offline platforms such as television and newspapers.”¹⁷⁷

One powerful tool for this disintermediation is Twitter. Leading MPs have Twitter followers numbered in the hundreds of thousands or more (Figure 32). Jeremy Corbyn has 1.4m followers, for instance. This compares to print readership of the *Telegraph* and *Times* of 1.2m and 1.0m respectively.¹⁷⁹

‘Corporate’ political or governmental accounts can have far larger followings. For example, @Number10gov has 5.3m followers, larger than the readership of any

Figure 32: Twitter followers of MPs (July 2017)¹⁷⁸



¹⁷⁵ House Of Lords Select Committee on Communications, *The ownership of the news*, 27 June 2008

¹⁷⁶ I note that Ofcom sounded a cautious note re disintermediation in its report to the Secretary of State, saying “people often look to traditional providers to help them navigate the range of news content now available online, as well as to help them contextualise and validate stories provided by other sources.” [¶17.20]. However, Ofcom offered just one source for this claim – a paper from 2012.

¹⁷⁷ Dr Margot Buchanan [University of Stirling], “From the Scottish Referendum 2014 to the General Election 2015”, in *UK Election Analysis 2015: Media, Voters and the Campaign*, May 2015

¹⁷⁸ *MPs on Twitter* [accessed 6 July 2017]

¹⁷⁹ NRS, *Readership Estimates - Newspapers and Supplements, April 16 – March 17*

print newspaper. The Mayor of London account has 2.9m, and the Conservative and Labour party accounts have 277,000 and 497,000 followers respectively.¹⁸⁰

Across social media outlets, the Reuters Institute found that 42% of those using social media for news follow at least one politician.¹⁸¹ Of this group, half say they do so because “I prefer to hear directly from a politician/political party than have their views filtered by others”. (A further 29% say they don’t trust the media to be fair). In other words, disintermediation is not just a by-product of these users following politicians – it is its purpose.

Tweets can also have impact beyond a user’s followers. These followers may retweet to a wider audience, or the tweet may be picked up by more traditional media. In effect, a politician may be able to use this technique to set the news agenda. Donald Trump has done exactly this many times.

Trump shows what is possible for a politician using social media even in an environment where traditional media is hostile. He has said of Twitter that “It’s like having your own newspaper”.¹⁸² Former Vice President Cheney said of Trump:

“I think one of the reasons people get so concerned about the tweets is it is sort of a way around the press. ... He's at the point where we don't need [the media] anymore.”¹⁸³

Social media also played an important role in the successful Brexit campaign (and as we will see later, the 2017 election campaign). According to Leave.EU campaign director Andy Wigmore, it was seen as a powerful alternative to the media:

“It didn’t matter what was said in the press. The more critical they were of us when we published these articles to our social media, the more numbers we got”.¹⁸⁴

According to the BBC:

“[P]eople in power are finding they can speak directly to the public without needing to bother with a reporter’s pesky questions. The journalist’s competitor is no longer

¹⁸⁰ As of 6 July 2017

¹⁸¹ Reuters Institute, *Digital News Report 2017*, June 2017

¹⁸² Donald Trump, *Tweet*, 17 October 2012

¹⁸³ Real Clear Politics, *Cheney To CNN's Barbara Starr: Trump Took Us To Point Where We Don't Need You Guys Anymore*, 4 December 2016

¹⁸⁴ Damian Tambini, *“In the new robopolitics, social media has left newspapers for dead”*, *The Guardian*, 18 November

another journalist. Often, it's the subject of the story. Political parties, celebrities, corporations communicate directly with the public".¹⁸⁵

Vyacheslav Polonski of the Oxford Internet Institute puts it as follows:

"Social media has changed the nature of political campaigning and will continue to play a key role in future elections around the world. As more and more people spend a significant proportion of their everyday lives online, social media is becoming a more powerful force to assist and influence the spread of political ideas and messages. What the EU referendum has taught us is that this accelerating technology is open to all and can be used to shape the public agenda and drive social change — for better or for worse."¹⁸⁶

There is no question that the ability of the subject of a story to compete with journalists (as the BBC puts it) dilutes the power of traditional media to act as gate keepers, set agendas and define narratives. Thus it greatly weakens the 'chain of influence'.

Moreover, these changes are not only reducing news outlets' power, they are also diluting politicians' *perception* of that power, as the quotes from Vice President Cheney and Andy Wigmore demonstrate. Since a perception of power (merited or otherwise) is a form of power in of itself, this dilution too weakens proprietors' influence.

Increased breadth of sources

Not only does the internet enable politicians to reach a mass audience directly, it encourages multi-sourcing of news outlets (as we have seen). Indeed the Reuters Institute's research found that online news users deliberately make use of multiple sources to cross-check stories:

"In our focus group work, it was clear that many active internet users now see *themselves* as editors – balancing and comparing multiple sources, multiple editorial judgements, and even multiple algorithms."¹⁸⁷ [emphasis in original]

¹⁸⁵ BBC, *Future of News*, 29 January 2015

¹⁸⁶ Vyacheslav Polonski, *Impact of social media on the outcome of the EU referendum*, 12 September 2016

¹⁸⁷ Reuters Institute, *Digital News Report 2016*, 14 June 2016

In Ofcom's Media Use survey, 20% of online news users said they *always* seek out a range of views on stories that interest them, and a further 44% said they sometimes do this.¹⁸⁸

The internet, and in particular social media, also enables a wider group of sources (beyond news providers) to reach consumers. According to Andrea Ceron of the University of Milan:

“[Social media] can potentially alter individuals' exposure to information and favor direct access to news that circulates among peers without the moderation of news corporations. This lack of editorial filtering generates a more plural and polarized public sphere, in which alternative voices are no longer restrained by dominant media outlets, and promotes critical thought among Internet users.”¹⁸⁹

Indeed, diversity is a key reason why users consume news via social media. Across the UK, US and Germany, 50% of respondents said they used social media for news because it was a “simple way to access variety of news sources”.¹⁹⁰ (57% said this of aggregators).

While there have been concerns about ‘filter bubbles’, in practice there is substantial diversity. For instance, a Reuters Institute study of UK online news users found that:

“those using social media consume more news brands than those who tend to go directly to a news website or those who tend to search for news. Those who use social media more heavily access an even wider range of brands”.¹⁹¹

A US study of news sharing on Facebook found that 35% of content shared by conservatives' friends is from liberal sources (compared to 40% overall news shared).¹⁹²

This increased breadth of sources – via multi-sourcing of news outlets or otherwise - further dilutes the impact of news outlets, who now face a much greater risk of contradiction.

¹⁸⁸ Ofcom, *Media use and attitudes*, June 2017

¹⁸⁹ Andrea Ceron, *“Internet, News, and Political Trust: The Difference Between Social Media and Online Media Outlets”*, *Journal of Computer-Mediated Communication*, June 2015 [references omitted]

¹⁹⁰ Reuters Institute, *Digital News Report 2016*, 14 June 2016

¹⁹¹ Nic Newman and Antonis Kalogeropoulos (Reuters Institute), *Mapping Online News Discovery for Computer Users in the UK*, 28 August 2017. Note that this study focused on desktop (not mobile) news consumption

¹⁹² The equivalent figures for liberals are 25% and 45% respectively. Eytan Backshy, Solomon Messing & Lada Adamic, *“Exposure to ideologically diverse news and opinion on Facebook”*, *Science*, May 2015

Lighter news offers online for some providers

A final effect of news distribution via the internet is that it is changing the nature of content distributed. We have already noted the effect on the news agenda, but there is a separate (though related) trend on the part of some outlets to softer news.

In part this is because advertising rates online are so low. According to Emily Bell and Taylor Owen:

“This leads to an environment in which scale dominates. This need for scale pushes even journalism publishers to create viral and click-bait content.”¹⁹³

While the online outlets of broadcasters and the broadsheets generally continue to focus on hard news, the tabloids have taken a different approach. We have already noted the particularly light nature of the *Sun's* content distributed by Facebook.¹⁹⁴ The *Mail* offers a high volume of celebrity gossip in its ‘sidebar of shame’ on its website. Less than a quarter of its content online comes from the print edition.¹⁹⁵ One result of such changes is that while consumption of such outlets may remain high, their impact is much less significant.

Stephen Glover (a founder of the *Independent* and more recently a contributor to the *Mail* and the *Oldie*) has said:

“The question is how powerful online newspapers are as propaganda vehicles. I suggest they are much less powerful as political vehicles than their print counterparts because that’s not what they are there to do.

“They are not about views and columnists, they are about other things. The press is as biased as it has ever been but it is much less important and social media has become more important.”¹⁹⁶

According to the *New Statesman*:

Of course all these newspapers have digital operations - in the case of *The Daily Mail's* online sister title *Mail Online*, the largest English language news site in the world. But

¹⁹³ Emily Bell & Taylor Owen [Tow Center for Digital Journalism]. [The platform press: How Silicon Valley reengineered journalism](#), April 2017

¹⁹⁴ See page 33

¹⁹⁵ Keith Gladdis, [“Paul Dacre triumphed by recognising online growth should not come at expense of the newspaper”](#), *Press Gazette*, 4 July 2017

¹⁹⁶ Dominic Ponsford, [“Stephen Glover interview: 'Detestation for the Mail has risen enormously but it's based on a misconception of the Mail's power'”](#), *Press Gazette*, 30 June 2017

being part of a digital news consumer's varied diet of articles is very different to being a print reader's main, or sometimes only, source of information. And in search of digital readers, most right-wing newspapers have moved into more frivolous subject matter. It's entirely possible for a regular reader of *The Mail's* sidebar of shame to never see one of its Corbyn bashing front pages.¹⁹⁷

In describing the Sun's move onto Snapchat, Digiday said:

“the Sun promises to not simply replicate the paper onto Snapchat, instead covering more positive, uplifting news and celebrity gossip with that British self-deprecating sense of humour. The Snapchat editions will be highly visual by necessity.”¹⁹⁸

Conclusion re the wider market context

The fundamental premise of regulation of ownership to support plurality is that ownership brings influence. But as we have seen, that linkage is breaking down as the internet remakes the news business.

Today ownership of a news outlet brings far less influence over its news agenda and news content, which are both being democratised thanks to the impact of audience metrics and social media.

Further, news outlets in turn have less impact on citizens, since they are no longer key gatekeepers. Politicians (and others) can bypass the media entirely. Moreover, citizens are increasingly sophisticated news consumers, sampling an array of sources both from news outlets and otherwise.

Finally, the nature of the content distributed online is – in some cases – inherently less influential.

Thus power is being redistributed. According to Emily Bell:

“[M]edia titans like Rupert Murdoch and Paul Dacre are perceived to hold influence, when in fact Facebook, Snapchat, Twitter et al are the de facto organisers of much of the information we receive and discuss.”¹⁹⁹

¹⁹⁷ Jasper Jackson, [“Labour’s success shows the political hegemony of the right-wing press is ending”](#), *New Statesman*, 10 June 2017

¹⁹⁸ Lucinda Southern, [“The Sun launches on Snapchat Discover, plans a dozen pieces of content daily”](#), *Digiday*, 26 April 2016

¹⁹⁹ Emily Bell, [“The truth about Brexit didn’t stand a chance in the online bubble”](#), *The Guardian*, 3 July 2016

Thus ownership of traditional news outlets is less significant than it once was. Put another way, sufficient *overall* plurality can be delivered, even if there are fewer owners of traditional news outlets.

8. The 2017 election: a case study

As I have set out above, fundamental changes in the way in which citizens find, consume, assess and share news has greatly reduced the power of traditional news organisations and in particular newspapers. This was evident in the 2017 general election and – on a smaller scale – in the 2016 mayoral election in London (Figure 1Figure 33).

Below we set out the newspapers’ stance in the 2017 election and how they supported their preferred candidate; the role social media played in the election; and the conclusions drawn by a wide range of commentators in light of the outcome. (We do not address the continuing importance of television and radio in elections, which has seen less significant change).

The newspapers’ attempt to exert influence

The press – and the Conservative press in particular – were full throated in support of their preferred candidates during this election. On election day the *Sun* told its readers “Don’t chuck Britain in the Cor-bin”. On an earlier front page it warned of “Jezza’s jihadi comrades” (a story picked up from the Guido Fawkes website).²⁰²

The *Mail* accused the Labour front bench of being “Apologists for terror”, and made the case against them over the first seven pages of the pre-election-day paper. On election day it led with “Your tactical voting guide to boost the Tories and Brexit”.

The *Telegraph* said a “Corbyn premiership would be a calamity.” The *Express* spoke of “Labour’s hard-Left rabble under Jeremy Corbyn, the most extreme figure ever to have become a contender

Figure 33 The Influence of Newspapers? London mayoral election 2016

In the run-up to the London mayoral election of 2016, a study by the Media Reform Coalition and Goldsmiths stated that “London’s regional newspaper market is, by any measure, extremely concentrated. A population of over 8 million is served by just one daily general interest newspaper – the London Evening Standard”.²⁰⁰

Moreover, according to the authors: “our findings reveal a consistent editorial slant favouring the Conservative candidate’s campaign. This would be less concerning if the bias was concentrated in editorial and comment pieces ... But in fact the research shows that a systematic editorial imbalance was more concentrated in news reports”.

Thus the authors believed newspaper coverage in this election was unusually powerful, and unusually biased.

However, the Conservative candidate favoured by the *Standard* (Zac Goldsmith) went on to lose the election. The winner, Sadiq Khan, received the highest share of vote ever recorded in a London mayoral election.²⁰¹

²⁰⁰ MRC & Goldsmiths, [The Bias of Objectivity](#), 26 April 2016

²⁰¹ House of Commons Library, [London Elections 2016](#), 26 April 2016

²⁰² Dominic Ponsford, [“Daily Mail and Sun launch front-page attacks on Corbyn as Fleet Street lines up behind Theresa May”](#), *Press Gazette*, 7 June 2017

for Downing Street.”. (The *Times* also advocated voting Conservative, though in more muted language).

Thus these titles’ preferred outcome was obvious, as was the fact that (with one partial exception) they exerted all the influence they had to secure that outcome.

Social media and the election

However, this election was not fought via traditional media alone. Social media played an enormous role, both in determining which traditional media stories were consumed, and in enabling the campaigns to disintermediate the traditional media.

Impact on content consumed

Social media both enabled newer publications to reach mass audiences, and had a significant impact on which articles from traditional media outlets were actually seen.

According to Enders Analysis:

“The content discovery mechanisms on Facebook in particular are shaking up the UK’s partisan press landscape. Highly opinionated, pro-Labour online publications with no direct print equivalents are reaching larger Facebook audiences . . . than most national news brands.”²⁰³

Buzzfeed’s study of the sharing of election-related items in 2017 found that Facebook users shared more stories about fox hunting than about Brexit during the campaign, despite the latter getting far more press attention. On Facebook, Brexit only ranked 8th as a topic.²⁰⁴

In addition to a different agenda, BuzzFeed found that the election as perceived via social media had different sources:

“six of the 20 most-shared election-related links on Facebook during the first fortnight of the election were from media sources that sit well outside the mainstream media.”²⁰⁵

These sources were bloggers and The Canary (a left-wing news website). Of the fourteen links from mainstream media, the only newspapers represented were the *Independent* and the *Guardian*.

²⁰³ David Bond, [“Labour’s slick online campaign outguns Tory press”](#), *Financial Times*, 9 June 2017

²⁰⁴ Tom Phillips, [“People On Facebook Didn’t Think This Was The ‘Brexit Election’”](#), BuzzFeed, 8 June 2017

²⁰⁵ Jim Waterson & Tom Phillips, [“People On Facebook Only Want To Share Pro-Corbyn, Anti-Tory News Stories”](#), BuzzFeed, 7 May 2017

Larger newspapers, and in particular the *Sun* and the *Times*, were conspicuous by their absence. According to BuzzFeed:

“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.”²⁰⁶

NewsWhip, a social media analytics company, reached a similar conclusion. It tracked engagement (likes, comments, shares and reactions) during the election and found that the *Independent* far outstripped other sources. Neither the *Sun* nor the *Times* made the top 10.

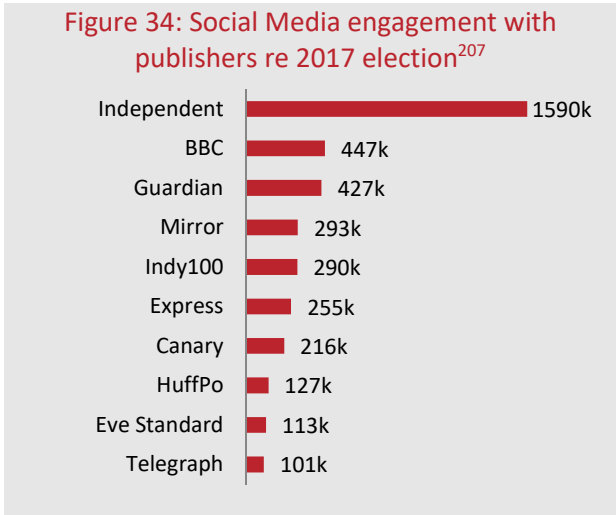
Even individuals were capable of mass reach thanks to social media The *New Statesman* said:

“As of December 2016, the Sun had 1,611,464 readers every day. That’s a lot. But nowadays, people don’t need Rupert Murdoch and a printing press to wield political influence According to Twitter’s analytics tool, [an anti-Theresa May tweet by a 21 year old administrative assistant] reached over 2.9 million people. Everyone now has the potential to have the reach and influence of a tabloid.”²⁰⁸

Of course no individual member of the public (politicians and celebrities aside) will consistently have reach higher than the *Sun*. But Twitter alone has 15m users, broadcasting their opinions, and having a collective voice far greater than any newspaper. Moreover, any one of them could send a tweet, like that mentioned above, with the potential to reach millions.

Disintermediation

In addition to reshuffling the influence of different media outlets, the social media enabled politicians to reach citizens directly.



²⁰⁶ Jim Waterson & Tom Phillips, “Not Even Right-Wingers Are Sharing Positive Stories About Theresa May On Facebook”, BuzzFeed, 3 June 2017

²⁰⁷ NewsWhip, [Here’s how the UK election is playing out on social media](#), 25 May 2017. Data is for 1-24 May 2017

²⁰⁸ Amelia Tate, [“Thanks to social media, ordinary people can now influence elections more than tabloids”](#), *The New Statesman*, 19 June 2017

A much-cited example of this disintermediation is the video of Jeremy Corbyn in conversation with Grime star Jme, widely available via social media. This single video had 2.2m views on Facebook, and over 350,000 on YouTube.²⁰⁹ This is reach that would simply have been impossible for a politician in the past, other than via major media outlets. However this was just part of Corbyn's reach online. For example, his Facebook page saw 4.4m engagements in the last month of the campaign.²¹⁰

Momentum used Facebook to reach even larger audiences. In just the last week of the election, their videos were watched 23m times by 12.7m unique users.²¹¹

While Labour had the advantage online in 2017, the Conservatives too were able to reach voters this way. For example, a video attacking Jeremy Corbyn on Facebook has been viewed 8.2m times.²¹²

Nor was it just politicians and campaign groups who used the internet to reach mass audiences. For example, fact-checkers Full Fact published around 100 items during the election, which reached an aggregate audience of 18.5m via Facebook (with 7.8m engagements). Via Twitter they reached 9.8m.²¹³

Consensus that the influence of newspapers is waning

After the election there was near-universal agreement that the 2017 election provided further evidence that the influence of newspapers is on the wane.

The *FT*, under the headline "Labour's slick online campaign outguns Tory press" recently wrote:

"Nearly 10m people watched leftwing videos on Facebook that appear to have turbo-charged Jeremy Corbyn's campaign. The cost to make them was less than £2,000.

At the same time, a campaign by traditional rightwing newspapers seems to have fallen flat with voters, even when the Daily Mail attacked Labour's leadership over 13

²⁰⁹ [When JME Met Jeremy Corbyn](#), YouTube; [Grime star Jme and Labour don Jeremy Corbyn talk about the importance of a high youth turnout in this election](#), Facebook [accessed 1 July 2017]

²¹⁰ Liam Corcoran, ["How Labour And Jeremy Corbyn Won The UK Social Media Election, In Three Charts"](#), *Newswhip*, 13 June 2017

²¹¹ Adam Peggs [Momentum], ["How Momentum changed British politics forever"](#), HuffPost UK, 13 June 2017

²¹² Conservatives, [On June 9th, this man could be Prime Minister](#), Facebook

²¹³ Full Fact, [General Election 2017, factchecked](#) [accessed 5 July 2017]

pages for spending 'their careers cosying up to those who hate our country'.

The persuasiveness of online media, and the apparent decline in influence in this election of Britain's newspapers, will be picked over in the aftermath of the shock result."²¹⁴

According to Suzanne Moore, writing in *The Guardian* under the headline "The *Sun* and *Mail* tried to crush Corbyn. But their power over politics is broken":

"[V]ast numbers of voters took no notice of the rightwing tabloids. Young voters were not put off Labour by the rightwing press, or they just don't read it. This is huge: part of the readjustment of power now having to be made. The sudden thrust in the direction of the future, youth and possibility means that the dictum that politicians have to crawl to the *Sun* or the *Mail* is overturned."²¹⁵

Media commentator Ray Snoddy makes a similar point:

"The whole point about Murdoch's "power" over the general election outcome is how diminished it now is compared with 1992. The entire national newspaper industry, with the exception of the *Daily Mirror* and the *Guardian*, came out against Jeremy Corbyn and Labour - and a lot of good it did them."²¹⁶

Similarly, according to Roy Greenslade (quoted in the *New Statesman*):

"Spending basically two weeks demonising a man, a leader, and still they don't pull off a victory for their chosen one, suggests they are out of touch, out of touch with the electorate as a whole, though not necessarily their readers. It's the end of the hegemony of news print from the right.

...

"It's a tipping point. No one will be able to take for granted their power again. It has leaked away, this election shows it at its lowest ebb"²¹⁷

²¹⁴ David Bond, "[Labour's slick online campaign outguns Tory press](#)", *Financial Times*, 9 June 2017

²¹⁵ Suzanne Moore, "[The Sun and Mail tried to crush Corbyn. But their power over politics is broken](#)", *The Guardian*, 9 June 2017

²¹⁶ Ray Snoddy, "[The decline of Murdoch's influence](#)", *MediaTel*, 14 Jun 2017

²¹⁷ Jasper Jackson, "[Labour's success shows the political hegemony of the right-wing press is ending](#)", *New Statesman*, 10 June 2017

George Monbiot in the *Guardian* said:

“The election was a crushing defeat – but not for either of the major parties. The faction that now retreats in utter disarray wasn’t technically standing, though in the past it has arguably wielded more power than the formal contestants. I’m talking about the media. The rightwing press threw everything it had at Jeremy Corbyn, and failed to knock him over. In doing so, it broke its own power.”²¹⁸

Peter Preston, also in the *Guardian*, wrote under the headline “This election proves that media bias no longer matters”:

The printed press ... has seldom seemed more overwhelming. Labour cries of “fix” and “grotesque” were rising again as a reason/excuse for defeat, with the BBC added to that hate list. In the end, though, it didn’t matter ...

“In the changed world of 2017, this ought to kill many media preconceptions for good. Print circulations have shrunk and shrunk again even since 2015. Fewer faithful to read the tablets from on high. More balky floaters bent on doing their own thing ...

“[T]here are also signals, in an era of startling swings, that the old ways of press hegemony, just like those of party loyalty, have had their day.”²¹⁹

Will Gore, for the *Independent*, spoke directly to plurality, saying:

“So what conclusion should we draw [from the election]? One is that the readership of the right-wing tabloids has declined to the degree that partisan headlines simply don’t influence the number of people they once did. Another is that readers don’t make judgements purely on the basis of their preferred newspaper’s editorial line. In this era of ever-greater media plurality, people are better equipped to make political decisions because they can examine a range of views and sources. ...

“[M]ake no mistake, this is an extraordinary moment for Britain’s right-wing press, which for so long has been perceived to have a hold over the electorate. The Express is

²¹⁸ George Monbiot, [“The election’s biggest losers? Not the Tories but the media, who missed the story”](#), *The Guardian*, 13 June 2017

²¹⁹ Peter Preston, [“This election proves that media bias no longer matters”](#), *The Guardian*, 11 June 2017

on the ropes. The Daily Mail is bruised. The “Currant Bun” is crumbling”²²⁰

According to Prof James Curran of Goldsmiths, University of London (a founder of the Media Reform coalition and a strong opponent of the proposed merger)²²¹:

“[T]he reign of the tabloids is over. For weeks, the ancient bazookas controlled by Murdoch, Dacre and other press oligarchs were trained on Corbyn and McDonnell ... The campaign failed because the British press is more distrusted than any other press in Europe (as revealed by the 2016 Eurobarometer survey), its circulation is in freefall, and young people in particular get their news and political information from the internet.”²²²

Mick Temple, Professor of Journalism and Politics at Staffordshire University, summed up his views as follows:

“The future looks bleak for printed newspapers and, after 2017, perhaps even bleaker for their political influence via any medium.”²²³

James Rodgers, Senior Lecturer in Journalism at City University

“In an age when so much more opinion is shared on social media, 2017 may well come to be seen as the election which ended the ‘Sun wot won it’ era.”²²⁴

Vanity Fair’s UK editor, Henry Porter, put it this way:

“[A]mong the biggest losers were the tabloids themselves, whose influence at election time, along with their sales, is on the wane. ... Like everyone else, I assumed the impact of the coverage in the Daily Mail, Daily Express, and Rupert Murdoch’s Sun would be crucial, but it turns out I was wrong.”²²⁵

Una Mullally, writing in the *Irish Times*, said:

²²⁰ Will Gore, [“The right-wing press no longer wields absolute power in modern Britain. This election proves it”](#), *The Independent*, 9 June 2017

²²¹ See, for example, Dr Justin Schlosberg et al, [“UK news plurality and Fox-Sky merger”](#) [Letter], *The Guardian*, 5 March 2017

²²² Prof James Curran, [“The day the myths of press power and the centre ground died”](#), *The Guardian*, 11 June 2017

²²³ Prof Mick Temple, [“It’s the Sun wot lost it”](#), *Election Analysis*, June 2017

²²⁴ James Rodgers, [“The election wot The Sun \(and the rest of the UK tabloids\) never won”](#), *The Conversation*, 9 June 2017

²²⁵ Henry Porter, [“Strong and stable my arse”: How Theresa May blew the British general election”](#), *Vanity Fair*, 9 June 2017

“With such a large array of information available to people, the conservative British tabloids are now the equivalent of an aul fella shouting in the corner of a pub.

“Sure, they make a lot of noise and occasionally cause enough controversy for other punters to shout “Ah, here!” in response to their ramblings. But ultimately they are irrelevant. No one is listening, no one is paying attention, their influence has waned and they are out of touch and unfashionable.

“Tabloid screaming may have worked at a time when the dominant force in information was the old media across press, radio and television. But now it’s the internet, and Photoshopping Corbyn in a bin on a front page doesn’t actually have an impact.

“It’s worth mentioning that Rupert Murdoch’s papers are the ones that have struggled the most to carve out a relevant online presence.”²²⁶

Conclusion

In its report to the Secretary of State, Ofcom said cautiously:

“We are aware of the discussion suggesting that print newspapers had a reduced influence, and that social media had a greater influence (especially among young people), in the General Election 2017. It is in our view too early to make a definitive judgement.”²²⁷

However the 2017 election provides clear evidence of the limits to press power in today’s media environment. While none of the analyses quoted above represent a forensic examination of the election, their certainty and consistency is striking. At minimum they suggest that the *perception* of the power of the press has changed radically.

²²⁶ Una Mullally, [“Corbyn's success is a result of youth discontent”](#), *Irish Times*, 12 June 2017

²²⁷ ¶2.15

9. Effect of the transaction

The market context

News media in the UK is robustly and increasingly plural at a national level. The only notable recent loss of an outlet has been the closure of the print version of the *Independent*, but its circulation had dwindled to just 40,000.²²⁸ Conversely, new owners have joined the national print market: Johnson Press, through its purchase of the *i*, and Archant, with the *New European*.

Online there have been numerous new entrants. Facebook is the most powerful, and has become the #3 news player, according to Ofcom's research, with significant influence over what traditional outlets produce online, and on which stories citizens see. (It is also having major financial impact through its capture of ad spend).

The BBC, with its impartiality obligation and many other safeguards, continues to be the bedrock of UK news consumption, and if anything is growing stronger as consumption shifts away from print, the only media where it is not the leading player. (Print has dropped from being the second most used source of news to the fourth, in just four years).

The BBC aside, shifts in the market are redistributing news share more evenly, resulting in a diffusion of power. For example, News, which previously had a significant lead in print, is now matched in that medium by DMGT²²⁹ and is the #8 player overall on a share of references basis (notwithstanding its acquisition of the Wireless Group).²³⁰

Moreover wider market changes have appreciably reduced the power of traditional media outlets such as newspapers and broadcasters. Their ability to act as gatekeepers and set the agenda is rapidly eroding, as the recent US presidential, London mayoral and UK general elections have all demonstrated. Power is shifting to social networks, to aggregators, to politicians and so on.

Combined consumption

The proposed acquisition by 21CF of the outstanding shares of Sky represents a change of control for a single news outlet, Sky News,

²²⁸ Dominic Ponsford, "[National newspaper ABCs: i, Times and Telegraph titles all gain print sales after Independent closure](#)", *Press Gazette*, 16 May 2016

²²⁹ 1.9% share of overall references each

²³⁰ Communications Chambers analysis of Ofcom, "[News consumption in the UK - 2016 data](#)", 13 February 2017

and does not represent a consolidation of any two outlets under common ownership. As such, it has no impact on plurality.

Some have – quite wrongly – argued against the current proposal on the basis that it is simply a reprise of News Corporation’s 2010 bid for Sky.²³¹ As we have noted, since 2010 News Corporation has been restructured into two separate public companies, (new) News Corp and 21st Century Fox, holding newspaper and television assets²³² respectively. These two companies each have their own listings, boards, management and investors, albeit with a common shareholder in the Murdoch Family Trust, which holds approximately 39% of each company. One example of the significance of this split is that it makes impossible an operational integration of Sky and News newspapers, which Ofcom was concerned in 2010 might lead to a loss of editorial independence.

However, *even if* today’s transaction *were* a reprise of the 2010 transaction, it would still not represent a threat to sufficient plurality. In 2010 Ofcom’s view was that News and Sky had a combined wholesale share of references of 22%. As a result of both refinements to Ofcom’s share of references approach and substantial market changes, if Sky, 21CF and News were assessed as one today, their combined wholesale share would be just 10%:

*Change in reported share of references, retail and wholesale, 2016 (usage weighted) vs. 2010 (‘all news sources’)*²³³

	Retail		Wholesale	
	2016	2010	2016	2010
21CF & News / News Corporation	3%	12%	3%	12%
Sky	6%	5%	6%	10%
Combined	10%	17%	10%	22%

This 10% share is far below that of the BBC, and also less than that of ITN (and only just above that of ITV). It is not plausible that the moderate strengthening of the #3 player - with less than a tenth of

²³¹ See for instance Tom Watson, quoted in Mark Sweney, [“Rupert Murdoch confirms £11.7bn Sky bid”](#), *The Guardian*, 15 December 2016

²³² Amongst others

²³³ Totals do not sum due to rounding. Ofcom, [Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#), December 2010; Ofcom, [Public interest test for the proposed acquisition of Sky plc by 21st Century Fox, Inc.](#), 20 June 2017. I note that in 2010 Ofcom also provided share of reference figures based on ‘main source’. I have used ‘all news sources’ since this was the approach which Ofcom gave greater prominence (for instance, it was the one used in its Executive Summary)

news consumption post-transaction - would represent a threat to sufficient plurality.

Treating News and Sky as a single entity with a 10% share of references also entirely sets aside the internal plurality across the constituent channels, stations and print titles. These are very different products, which will continue to provide diversity. This is quite different from (say) the 9% of ITV, which is a single, monolithic source with no inherent internal plurality.

Put another way, were one to believe (wrongly) that the transaction would result in Sky, the *Times* and the *Sun* having aligned news agenda and content (within the bounds of broadcasting regulation), this would not take the group's share of references beyond 10%, but rather simply justify seeing it as 10%, rather than two groups of 6% and 3%.

Finally the 10% share of references overstates the influence of MFT, since it is narrowly focused on consumption. As we have seen, the linkage between ownership of traditional outlets and the ability to influence is greatly weakening. Thus any merger of traditional media players is much less significant than it would have been even a few years ago.

Conclusion

Given the high level of plurality pre-transaction, and the marginal impact of the transaction on plurality, it is implausible that the combination of 21CF and Sky would lead to insufficient plurality and there is no reasonable basis on the available evidence to reach a contrary view.

Appendix 1: Influence of newspapers on the news agenda

As we have discussed above, the agenda of traditional news media outlets is increasingly influenced by external factors, notably audience usage and the imperatives of distribution via social media.²³⁴

Within traditional media it is sometimes argued that print is particularly important, influencing the agenda of television especially. Ofcom argued this case in its report to the Secretary of State.²³⁵ The empirical evidence they offer is a study by Cardiff University.²³⁶

However, it appears Ofcom has drawn conclusions from the study that go beyond what it actually said. Further, there are important limits to the scope of the study, which in turn limits what it can tell us about inter-media agenda setting.

Ofcom claims that the study found that “morning newspapers continued to share a similar agenda to the evening television news bulletins during the General Election 2015”. In fact the study found that of the 140 policy stories covered by TV, just 31% had appeared in newspapers previously. This suggests that broadcasters are making highly independent agenda decisions.

Further, this 31% includes many items that it would be hard to imagine TV *not* covering, regardless of whether they had previously appeared in print, such as: a Conservative promise not to increase tax; the parties’ plans for the NHS; and the launch of Labour’s manifesto. To see TV coverage of such stories as evidence that TV has its agenda set by the press is surely wrong.

An additional issue with the Cardiff study is that it focused on policy stores that *could* have been previously covered by the press. It set aside process stories carried by TV which could not have been previously covered. In so doing, it inherently overstates the influence of the press, since it ignores the portion of the TV news agenda which *could not* be set by newspapers.

Moreover, the study starts with TV and works backwards. That is, it examined TV items to see which had previously been in the press.

²³⁴ See page 45 onwards

²³⁵ ¶18.20 onwards

²³⁶ Cushion et al, [Newspapers, Impartiality and Television News](#), 28 April 2016

However, since the press in aggregate cover many, many stories each day, it is perhaps unsurprising that a percentage of TV items had indeed been previously covered somewhere.

It is even less surprising that the Times and other broadsheets (which cover more policy stories on any given day) appear influential in the Cardiff study, since simple probability would say they were more likely (by pure chance) to have previously covered a broadcast story. A better test of the papers' agenda setting power would be whether the stories to which they gave prominence were given similar prominence by the broadcasters – but that is not what the Cardiff study does.

Not only is the study limited; Ofcom appears to have misunderstood what it did. For example, Ofcom claims that of TV election related items “23% originated from News Corp titles”.²³⁷ This simple claim is wrong or misleading in three ways:

- The scope of the study is only *policy* items on TV, not all election related items
- ‘Originated’ implies that these were all cases where the News Corp coverage led to the TV coverage. But as we have seen, it may be that a significant story was bound to be covered by TV, regardless of whether or not it had previously been in newspapers
- The 23% is a share of story/prior newspaper coverage combinations. For instance, if a single TV story had appeared previously in the *Mirror*, *Mail*, *Telegraph* and *Times*, this would give News Corp a 25% share of ‘originations’. But in such a scenario is it meaningful to say that any one paper has set the agenda of TV? (The average story in the study that had previously been covered by a newspaper had been covered by 2.4 print titles).

Finally, Ofcom claims the study “explored agenda setting between newspapers and television broadcasters”.²³⁸ But in fact it was narrower – it only examined how TV might be influenced by newspapers, not vice-versa. Without any examination of influence in the other direction, the study can tell us little about the relative power of different media in agenda setting.

²³⁷ ¶12.26

²³⁸ ¶18.24

Thus the Cardiff study – while interesting – does not actually support the claims it is being cited to justify.

Certainly historically there was a consensus that newspapers had disproportionate weight in agenda setting. However, as we have seen, the internet has become a far more important factor in driving the agenda.

Further, in the past broadcasters may have felt obliged to follow up on stories which print had introduced to their audience. But as print readership dwindles, this is less and less of a factor.

Recent evidence does suggest that the importance of newspapers is waning. For example, a US study of the agenda setting power of newspapers online concluded:

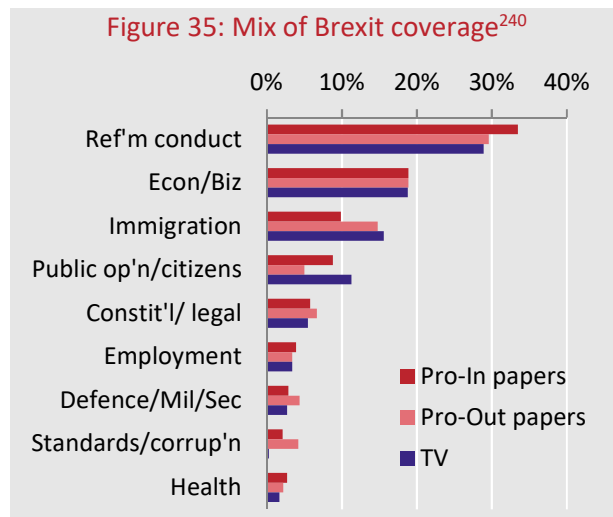
“Two elite newspapers—The New York Times and The Washington Post [selected for their historic influence]—were found to no longer be in control of the news agenda and were more likely to follow online partisan media”²³⁹

Finally, even if newspapers in aggregate are disproportionately influential in setting the wider news agenda, this is different from saying an individual title has material power; or that that power is used deliberately; or that is used regularly.

For example, Figure 35 shows the topics of prominent Brexit coverage during the referendum, split across newspapers (both pro-In and pro-Out) and TV.

There is strong similarity in agenda across these three, though of course this tells us little about whether one is driving the agenda of the other, or whether they are all being driven by outside forces (for instance, the agendas of the campaigns).

However even if (hypothetically) newspapers were driving the TV agenda, what is striking is



²³⁹ Chris Vargo [University of Alabama] & Lei Guo [Boston University], [“Networks, Big Data, and Intermedia Agenda Setting: An Analysis of Traditional, Partisan, and Emerging Online U.S. News”](#), *Journalism & Mass Communication Quarterly*, December 2016

²⁴⁰ Loughborough University Centre for Research in Communication and Culture, [Media coverage of the EU Referendum \(report 5\)](#), 27 June 2016

that the two groups of newspapers had broadly similar coverage (albeit with minor differences – note the Pro-Out papers’ slightly heavier coverage of immigration).

If individual newspapers were using their purported agenda-setting power to campaign for their favoured outcomes, we might expect the two groups of papers to have very different agendas. The types of stories that would be helpful for one group would be unhelpful for the other, and vice versa.

However, it is the commonality of the agendas of the In and Out papers which is striking, not the differences. This suggests either that individual titles feel they have only limited flexibility to move away from a more general news agenda, or that they feel doing so will have little impact. In either case, this argues against placing much weight on the agenda setting power of individual titles as a route to influence.

Supply of news in the UK

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Executive summary

This report concerns the supply of news in the UK, addressing: original news production; the broadcast, newspaper and internet news organisations that produce the news; and their platforms of distribution.

Between the advent of Communications Act 2003 and 2017, the UK's media landscape has been transformed in two principal ways:

- The transition to digital TV completed in 2012. Supported by Freeview, launched in October 2002, homes switching from analogue to digital platforms gained five all news channels (BBC News, BBC Parliament, Sky News, Al-Jazeera, Russia Today) alongside the news programmes served on the five main Public Service Broadcaster (PSB) channels
- 61% of the population used the internet in 2003, although broadband was nascent. Expansion of fixed-line broadband and, more recently, consumer adoption of mobile broadband and connected devices, have made the internet a platform for the supply of and consumption of all news services

Original news production has been transformed by digital tools. Twitter occupies the centre of the journalism ecosystem. Contrary to popular belief, jobs devoted to news production are in recovery, with 70,000 "journalists, newspaper and periodical editors" in Q2 2017 (+11% in relation to 2003), according to the ONS. This positive trend masks a decline in newspaper newsrooms due to falling revenues, with offsetting gains for jobs in online news.

Comparing the supply of news in 2003 and in 2017:

- There has been little change in the volume of TV and radio news hours produced by PSBs
- PSB main channel expenditure on TV news and current affairs (in 2016 prices) declined from £422 million in 2003 to £323 million in 2016
- Broadcaster online news services began with text-based websites from BBC News (since 1997), Sky News (2000), Channel 4 News (2001) and ITV News (2003, relaunched in 2012), then players, and now focus on mobile apps and YouTube, Twitter, Facebook and Snapchat
- Sky News Radio has supplied since 2009 international and national news to 260 commercial radio stations, as input to the stations' own news bulletins¹
- The number of national newspaper titles has not changed much. Publishers have diversified to digital through websites, apps and social media presence
- In the Top 20 UK websites for "all news", we count six native news services, and the Top 100 contains many more. HuffPost, BuzzFeed and Politico each serve UK editions, and political parties also supply news services
- News organisations are using Facebook, the social media platform of choice in the UK, to attain wider audiences

¹ Some stations may simply rebroadcast the Sky bulletin at certain times of day.

Original news production

Overview

This section is concerned with how news is produced by professional news organisations serving four main platforms: TV, radio, print and online. A major theme in this section is how news production has been changed by digital tools.

The focus is on national news organisations, noting that sub-national titles, such as city-level titles the Evening Standard and Metro, are significant providers of national news in the UK. Regional and local newspapers are left aside.

Journalists today glean the material for their stories from a combination of sources: Twitter, news wires, other media (e.g. local and international news media, competitor traditional media, native news and specialist services such as BuzzFeed, Business Insider and Tech Radar), PR news releases, or from investigative reporting. The digital age has also enabled “citizen” journalism as bystanders may now contribute to breaking news through interviews and video footage; that topic is not covered in the report.

Consumers expect to be served news almost continuously, and its production by newsrooms has thus become more demanding. A news story typically remains newsworthy for about 48 hours, insofar as suppliers of news will be occupied with reporting it and consumers will be interested in hearing about it. (This timetable varies enormously from story to story).

Twitter: social media for journalists

Twitter has emerged as the centre of the *journalism* ecosystem of the digital age. It is seen as the “must-have” tool for journalists to find the best sources to follow and for multi-sourcing stories as they develop. Twitter is also used as a distribution channel by all major professional news organisations (see below).

Twitter’s importance to journalists stems from its embrace by politicians, celebrities, news organisations and political parties. Tweets often feature in news stories as evidence of the news itself.

The interface allows users to post short messages (up to 140 characters, possibly with a photo, picture or video) that can, by default, be read by any other Twitter user. Users “follow” the sources they are interested in and when logged into Twitter are notified when a new tweet is posted. A user who is being followed by another user does not necessarily have to reciprocate by following them back.

As a Twitter tutorial explains:

“Since people don’t have to follow you just so you can see the content they post, journalists find Twitter a much better way to track down sources, dig up more information on stories, crowdsource content, get questions answered, push out quick news blasts, and to take the pulse of a community or topic.”²

Because journalists are so entrenched in Twitter, the media industry tends to concentrate on the reach and influence of Twitter among consumers generally, and underrates the reach and influence of Facebook (see below).

² UC Berkley, Advanced Media Institute, “Tutorial: Twitter For Journalists”, <https://multimedia.journalism.berkeley.edu/tutorials/twitter/>

News wires

Journalism teams also gather materials on international news from global news agency services (or wires), including Associated Press (AP), Reuters, and Agence France-Presse (AFP) in francophone countries. These organisations maintain large teams of journalists in bureaux in major cities and continents.

The principal news agency for national UK and Ireland news is the Press Association (PA), established in 1868. The PA is part of PA Group Limited,³ a private company with 27 shareholders, most of whom are national and regional newspaper publishers. The biggest shareholders are Daily Mail & General Holdings Group, News UK and Ireland, and United Business Media (UBM) Group.

The PA claims to be the single most significant news, sport and entertainment information feed for national and regional news in the UK, with 400 journalists and editorial staff working to deliver “a 24/7 feed of verified text, pictures, video and data to newsrooms around the British Isles and across the world”.⁴ Customers include professional news organisations, businesses, not-for-profit entities, and the Government.

The PA recorded revenues of £57.8 million in 2016 from all its activities, up 0.4% on 2015, but down 11% on the £65.2 million achieved in 2003. In 2016, operating profit was £4.9 million (8.4% of revenues) compared to £4.8 million in 2003 (7.3%).

Newsrooms and journalists

This section provides a brief description of trends relating to jobs devoted to news production.

According to the Labour Force Survey (LFS) of the Office of National Statistics (ONS), the number of people engaged professionally in the category of “journalists, newspaper and periodical editors” (all media) has risen from 63,000 in Q2 2003 to 70,000 in Q2 2017 (+11%).⁵ The rise of part-time employment is behind the ascendant trend, with general continuity in full-time and self-employed segments (see Figure 2).

³ Subsidiaries include: PA Photos, a syndicated service for images; Globelynx, an on-premises TV camera company that enables live interviews of business analysts by TV news broadcasters in the UK and worldwide; and Sticky Content, a digital copywriting and content strategy agency. PA owns 25% of Baize Group, a leading provider of motoring editorial, events, and PR services for the automotive industry.

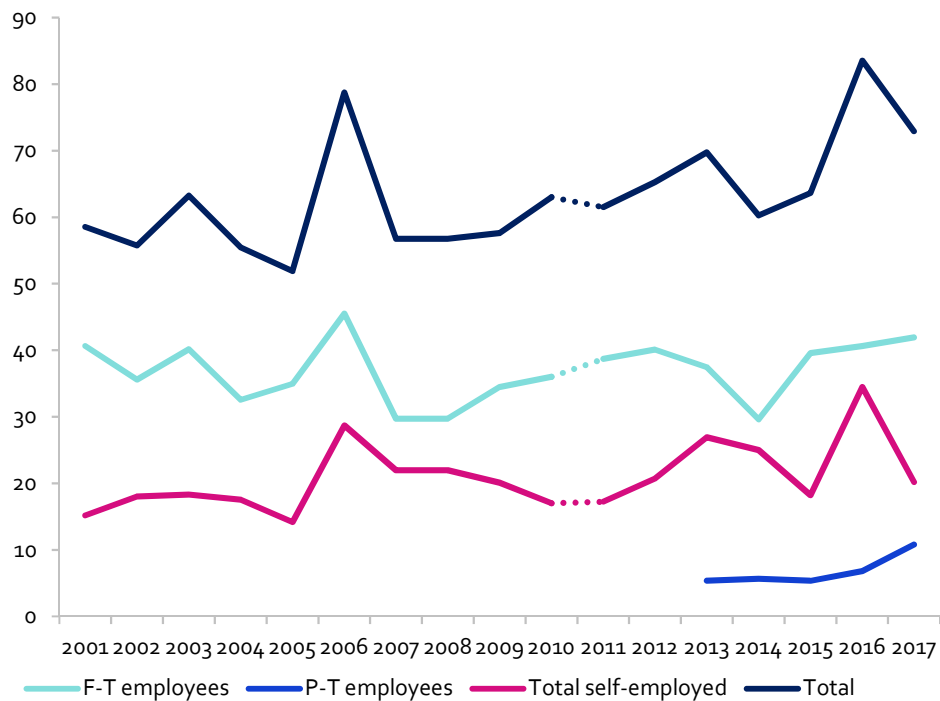
⁴ Pressassociation.com

⁵ The Standard Occupational Classification (SOC) was revised in 2010. There is a discontinuity in occupational categories between the 2001-10 series (3431 – Journalists, newspaper & periodical editors, SOC 2000) and 2011-17 (2471 – Journalists, newspaper & periodical editors, SOC 2010) on account of the SOC revisions in 2010.

The following are included in the later series but not in the earlier: Director; editorial Journalist; broadcast Journalist; radio Journalist (Industry: broadcasting); Manager, editorial.

The following are included in the earlier series but not in the latter series: Agent, press; Assistant, communications (Industry: press, public relations); Assistant, publications; Assistant, publishing; Interviewer, press; Officer, communications (Industry: media, publication relations).

Figure 2: Employment by occupation and status (ooo)



[Source: ONS Labour Force Survey]

Despite the favourable trend, it is likely that the number of journalists engaged by newspapers' operating newsrooms at the national, regional and local levels, has been in decline, while the number engaged for online media, including by traditional TV and print news brands, has risen.

A number of conflicting forces further complicate the picture. Newspaper newsrooms have been declining since 2005 due to financial pressures from the loss first of advertising then circulation revenue. However, most publishers have chosen to protect the scale of their newsroom as far as possible, while finding efficiencies elsewhere.

Technology has empowered journalists as never before. Twitter is widely used for breaking news and background research can be handled much more efficiently. At the same time, publishers expect journalists to do much more. Many publisher newsrooms have replaced experienced, authoritative (and expensive) journalists with young, inexperienced (and less expensive) staff.

Few online-only news outlets operate on the same *scale* as news publisher businesses. In part, this is due to the choice of a narrower remit, such as politics (Politico) or business (Business Insider) or technology news (Tech Radar). There is also a revenue issue since native news outlets rely mainly on digital advertising, although subscription services are becoming more commonplace (Politico Premium).

Broadcast news outlets

Overview

TV is used by 69% of UK adults for news nowadays (down 9 percentage points since 2013), the internet is in second place with 48% (up 16 percentage points since 2013), radio is third with 33% (down 2 percentage points since 2013), and newspapers (national, regional, and local titles) are in fourth place with 29%.⁶

Broadcast programming is subject to requirements imposed by legislation, regulation, and licences. Ofcom, as the regulator for the broadcasting sector, enforces licence conditions and regulations. Since April 2017, the BBC has been regulated by Ofcom. The Public Service Broadcasters (PSBs) serve news and current affairs programming on their main TV channels (BBC One, BBC Two, ITV, Channel 4, Channel 5).⁷ The BBC produces all its news in-house. Independent Television News (ITN) is the wholesaler to ITV,⁸ Channel 4 and Channel 5.

Sky is a retailer of broadcast TV and supplies content on a wholesale basis for radio news services. Sky News (the all-news TV Channel) is freely accessible and is distributed on all TV platforms.

Impartiality and observance of other provisions of the Ofcom Broadcasting Code are requirements imposed on news and current affairs on broadcast channels (but not on print or online output).⁹

With respect to broadcast TV and radio, the principal changes in distribution platforms between 2003 and 2017 are:

- The transition to digital TV completed in 2012, supported by Freeview, launched in October 2002
- The expansion of high-speed broadband networks, supporting the BBC's iPlayer launch in 2007, followed by other broadcasters
- Freesat launched in May 2008

Public service broadcasters

The BBC is a publicly owned corporation funded by the licence fee and entrusted with a remit set out in its Charter. Channel 4 is a publicly owned corporation funded by advertising revenues and entrusted with a remit set out in its Licence.

⁶ Figure 1.1, Ofcom, *News Consumption in the UK: 2016*. For newspapers, there is no datapoint for 2013 because the question was only clarified to exclude websites by the addition of the word "printed" in 2015.

⁷ Ofcom explains: "Licence commitments are currently focused on meeting public service purposes in a small number of core programming genres regarded by audiences as the most important (in particular news and current affairs). In return, the licensees receive specific benefits. These include the right to appropriate prominence on Electronic Programme Guides ('EPGs') as well as access to spectrum that enables them to make their services available to 98.5% of the UK population on the digital terrestrial platform." (pp. 1-2, "Licensing of Channel 3 and Channel 5", 1 May 2012)

⁸ STV in Scotland. In Northern Ireland, UTV is fully owned by ITV. In Wales, S4C is funded mainly by the BBC (£75 million per year v circa £2 million of commercial revenue and circa £8 million from the DCMS). BBC Cymru supplies S4C's news.

⁹ Licence holders are also required to be compliant with COSTA (which sets limits on the amounts of advertising that can be transmitted), and the BCAP Code which covers standards for the content of broadcast advertising.

ITV and Channel 5 respectively are privately held organisations funded by commercial revenues and subject to conditions set out in their licences.

PSBs between them spent £323 million in 2016 on national network news and current affairs for their main channels (BBC One, BBC Two, ITV, Channel 4 and Channel 5) compared to £422 million in 2003 (see Figure 3). This information does not include the expenditure of the PSBs on news and current affairs off their main channels, including that directed to websites or social media.

Figure 3: PSB network spend on news and current affairs (£m)



Note: Figures expressed in 2016 prices. Includes BBC1, BBC2, BBC3, BBC4, CBBC, Cbeebies, BBC News, BBC Parliament, ITV, Channel 4, and Channel 5. Does not include S4C, BBC Alba or BBC HD. Excludes nations/regions' programming. [Source: Ofcom PSB Annual Report]

In aggregate, the BBC produces close to 90% of broadcast TV news hours produced by PSBs in the UK (Figure 4). The existence of an all-news channel, BBC News, is an explanatory factor since none of the other PSBs currently operate such a channel. The BBC's share has risen since 2006 due to the decline in hours of news served on the main channels of the PSBs, noting the stability of their regulatory obligations in Ofcom licences in the renewals of ITV, Channel 4 and Channel 5 for a further 10-year period to 2024.

Figure 4: Volume of hours of national TV news by PSB

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
BBC One	2,498	2,501	2,389	2,490	2,487	2,507	2,532	3,354	3,420	3,461	3,386
BBC Two	609	532	827	926	913	919	1,055	447	413	733	887
ITV	1,836	1,525	1,452	1,418	1,471	1,434	1,193	1,052	1,045	1,045	1,066
Channel 4	315	313	313	318	237	233	234	240	242	246	244
Channel 5	454	464	412	390	311	281	297	308	314	316	316
BBC News	7,413	7,561	7,541	7,492	7,391	7,601	7,798	7,620	7,547	7,421	7,320
BBC Parliament	4,162	3,651	3,782	3,637	3,756	3,865	3,695	3,982	4,005	3,762	4,043

Note: First-run UK TV and radio originated news content only. Excludes non-network news. Output hours are based on slot times [Source: Ofcom PSB Report 2017]

BBC News

BBC News produces broadcast TV, radio, and online news (text and video), which is served to UK and global audiences. In 2007, BBC News claimed it was “the world’s most powerful newsgathering operation”, with 3,500 journalists.¹⁰ The BBC continues to operate at significant scale, reporting total staff of 21,271 in FY2016/17. In addition to the BBC’s headquarters at Broadcasting House in London, the BBC maintains 41 overseas bureaux and eight other sites in the UK.

The BBC’s editorial processes are subject to internal and external oversight.¹¹ Internally, an Editorial Policy is set out for the BBC under the leadership of the Director of News (currently James Harding), reporting to the Director General (currently Tony Hall), and is administered throughout the organisation. Editors have the day-to-day responsibility for the output of programmes.

BBC News¹² serves:

- BBC News (TV Channel),¹³ “a 24-hour impartial and independent news service offering breaking news, analysis and insight. It provides fast and comprehensive coverage of local, UK and international events as they unfold.”¹⁴ In financial year 2016/17, the operation cost £47.8 million compared to £46.6 million in 2015/16 (+2.6%)¹⁵
- BBC Parliament,¹⁶ “the UK’s only channel dedicated to politics. It shows debates and committees from Westminster, Holyrood, Stormont, Cardiff Bay and Strasbourg, as well as political programmes from across the UK.”¹⁷ In financial year 2016/17, the cost was £1.8 million down from £1.9 million in 2015/16 (-5.3%)¹⁸
- 3,313 hours of daily national bulletins on BBC One, relevant weekday morning output and Newsnight on BBC Two and World News, Today on BBC Four¹⁹
- 233 hours of network current affairs programmes such as Panorama, This World, Question Time and Daily Politics²⁰
- 11,517 hours of radio news, such as Newsbeat on Radio 1 and 1Xtra, news bulletins on Radio 2, 3 and 6 Music, The Jeremy Vine Show on Radio 2, Radio 4’s daily and weekly news programming (such as Today, World at One, PM,

¹⁰ “As of September 2006, BBC News employed just under 3,500 journalists producing 619 hours of news and weather per week on domestic radio and television, and 400 new stories a day on the website, with thousands of updates. BBC News also produces programming for BBC World and BBC World Service Radio which is commissioned by the Global Division.” See p. 2, H. Boaden (2007), “Editorial Processes – How BBC News Works”.

¹¹ H. Boaden (2007), “Editorial Processes – How BBC News Works”. See also the 2004 Neil Review of BBC Journalism.

¹² *BBC Annual Report 2016/17*.

¹³ Launched on 9 November 1997, the BBC explains: “The BBC’s first rolling TV news service was launched as BBC News 24, and was the second 24 hour news service in Britain, breaking Sky’s monopoly.” <http://www.bbc.co.uk/programmes/p0166y2m>

¹⁴ *BBC Annual Report 2016/17*, p. 30.

¹⁵ BBC News production costs were £23.8 million in FY2003/04, compared to £25.4 million in 2016/17.

¹⁶ Successor to the Parliamentary Channel, operated by United Artists Cable and funded by a consortium of British cable operators, and launched as a cable-exclusive channel on 13 January 1992. The BBC took control of the channel in 1998, rebranded and relaunched the channel on 23 September 1998 as a free-to-air channel. BBC Parliament now broadcasts on cable, satellite, and Freeview, including to broadband-enabled homes.

¹⁷ *BBC Annual Report 2016/17*, p. 30.

¹⁸ BBC Parliament production costs were £2.5 million in FY2003/04.

¹⁹ These content costs are not itemized in BBC accounts.

²⁰ These content costs are not itemized in BBC accounts.

The World Tonight, The World This Weekend) and daily politics output, daily news output on 5 Live and on the Asian Network²¹

BBC Global News operates the BBC's two commercially-funded international news services: BBC World News, the 24-hour global news TV channel, and the digital platform bbc.com (including the bbc.com website, a News app, and a Sport app).

A significant development for the BBC was the launch of the iPlayer in 2007. The iPlayer initially allowed users to "catch-up" on BBC content and now serves live streaming (simulcast). The iPlayer provided a single application to consume all BBC content, the equivalent of an Electronic Programme Guide (EPG), and online-only content, giving households more content and choice than the living room TV screen. BBC News (TV Channel) became available on the iPlayer in May 2007.

The BBC explains:

"BBC Online comprises the BBC's portfolio of online products on desktop, connected TV, mobile and tablet, including news, sport and weather; children's services CBBC and CBeebies; and Knowledge & Learning – as well as IP-delivered TV and radio services, with both live and on-demand programmes available on BBC iPlayer."²²

In financial year 2016/17, BBC Online and Red Button had a budget of £187.3 million. The BBC News UK app had 7.5 million monthly unique browsers. BBC News has over 42 million Facebook likes globally and BBC World News has over 20 million followers on Twitter.

ITV, Channel 4 and Channel 5

ITV, Channel 4 and Channel 5 are obliged by their Ofcom licences to broadcast a minimum quota of news and current affairs programmes and bulletins on their main channels. These channels are distributed on Freeview, cable, satellite and IPTV platforms, as well as on their online players. In addition, they offer online news services: website, YouTube channel, Facebook Page, Twitter account, Snapchat news service.

Their news and current affairs programming is not produced in-house. Each of ITV News, Channel 4 News and 5 News have entered into commissioning contracts with Independent Television News (ITN).

ITN was established in 1955 to supply the regional ITV companies launching that year. Current shareholders are ITV (40%), Daily Mail and General Trust (20%), Thomson Reuters (20%) and UBM (20%).

ITN has three divisions: ITN News, ITN Source (archive of video) and ITN Productions. ITN recorded total revenues of £127.8 million in 2016, up 8.3% on 2015; this compares to £97 million in 2003 (+32%). In 2016, operating profit was £7.1 million compared to £4 million in 2003. In 2016, the revenue of ITN News was £86.8 million (no 2003 datapoint).

ITN News has separate teams working for ITV News, Channel 4 News, and 5 News respectively.²³

²¹ BBC regional news bulletins are produced by the BBC nations and regions.

²² *BBC Annual Report 2016/17*, p. 29.

²³ ITN supplied 24/7 news channel Setanta Sports News until it ceased broadcasting on 23 June 2009. Produced by ITN and jointly owned by Virgin Media Television and Setanta Sports, the channel launched on 29 November 2007.

Commissioning contracts cover regular news coverage, while special and breaking news are separately procured. The commissioner sets out the Editorial Policy for ITN in accordance with its own remit and objectives (e.g. investigative reporting), but does not exercise day-to-day editorial control.

ITN has produced ITV news programmes since 1955. ITN reports that ITV News aims at “informing public opinion and generating debate through news exclusives, investigative journalism and bold, accessible reporting on the latest news agenda”.²⁴ ITN News has bureaux in Johannesburg, Tel Aviv, Washington, Dubai and Beijing. ITN also supplies ITV News online news services.

Comparing 2003 and 2017:

- ITV News (on the main channel) continues to air half-hour news programmes at 1.30pm, 6.30pm and 10pm daily (News at Ten), long-form current affairs programming on Tonight, On Assignment (since 2014), The Agenda (since 2013), and one-off documentaries and live specials
- The ITV News Channel (all news) closed on 23 December 2005²⁵
- Re-launch of ITV News website in 2012 (itv.com/news) serving videos, graphics and text, plus the apps for mobile devices²⁶
- YouTube channel (www.youtube.com/user/ITVNews) serving highlights, Facebook Page, Twitter account, Snapchat news service

Channel 4 News was launched in 1982 as the UK’s first hour-long nightly news programme, and has been presented by Jon Snow since 1989. ITN reports: “Committed to promoting alternate views and perspectives, the programme reaches key youth and ethnic audiences, attracting a higher proportion of 16-34s and BAME viewers than any other mainstream news bulletin.”²⁷

Channel 4 News is broadcast at 7pm on week days, with shorter bulletins over the weekend²⁸, and the website provides text and video-based stories. Comparing 2003 and 2017, the principal change to Channel 4 News online services is the launch of apps, YouTube channel, and social media presence.

ITN produced 5 News from its inception in 1997 until 2005, and won back production of the service again for 2012 from Sky News. 5 News is broadcast at 5pm and 6.30pm on week days, with highlights available on the YouTube channel. 5 News also has a Facebook Page, Twitter account, and Snapchat news service.

ITN reports that: “5 News is informed, relevant, down to earth, with a mission to speak both to and for its viewers.”²⁹ In October 2014, Channel 5, under its new parent company, Viacom International Media Networks (VIMN), renewed ITN’s contract to produce its 5 News bulletins and agreed an increase in its annual news quotas for the licence period 2015-24.

²⁴ ITN 2016 Annual Report, p. 6.

²⁵ ITN News Channel (later renamed ITV News Channel) launched in August 2000, and was broadcast on satellite, cable and digital terrestrial. Poor ratings in comparison to BBC News 24 and Sky News, and ITV’s desire to re-use the channel’s allocation on Freeview, were cited as the reasons for closing the news channel in 2005.

²⁶ ITN 2014 Annual Report, p. 8.

²⁷ ITN 2016 Annual Report, p. 6.

²⁸ More4 News aired on week days on More4, ran for 30 minutes, aiming to go in-depth into a certain issue. As a consequence of the advertising slowdown during the 2009 recession, the programme was cancelled in 2009, along with the News at Noon, introduced during the Iraq War in 2003.

²⁹ ITN 2016 Annual Report, p. 10.

Sky news services

Sky is a commercially funded broadcaster (subscriptions, advertising) delivering its pay TV services over satellite and online. Sky news services include:

- Sky News, a 24-hour international multimedia news service, offering a dedicated 24-hour TV news channel
- Sky News (www.news.sky.com), offering news content in the form of videos, graphics, and written articles and analysis. The Sky News App also allows users to live-stream the Sky News channel over the internet and otherwise access Sky News content and share it

Sky News has a network of news bureaux (Beijing, Moscow, New Delhi, Johannesburg, Bangkok, Jerusalem, Brussels, Istanbul, Washington DC, New York and Los Angeles) and partners (Sky News Arabia, Sky News Italia (TG24) and Sky News Australia) that can also provide news content and local insight.

Sky News (alongside other providers) supplies content to Yahoo and live content for Facebook on a commercial basis, and provides a news service on Snapchat. Associated Press also buys Sky News pictures under a commercial arrangement.

Sky News content is sold on a wholesale basis to third party broadcasters, website-providers, social media platforms and streaming services. Sky News Radio (part of Sky News) is the wholesale supplier to Independent Radio News (IRN) (see below), and to other UK based radio stations.

Sky News distributes the Sky News SD channel on an FTA basis (Freeview and Freesat) in the UK and as part of its wholesale channel supply agreements with third party retailers in the UK. The HD version of the Sky News channel is made available to Sky's own subscribers and to Virgin Media under its wholesale agreements with Sky. Sky News International is supplied on an encrypted basis to certain pay TV retailers in Europe and beyond, enabling those retailers to include it in their package of subscription channels.

The Sky News International channel is also made available on YouTube via Sky News' YouTube channel.

Independent Radio News (IRN)

IRN provides news bulletins and associated news to some 260 commercial radio stations in the UK. IRN is owned by Global Radio (55%), Bauer Radio (22%), ITN (20%) and Wireless Group (News Corp) (3%).

IRN has contracted news provision to Sky News Radio since 2009. Sky News Radio supplies national and international news, sport, business and entertainment news. Sky News also supplies digital content, such as news stories in text and video formats, to all the IRN radio station websites. IRN had operating charges of £4.5 million (excluding rebates to client stations) for the year ended March 2016.

A dedicated team of radio journalists based at Sky Centre in London write, report, produce and read the news and sport 24-hours a day. The copy and audio is sent directly to radio newsrooms for them to use in their own news bulletins. Sky also provides a two-minute bulletin at the top of each hour; commercial radio stations can opt in to that service if they so choose. The radio team draws upon Sky News' considerable news-gathering resources.

The hourly bulletins contain national and international news, with additional regular audio/scripts on entertainment news, finance, technology and sport. The bulletins can be aired directly as delivered, or a station's journalists can create bespoke bulletins mixing news from IRN with news sourced from elsewhere and presented by that station's newsreader. Most stations add in local or regional news. The news is funded by revenue from an advertising spot on each station next to peak time bulletins and the station's website.

The two major commercial radio companies, Global Radio and Bauer (representing 77% of commercial listening), employ their own journalists who source news in addition to the IRN bulletin and to ensure that news bulletins are tailored to each station's programming output and demographic. Global and Bauer do not disclose the cost of their news operations respectively.

TV distribution platforms

All TV platforms (terrestrial, cable, satellite) are obliged to give 'appropriate prominence' to PSB channels (the BBC portfolio, ITV, Channel 4, Channel 5) in their Electronic Programme Guide (EPG).

Freeview, the free-to-air DTT platform, is operated by DTV Services Ltd, a joint venture between the BBC, ITV, Channel 4, Sky and transmitter operator Arqiva.

By compressing the video signal, the technology made possible a wider scope of supply, also enabling the switch-off of the analogue signal in 2012 in the UK. This switch-off and switch-over to DTT was part of a large-scale project under the auspices of the European Broadcasting Union (EBU).

Most Freeview households access the channels via their TV sets, which have the DTT tuners built directly into the set, while some households access via a Set-top box (STB) attached to an older TV set.

Before the launch of Freeview in October 2002, the majority of UK households (which did not subscribe to a pay TV service) received only analogue TV, and thus only the five main PSB channels (BBC One, BBC Two, ITV, Channel 4 and Channel 5). Freeview-equipped TV homes gained access to at least 30 channels including BBC News. BBC Parliament became fully available in 2006.³⁰ The adoption of digital TV (DTT, satellite and cable) was rapid reaching 73% penetration by 2006, 95% by 2010 and 100% by Digital Switch-Over (DSO) in October 2012.

YouView launched in 2012 and provides access to all the channels broadcast on Freeview *plus* some additional channels/catch up services.

In Q1 2017, 18.9 million homes watched TV via Freeview (71% of TV homes).³¹ Of these, 8.9 million (33% of TV homes) watched Freeview only, a further 2.3 million (9%) watched via YouView, and 7.7 million watched Freeview on their secondary set with the main set being dedicated to either satellite or cable distribution. Hybrid services BT TV and TalkTalk TV respectively integrate YouView.³²

³⁰ Due to capacity limitations on Freeview, from launch in 1998 until 30 October 2002, the channel ran as "audio only". On Freeview from October 2002, the channel was only able to broadcast a quarter-screen picture due to bandwidth limitations on Freeview, before becoming full-screen in November 2006.

³¹ Source: BARB Landscape Report Q1 2017, 4 quarter moving average

³² Freeview TV and radio channels are delivered via DTT and require the usual TV aerial installed. The additional channels and on demand services use DSL/Fibre broadband technology to deliver the service to households.

Freeview serves 70+ SD TV channels (including delayed (+1 hour) versions of some channels), 15 HD channels (12 are simulcast of SD versions), and more than 30 radio stations.

Freesat is a joint venture between the BBC and ITV serving FTA TV using direct-to-home (DTH) satellite technology. It is implemented by households that have an installed dish for reception and the requisite set-top box to connect the TV to the dish; it may be an integrated feature of TV sets sold today. Freesat's 1.2 million households assume the cost of installing the dish and purchasing the box.³³

Freesat currently serves 200+ channels, 13 HD channels (including simulcasts of SD) and over 30 radio stations.

Sky TV households are served by DTH technology as part of the monthly subscription package of services. In the UK, Sky has 8.8 million subscribers to its satellite pay-TV distribution technology, who are also offered Sky Go, an online service. NowTV is an online-only subscription service.

Sky broadcasts 270+ channels, including HD and +1 channels, as well as many radio stations.

Virgin Media uses cable technology. The entry level broadband/TV package provides broadband, the Freeview TV and radio channels plus several others. It has an estimated 0.4 million subscribers. Higher level packages include pay-TV channels, and Virgin Media has 3.7 million subscribers.³⁴ In total 4.1 million³⁵ households (15% of TV homes) watch TV through Virgin Media.

All platforms serve at least five all news channels: BBC News, BBC Parliament, Sky News, Al-Jazeera and Russia Today. Other news channels are available on selected distribution platforms (Figure 5).

Figure 5: 24/7 news channels by platform

Channel	Freeview	FV Stream	Freesat	Virgin	Sky	BT	TalkTalk
BBC News	Y		Y	Y	Y	Y	Y
BBC Parliament	Y		Y	Y	Y	Y	Y
Sky News	Y		Y	Y	Y	Y	Y
Al-Jazeera (English)	Y		Y	Y	Y	Y	Y
Arirang (Korea)			Y		Y		
BFMTV (French)				Y			
Bloomberg			Y	Y	Y		
CGTN China Central		Y	Y		Y		
Channels 24 (Nigeria)			Y		Y		
CNBC			Y	Y			
CNC					Y		
CNN			Y	Y	Y		
Euronews				Y	Y		
France 24			Y	Y	Y		

³³ Source: BARB Landscape Report Q1 2017, 4 quarter moving average

³⁴ Source: Virgin Media Consolidated Financial Statements, Dec 2016

³⁵ Source: BARB Landscape Report Q1 2017, 4 quarter moving average

NDTV			Y	Y		
NHK World		Y	Y	Y		
RT (Russia Today)	Y	Y		Y	Y	Y
TIMES NOW				Y		
TRTWORLD				Y		
TVC News				Y		

Note: Channels can include HD/SD and +1 channels
[Source: Enders Analysis]

Radio distribution platforms

The first broadcast distribution platform in the UK was analogue radio, with the launch of BBC Radio in 1922. Commercial radio launched in 1973, and analogue (via FM and AM) still accounts for the majority of radio listening. On analogue there are 5 BBC national networks, 43 local and nations BBC stations, 3 national commercial and 286 local commercial radio stations.³⁶ Over 80% of these stations broadcast via the superior FM technology, and less than 2% are speech services. In addition, there are over 250 community radio stations broadcasting on analogue. These stations have been licensed so as to serve a small geographic area on a not-for-profit basis.

All digital TV platforms broadcast radio stations alongside the TV offering. In addition to the national BBC and national analogue commercial stations they all carry the BBC digital-only radio stations (launched in 2002) and many national commercial stations, which are either brand new services or London stations broadcasting nationally.

The launch of the Digital Audio Broadcasting (DAB) technology commercially in 1999 brought with it additional spectrum allowing for nine more national commercial stations. From then onwards local and regional multiplexes launched across much of the UK, with major radio broadcasters seeing this as an opportunity to extend the brand presence of local music stations quasi-nationally (e.g. *Capital*, *Heart* and *Kiss*) and also launch new radio brands (e.g. *Smash Hits* and *Heat*). In 2016 a second national commercial multiplex was launched. At the end of June 2017 59.5% of adults had access to DAB radio, compared to 4% in 2003.

At the end of Q1 2017, according to RAJAR, which measures radio listening, there are 50 national radio stations (11 from the BBC), up from 38 in 2013. All these stations broadcast news bulletins. All analogue BBC stations simulcast these services in DAB, as do the majority of analogue commercial stations. Commercial stations that only broadcast in analogue do so because their coverage areas are significantly smaller than the relevant local DAB multiplex, or because there is no local DAB multiplex in their broadcast area.

³⁶ Ofcom, May 2017 from its Communications Market Report, August 2017

Newspaper organisations

Overview

This section is occupied with newspaper organisations, focusing on national newspapers. The industry circulation auditors, the Audit Bureau of Circulations (ABC), have a list of “national” titles which is indicative of the segment’s scope, with several notable omissions³⁷, that also contribute to the plurality of supply available to consumers.

Print format newspapers are distributed throughout the UK. Publishers outsource distribution either to Smiths News or Menzies Distribution, which between them account for 97% and 91% of magazine and newspaper sales respectively, or to five independent news wholesalers.³⁸

Editorial policy

Relationships between publishers and editors are varied, spanning arm’s length to close knit. Editors shape the news agenda by selecting the stories to publish, their order or prominence. Most editors observe the voluntary Editor’s Code of Practice developed by IPSO.³⁹

Newspapers tend to differentiate themselves from each other to gain competitive advantage in the marketplace. This is accomplished through political alignment, coverage of popular news genres such as celebrities, the role of columnists or commentators, and the tone of headlines and stories. This differentiation is expressed through categories such as “broadsheet” (*The Guardian/The Observer*, *The Telegraph*, *The Times/The Sunday Times*, and associated websites) and “tabloid” (*The Sun/on Sunday*, *Daily Mail*, *Daily Express*, and associated websites).

In print, UK national newspapers typically have six daily editions and Sunday partners, some self-explanatory (*Daily Express* and *Daily Express Sunday*) and some the consequence of history (*The Guardian* and *The Observer*). Sunday editions are usually managed by separate editorial teams. However, as a result of financial pressures and the demands of running 24/7 newsroom, resources are more fluidly deployed today than they were in the past.

Each daily print newspaper also has an accompanying website and apps for smartphones and tablets. Some but not all Sunday editions have their own dedicated websites and apps (though the Sunday content is included in the core site and core app). Some publishers provide additional digital news services and apps, for example Trinity Mirror’s Mirror Football and News UK’s The Sun Dream Team and football apps. All sites offer an archive of content.

Finally, newspaper organisations have Facebook Pages they maintain, alongside Twitter accounts and Snapchat news services.

³⁷ City-level titles *The Evening Standard* and *Metro*; the *New European* launched by Archant launched following the Brexit Referendum.

³⁸ Office of Fair Trading, “Newspaper and magazine distribution in the United Kingdom”, September 2009, OFT1121.

³⁹ Guardian Media Group, Nikkei and Lebedev are not members of IPSO.

Business model

All national newspapers charge a fee for the print edition purchased at news agents. The UK newspaper market is principally a newsstand market, with most sales taking place through retail, rather than through subscription packages (a situation almost reversed in much of continental Europe and in the US). The *Evening Standard* and *Metro* are free but are not distributed at the news stand.

As far as access to their online news services is concerned, national newspaper publishers use different models, either free to access, some free ("soft" paywall) or full paywall. The *Times*, *The Telegraph*, and *The Financial Times* operate paywalls so that only subscribers may fully access their sites, limiting reach and also brand notoriety. Premium content includes business and technical forms of news of commercial significance to a niche audience, which commands a fee in the form of a paywall. Thanks to its special funding model, *The Guardian* strives for voluntary memberships to support its free access to the website, thus achieving significant reach in the UK and externally.

Changes in ownership and titles

Since 2003, there have been two national newspapers in print format closed and two launches. News UK closed the *News of the World* (NOTW) in 2012. The publisher then launched *The Sun on Sunday* in 2013, as a companion to the daily *The Sun*.

In February 2016, ESI Media halted the daily (six days a week plus a Sunday edition) *The Independent* newspaper in print format, though it continues an online version. The title was the smallest circulation print national newspaper, by some margin, at the time of its closure. ESI Media currently owns the London city (regional) newspaper *Evening Standard* and the TV channel *London Live*, in addition to the *Independent* online. The 'i' newspaper was sold to regional publisher Johnston Press.

Also in 2016 Trinity Mirror launched and quickly closed *New Day*. Other changes of note include the sale in 2015 of the *Financial Times* by Pearson to Nikkei.

UK circulation in decline

Circulations have been declining for decades (the peak year for national newspapers was 1955, when ITV was launched). However, broadband-enabled digital access in general, and smartphones in particular, have undoubtedly accelerated the rate of decline in physical newspaper sales, with consumers effectively replacing a paper mobile device with a screen and connected mobile device. As a result, quality newspaper decline accelerated in the early days of smartphone adoption, reflecting a particular demographic, with popular title decline following. Despite the economic recovery from the recession starting in 2010, there has been an almost continuous decline in circulation across all segments of the national market (see Figures 6 and 7), impacting topline revenues and placing pressure on newsroom costs.

Figure 6: National newspapers circulation volumes per week (m)

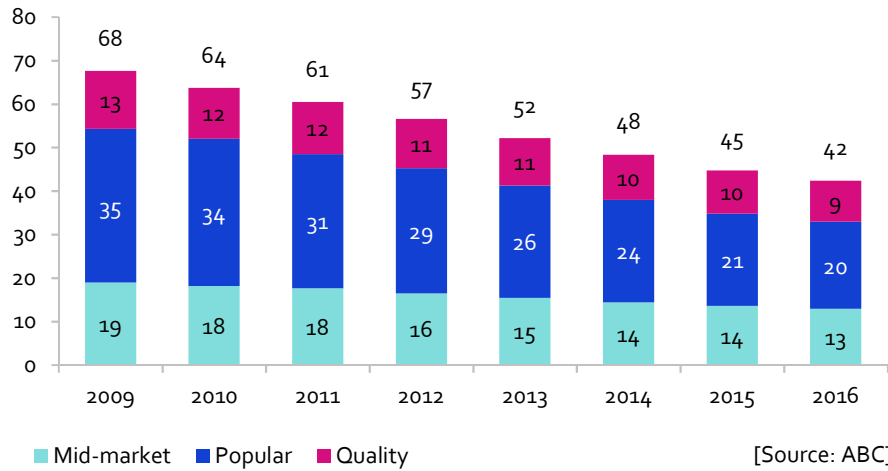
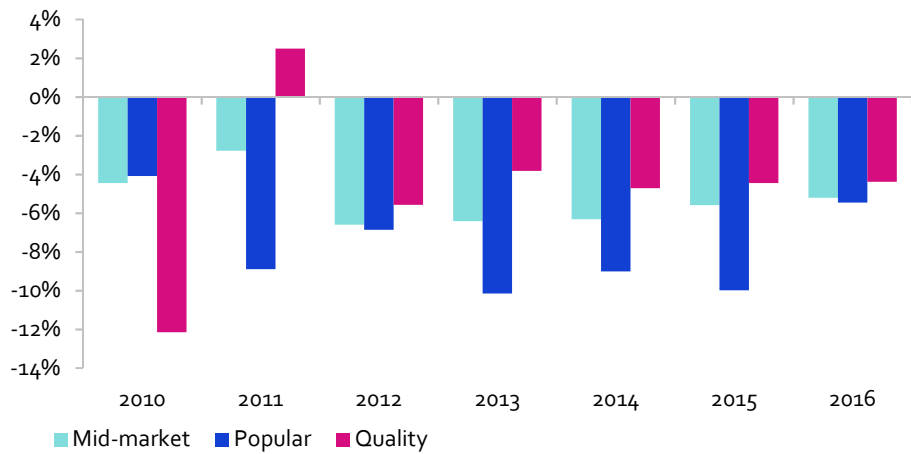


Figure 7: Circulation YoY % change by type



Websites and mobile apps

Traffic to online newspaper services varies considerably, and in terms of market share, traffic does not echo print circulations (see Table 8). While most digital services substantially outperform their print circulations, the gap is particularly large for quality titles. However, the main reason for the extraordinary reach of national newspapers online is that publishers have typically provided their websites for free (and facilitate reach using Facebook Pages), focusing on audience reach over consumer targeting, and relegating Average Revenue Per User (ARPU), a measure which has collapsed in the transition from page to screen.

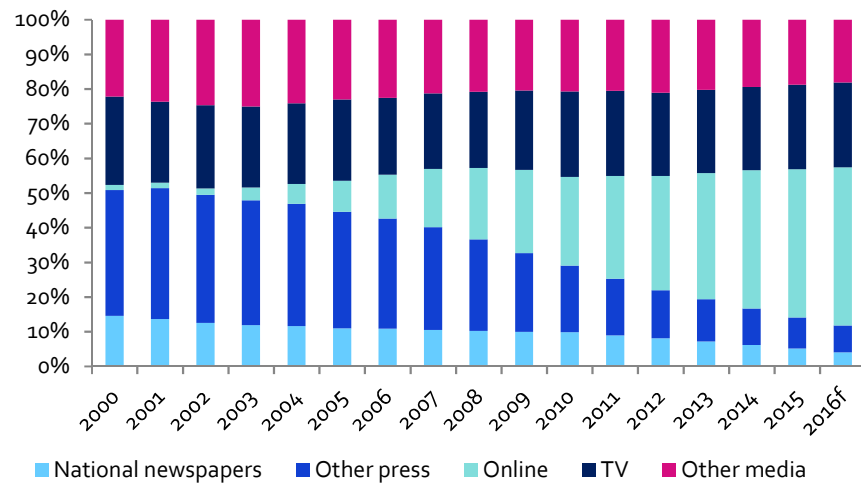
Figure 8: National news publishers and newspapers: UK print circulation and online unique audience volumes, July 2017

Publisher (wholesale)	Titles (retail)	UK circulation, per issue	Online UK unique audiences, per month
News UK	The Times	437,422	(subscription only) 6,318,000
	The Sunday Times	737,029	-
	The Sun	1,535,630	25,520,000
DMG Media	The Sun on Sunday	1,306,809	-
	Daily Mail	1,363,961	27,423,000
	The Mail on Sunday	1,171,195	-
Trinity Mirror	Metro	(free) 1,470,715	13,290,000
	Daily Mirror	596,992	21,378,000
	Sunday Mirror	520,727	-
Northern & Shell	The Sunday People	204,893	-
	Daily Star	417,319	5,427,000
	Daily Star - Sunday	255,174	-
ESI Media	Daily Express	373,729	11,411,000
	Sunday Express	324,448	-
	Evening Standard	(free) 850,073	9,800,000
Telegraph Media Group	Daily Telegraph	463,704	(metered usage & subscription) 22,652,000
	Sunday Telegraph	341,709	-
Guardian Media Group	The Guardian	149,420	(free + membership) 21,315,000
	The Observer	178,545	-
Johnston Press	i	267,857	866,000
Nikkei	Financial Times	58,755	(subscription only) 1,076,000

[Sources: ABC and comScore. ABC data includes bulk sales; comScore data covers desktop and mobile.]

The gamble of free has proven particularly costly for two reasons. First, digital advertising has grown at the expense of print advertising, the substitution effect is very clear (see Figure 9). Second, online advertising revenues for publishers have not grown proportionately to their traffic. In reality, while newspapers are big in news, they are small in digital generally. They lack the data and targeting sophistication of the tech giants to compete with their superior solutions for advertisers and media agencies. It is one of the ironies of the national newspaper sector that, while titles have for decades been used as a shorthand for demographic targeting by agencies, even today publishers have limited information on their users, certainly compared to Google and Facebook. The newsstand model which helped build their strong position in the media market has also made it much harder for them to adapt to an economy that increasingly relies on consumer data and data analysis.

Figure 9: Share of advertising by medium



[Source: Enders Analysis, AA/WARC]

Publishers are thus turning to subscription models for their digital services, even if not all of these services will be, strictly speaking, paywalls. For popular titles, this is a particularly big challenge: the *Sun* shifted to a subscription model in 2013 and switched back to a free access model two years later. In Enders Analysis' view, too few people were prepared to pay for the service, undermining the *raison d'être* of a popular media platform. Too much similar content is free online, including that of direct competitors.

In the meantime, despite the challenges of digital for publishers and the topline revenue declines they have experienced in the course of the economic recovery (Figure 10), most major publishers report continued profitability (Figure 11).

Figure 10: UK national news publisher revenue

Publisher newspaper division	2010 revenues (£m)	2016 revenues (£m)	2010-16 CAGR (%)
News UK (News Corp)	1,047	788	-4.6%
DMG Media (DMGT)	813	706	-2.3%
Trinity Mirror	762	572	-5.6%
Telegraph Media Group (Press Acquisitions Ltd)	324	296	-1.5%
Guardian News & Media (Guardian Media Group)	221	210	-0.8%
Express Newspapers (Northern & Shell)	289	174	-9.6%

Notes: Express Newspapers and Trinity Mirror numbers are FY2015 (CAGR is adjusted). Trinity Mirror figure excludes Local World (acquired October 2015), but does include both national and regional assets, which are no longer reported separately. *The Guardian* figures for 2010 are just for Guardian News & Media, comparable with the 2016 figures for The Guardian Media Group. The FT was sold in 2015 to Nikkei, discrete financials are no longer published and so the title has been excluded. The I, acquired by Johnston Press in 2016, is also excluded.

[Source: Enders Analysis based on company data. Financial year ends vary]

Figure 11: UK national news publisher profits

Publisher newspaper division	2010 operating profits (£m)	2016 operating profits (£m)
News UK (News Corp)	(24.1)	(36.7)
DMG Media (DMGT)	95.0	77.0
Trinity Mirror	137.8	79.5
Telegraph Media Group (Press Acquisitions Ltd)	60.1	32.2
Guardian News & Media (Guardian Media Group)	(33.7)	(68.7)
Express Newspapers (Northern & Shell)	0.3	16.3

Notes: Express Newspapers and Trinity Mirror numbers are FY2015 (CAGR is adjusted). Trinity Mirror figure excludes Local World (acquired October 2015), but does include both national and regional assets, which are no longer reported separately. *The Guardian* figures for 2010 are just for Guardian News & Media, comparable with the 2016 figures for the Guardian Media Group, and shows EBITDA profit/loss. The FT was sold in 2015 to Nikkei, discrete financials are no longer published and so the title has been excluded. The I, acquired by Johnston Press in 2016, is also excluded.

[Source: Enders Analysis based on company data. Financial year ends vary]

While we understand that, as a management philosophy, most publishers reduce their newsroom commitment as a last resort after reviewing all other opportunities to reduce costs, the reality is newsrooms are being squeezed, and some of the most expensive journalism activities are evidently investigations. Furthermore, almost all publishers, and almost all titles, have focused on audience reach as they map out their digital futures. In so doing, newsrooms have increasingly created content that is popular, good examples of which are sensationalist, partisan reporting and coverage, opinionated columns and celebrity stories.

Such content has always been part of the newspaper bundle, but the spiralling effect of smartphone consumption accompanied by reduced revenues for publishers means that newspaper media are shifting their content mix. This is a long-term process, not necessarily visible in near-term analysis, and subject to a wide range of influences and interpretations.

In other words, while strictly quantitative analysis of news supply by publishing organisations suggests a declining but relatively stable marketplace, qualitative and economic undercurrents suggest that the news market, at least in its current configuration, is evolving. This is the tangible effect of universal online access replacing the centuries-held value of physical. The implications perhaps reach further than is commonly assumed.

Highlighting the challenge of physical distribution, journalism represents about one-third of the total costs of a national newspaper (see Figure 12). Producing and distributing the print edition represents about 40% of costs, which helps explain why the barriers to entry online are so much lower than for traditional print media.

Figure 12: Enders' estimated industry average newspaper costs structure

	Share of total costs
Editorial / journalism	24%
Management and related overheads: journalism and other functions	11%
Advertising	9%
Technology and miscellaneous	8%
Office	6%
Promotion & communications	3%
Paper	14%
Printing	11%
Distribution and vehicles	8%
Circulation	5%
Repairs and maintenance	1%

Note: Costs vary greatly between publishers, formats and titles, making these numbers indicative only.

[Source: Enders Analysis]

Internet news organisations

Overview

This section provides details on online news organisations, including those supplied by broadcasters and newspapers (see above).

Using data from the EU Commission, the main changes in the use of the internet between 2003 and 2016 are:

- In 2003, internet use (past 3 months) was reported by 61% of UK adults, rising to 95% by 2016
- In 2003, people mainly accessed the internet from desktop computers at home and at work using "narrowband" connections. In 2003, only 11% of homes accessed the internet with broadband, rising to 92% in 2016
- Mobile broadband was nascent, with 40% of UK adults accessing the internet with a mobile device in 2011 (no datapoint for 2003) rising to 77% in 2016

This growing adoption of broadband and the devices to access the internet has vastly increased audiences for online news, both in the UK and abroad. Consumer adoption of mobile devices have allowed online to occupy a time of day (e.g. the daily commute in public transport) that once was the domain of the newspaper.

Online distribution permits the publication of stories in video, audio, or text format, or all three. Online, newspapers converge with broadcast news services. However, despite greater exposure to online video news, 3 out of 4 UK internet users prefer text for their online news.⁴⁰

Facebook and Twitter are also distribution platforms for online news (see below).

In the UK, news consumers know their online news brands relatively well, as 47% visit them directly.⁴¹

⁴⁰ Reuters Institute Digital News Report 2017, p. 20.

⁴¹ Reuters Institute Digital News Report 2016, p. 92.

Broadcast and print news brands

The Telegraph was the first newspaper site launched in the UK by a national newspaper, established in 1994. *Guardian Unlimited* launched in 2000. Today, all national newspapers have a website, a Facebook Page, and a Twitter account (usually several).

The websites of commercial national print media suppliers (e.g. *Mail Online*, *The Guardian*) are far from being replicas of print editions. Online editions provide continuous rolling news coverage, distinct curation, alerts, archives and other tools, including comments (except for the BBC and *The Times*).

The most significant broadcaster entry in the UK, looking back, was the launch by the BBC in 1997 of bbc.co.uk. The site was an entirely new source of news, delivered in a text format that was new to the BBC, requiring a dedicated staff. Initially devoted just to news and kids content, the site's remit was expanded in 2004 to achieve its current wider scope.⁴² Broadcasters also each have a Facebook page and Twitter accounts.

Native news outlets

A final category of online news outlets concerns services that had neither a broadcast nor print antecedent, referred to as "native" brands or digital pure plays. Six native brands are located in comScore's list of the top 20 most visited websites:

- Yahoo-ABC News Network and HuffPost are owned by Verizon Communications. Formerly The Huffington Post, HuffPost is an American liberal news website and blog, which has localised and international editions, including a dedicated UK edition
- BuzzFeed, established in 2006, is a privately held global news organization with 18 offices and 1,300 employees around the world. The organisation has an office in London and serves UK news
- Weather is a popular topic in the UK and top sites are The Weather Company, owned by IBM, and privately owned AccuWeather
- Dotdash is an American based online native article and video content publisher which operates a number of "topic sites" (over 1,000)

Looking beyond the top 20, a number of sites are dedicated to local news in various areas of the UK.

⁴² *Report of the Independent Review of BBC Online*, 2004. The BBC Trust took over responsibility for service approvals from the Secretary of State on 1 January 2007. BBC Online services are subject to conditions set out in its licence which are reviewed every five years. BBC Online and Red Button services were reviewed by the BBC Trust in 2008 and 2013. The BBC Trust ceased its activity on 2 April 2017 and Ofcom assumed the responsibility.

Politico is a native commercial online US news organization launched in 2007, owned by Capitol News Company, which now also serves news on radio and in print.⁴³ Politico serves a bespoke UK online edition. Politico removed their paywall in mid-2016.

The sites of political parties and/or organisations have also become sources of news for UK internet users interested in the topic, but only the Labour Party appears in the top 100 websites for “all news”.

It is also clear from looking at the top 100 that UK audiences are also very engaged with international politics, especially in India (due to the diaspora) and in the United States (of general interest).

Facebook and the news

Overview

The top social media platform used in the UK, Facebook had 37.6 million unique users (adults 18+) on all devices, of which 32.5 million (86%) used the service on mobile, according to Ofcom.⁴⁴ Of the 48% of UK adults (24 million) using the internet for news nowadays, 27% (6.5 million) said they used Facebook, even though it is not a producer of news.

Many publishers engage with social media to expand their reach. They establish Twitter accounts to disseminate news stories in 140 characters and encourage them to be shared by followers. They establish Facebook Pages and post links to stories that appear in the News Feeds of those liking or following the Page. Publishers may use Facebook’s Instant Articles feature to enhance the experience of the mobile app user. Buttons on websites encourage readers to share stories.

Users are exposed to news stories in their News Feeds via the publisher pages they “like”, shares by friends and those considered relevant by Facebook’s algorithm. Users may then share news stories, amplifying their reach well beyond visits to the underlying websites. Some 22% of UK adults share news stories on a weekly basis.⁴⁵ Publishers’ audiences on the platform are reported to them by Facebook in the form of “page views” (a minimum 15 second consumption).

Facebook executives have revealed that 2 billion News Feed posts are made daily, between 60 and 70 million of which include links to content or websites.⁴⁶ Facebook inserts advertisements into the News Feed, thus monetising user engagement.

⁴³ In 2014, Politico USA and Axel Springer established a joint venture to develop and market the new European arm of Politico. In December 2014, the JV acquired Development Institute International (DII), France’s leading events agency in the field of public affairs, and European Voice, a print newspaper. In 2015, Politico Europe launched politico.eu to which European Voice traffic is redirected. Politico’s offering in Europe consists of a website, digital newsletters, a newspaper and conferences.

⁴⁴ Ofcom, “Adults’ Media Use and Attitudes”, Annex, Table 1.4, June 2017.

⁴⁵ *Reuters Institute Digital News Report 2017*, p. 44.

⁴⁶ https://www.buzzfeed.com/craigsilverman/facebook-exec-says-technical-updates-more-effective-than?utm_term=.wqDDaaAnk#.ecVOJJErl

Facebook tools for publishers

Facebook has three highly important products for news publishers: the News Feed itself, Instant Articles, and the Facebook Audience Network, an advertising platform for publishers.

Publishers can distribute content on Facebook in three ways:

1. Creating a Facebook Page and posting links to articles, which users who have “liked” the Page receive in their News Feeds
2. Uploading articles to Facebook Instant Articles for mobile usage
3. Installing Facebook’s “share” and “like” buttons on their websites and mobile apps for users to activate

Content shared on Facebook can further publisher goals by:

1. Increasing brand notoriety, widening exposure to the publishers’ content
2. Providing advertising inventory on Facebook
3. Generating traffic to a site outside Facebook that can be monetised by advertising, affiliate or ecommerce revenue

Publishers’ incentives to distribute content on Facebook depend on many factors, but an important one is the monetization model adopted. The principal divide in publisher’s social media strategies is between those reliant on revenues from advertising, and premium news publishers that operate a paywall. Publishers reliant on advertising seek to harness social media to amplify stories and thus drive referral traffic. They may also earn revenues from on-platform consumption via Instant Articles, although this is a less attractive option than traffic to their own site. In this model, stories will be optimised for social media impact by attention-grabbing headlines. By contrast, premium publishers cultivate subscriptions or memberships (“relationships”) and thus have a relatively low focus on Facebook (although some may allow social referral traffic through their paywalls).

Although broadcasters do not distribute broadcast news services on Facebook, they have active social media strategies. They produce in-house (BBC, Sky) or commission (ITV, Channel 4, Channel 5) short video clips for their Facebook Pages. These are either bespoke for Facebook or clips culled from a news programme. The aim is to encourage Facebook users to share the news story and add to reach. In particular, Channel 4 has a very active social media strategy by virtue of the remit, which requires the broadcaster to produce programming designed to meet the needs of a diverse and young audience, known to be prolific users of Facebook.

About Enders Analysis

Enders Analysis is a research and advisory firm based in London. We specialise in media, entertainment, mobile and fixed telecoms, with a special focus on new technologies and media, covering all sides of the market, from consumers and leading companies to regulation. For more information go to www.endersanalysis.com or contact us at info@endersanalysis.com.

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News and Facebook

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Executive summary

This report concerns news and Facebook. The top social media platform used in the UK, Facebook had 37.6 million unique users (adults 18+) on all devices.¹ Of the 48% of UK adults (24 million) using the internet for news nowadays, 27% (6.5 million) said they used Facebook², even though it is not a producer of news.

A Facebook user (person, company, brand, publisher, political party or community movement), starts with their Page, and then cultivates likes, which are users that have accepted to receive posts to their News Feed. This scrollable content feed orders posts, relying on Facebook's algorithm to assess relevance. Facebook monetises users by advertisements inserted in the News Feed.

All UK news organisations have Pages to which they post links to stories. Publishers generating advertising revenue from referral traffic to their websites or from on-platform consumption will seek to stimulate social media engagement (likes, comments and shares), optimising stories through attention-grabbing headlines (or "click-bait"), and installing Facebook's share and like buttons on their websites. Premium publishers operating a paywall will have a lower key approach to Facebook.

To study the reach of news stories on Facebook during recent political events, this report contains two case studies on the stories users engaged with in the four-month period leading up to the votes in: the Brexit Referendum on 23 June 2016, and the General Election on 8 June 2017. The research reveals that:

- In the period prior to the Brexit Referendum, the Express (backing Leave) had the highest number of engagements on Facebook by far (7.3 million) for Brexit-themed content, despite being ranked 11th overall among news sites by comScore for page views of all content in June 2016
- In the period prior to the General Election in 2017, pro-Corbyn stories published by *The Guardian* and *The Independent* recorded higher levels of engagement on Facebook than pro-May stories published by other national newspapers. Native news sites like The Canary were able to achieve higher Facebook engagement than many better established news brands
- Publishers, rather than broadcasters, attained higher levels of engagements on Facebook

These case studies demonstrate how engagement on Facebook is a factor in propagating the news in the UK. Due to users' selective engagement and the operation of Facebook's algorithm, news organisations have less control over the news agenda on Facebook than on their own websites. Because of this mechanic, relatively small groups of highly engaged users – "influencers" – play an outsized role in content amplification.

¹ Ofcom, "Adults' Media Use and Attitudes", Annex, Table 1.4, June 2017.

² Ofcom, "News consumption in the UK: 2016", Figure 5.4, June 2017.

Overview of Facebook

Personal use

The starting point for a user is the creation of a Profile/Page. The next step is to establish a network of friends with whom to share posts and engage more generally. In addition to the user's active search for people they know, Facebook will further identify potential friends based on the information provided; for example, entering the names of the schools attended prompts a list of people who attended them at the same time. Once a friend request is accepted, that person becomes part of the user's network. A user can also create a private group for their family, to mark an event, etc.

According to Ofcom³, individual users perform three activities on Facebook:

- "Posting comments, sharing videos or photos" (78%)⁴
- "Liking, sharing or commenting on posts that other people have shared" (76%)
- "Looking at posts without commenting, liking or sharing" (71%)

Individuals may post to their Profile photos of pets, family, friends, memorable places and events, or links to entertaining videos (e.g. YouTube). Users may also post links to news stories produced by professional news organisations. These stories may or may not align with the user's political orientation, although engaging with such content is often seen as an effective way of signalling a user's political bent. For most users, all forms of content – private, professionally produced – are a means to connect with friends and cultivate an ongoing conversation.

There is little evidence in the UK of "echo chamber" effects from exposure to news stories on Facebook⁵, which could be contrary to a well-functioning democracy. Ofcom reports⁶:

- 56% of social media users say they sometimes see views they disagree with
- 29% say they often do so
- 12% say they rarely see views they disagree with
- "most people say they are exposed to opinions and views different to their own on social media" according to qualitative research

Company use

Companies engage with Facebook through their company-specific Pages and their social media strategies. A user might "like" or "follow"⁷ the company's Page, thus accepting to receive its posts to their News Feed. Facebook provides tools for companies to "promote" their Page and obtain higher visibility in the feed.

Publishers of news similarly engage with Facebook. They post links to stories on their website that are received in News Feeds of those liking or following the Page, and which users may engage with. Publishers install Facebook buttons on websites and may use Facebook's Instant Articles tool for on-platform mobile consumption.

³ Ofcom, *Adults' media use and attitudes*, Report 2017, p. 49, June 2017.

⁴ Posting comments in private group discussions is not a majority behaviour, but still significant (42%).

⁵ C. Sunstein (2016), *#REPUBLIC*, Princeton University Press. This phenomenon arises when users are exposed primarily to the views of friends with whom they agree.

⁶ Ofcom, *Adults' media use and attitudes*, Report 2017, p. 49, June 2017.

⁷ It is possible to follow a page without liking it.

Facebook reports publisher audiences to them in the form of “page views” (for videos, a minimum 15 second consumption is required to register as a 'view').

Not-for-profit organisations and community movements also have Pages on Facebook.

In sum, typical user networks encompass personal acquaintances, groups, companies, including publishers, political parties and community movements.

Posts and engagement

Facebook executives have revealed that 2 billion News Feed posts are made daily, between 60 and 70 million of which include links to content or websites.⁸ Facebook inserts advertisements into the News Feed, thus monetising user engagement.

Posts appear in the News Feeds of user networks, and these users may in turn share the post to their networks and so on. Each engagement increases the number of people exposed to each post, thus *amplifying* reach.

Facebook owns and controls all the data that might be useful to conduct analysis on the role of news on the platform. However, certain layers of data are made available to developers through public Application Protocol Interfaces (APIs). Several subscription services provide data on the public⁹ activity of users:

- Socialbakers monitors 10 million social media accounts to report the number of likes (or friends) a Page has, as well as their shares of content by topic
- Buzzsumo offers a tool to track public posts on Facebook, by topic (or keyword)

Messaging and “dark social”

Content, including news, is widely shared within Messenger, the private messaging service that Facebook spun off the main Facebook platform to a separate app in 2014 (a web interface followed in 2015). Messenger permits one-to-one and one-to-many conversations to take place in private, which contrasts with the relatively public News Feeds, Pages and Groups.

According to data from comScore, the monthly reach of Messenger in the UK was 22.3 million users in July 2017, compared to 39.7 million for the main Facebook property and 40.0 million for the two combined, indicating a near complete audience overlap.

WhatsApp, the other messaging app owned by Facebook, is not directly integrated with Facebook, as far as user experience is concerned.

The role of messaging apps in news distribution is thought to be growing quickly¹⁰, but UK-specific, large scale survey data of news consumption on messaging apps is not available. Along with email, this distribution channel is sometimes referred to as “dark social”, because only the platforms themselves are able to gauge activity. External observers do not have access to data on the consumption and sharing of content on the platform. (Some measurement is possible using link management platforms, but this data is not public and typically reserved for commercial purposes). Because of this lack of publicly available data, we focus our analysis of news distribution on the main Facebook platform.

⁸ https://www.buzzfeed.com/craigsilverman/facebook-exec-says-technical-updates-more-effective-than?utm_term=.wqDDaaAnk#.ecVoJJERl

⁹ Excluding private activity, hidden from view and thus termed “dark”.

¹⁰ https://reutersinstitute.politics.ox.ac.uk/sites/default/files/Digital%20News%20Report%202017%20web_o.pdf

Facebook News Feed

Overview

The Facebook News Feed is the primary content discovery mechanism on the site and mobile app, especially popular in the UK (86% of users, 32.5 million adults).¹¹

On Facebook News Feeds, posts are displayed on a scrollable content feed served on all connected devices. Facebook ad units are interspersed among the flow of “organic” i.e. non-advertising posts (with the minor exception of some experimental video ad units). Facebook intentionally limits the frequency of ads interspersed in the News Feed to avoid compromising the user-friendliness of the interface. Facebook loads ads in proportion to other posts in the News Feed. The company’s advertising revenues are thus directly related to the volume of posts, shares and other engagements (likes and comments).

Facebook has taken increasing control over the order in which posts are displayed to the user in the News Feed. In 2016, the company stated that the average user receives over 1,500 posts every week – much more than almost any user has time to view. As Chris Cox, one of the architects of the News Feed, said in early 2016, “The perfect way to solve this problem would be to ask everyone which stories they wanted to see and which they didn’t, but that’s not possible or practical”.¹²

EdgeRank

Initially, the task of tackling post relevancy was handled by EdgeRank, a relatively crude piece of software. EdgeRank took two types of relevancy signals into account: *universal* (pertaining to the post itself and overall engagement with it), and *personal* (the relationship between the person or page behind the post and the person whose feed is being ranked). These factors (see Figure 1) are still the basis of the News Feed ranking, although augmented by thousands of other factors, as EdgeRank has been replaced with a more sophisticated system, referred to as the

Figure 1: Basic Facebook News Feed ranking factors	
Universal	Personal
<ul style="list-style-type: none"> • Post freshness (how recent is the content?) • Overall level of engagement with the post, including likes, shares, comments and other measureable actions • Post headline and accompanying text 	<ul style="list-style-type: none"> • The relationship of the receiving user to the creator of the post (was the post by a friend, relative, liked page etc.) • Level of engagement among the friends of the receiving user • Similarity with content the user has previously engaged with

[Source: Enders Analysis based on Facebook News Feed blog posts]

“Facebook Algorithm”.

¹¹ Ofcom, “Adults’ Media Use and Attitudes”, Annex, Table 1.4, June 2017.

¹² http://www.slate.com/articles/technology/cover_story/2016/01/how_facebook_s_news_feed_algorithm_works.html

More than algorithm, less than intelligent

The “Facebook Algorithm” is actually software with a large set of built-in algorithms curated by humans. Similarly, while the News Feed ranking might be attributed to “Artificial Intelligence (AI)”, this is also misleading: some of Facebook’s algorithms make use of highly complex models created and/or calibrated with machine learning, but they are only AI in a very narrow sense. The inputs (data which the algorithm takes into account) are defined and labelled by humans, as are the outputs (numeric values indicating either higher or lower relevance for a particular user) and the structure of the software (the rules which determine how the final relevance score is calculated from the outputs).

Facebook is constantly adjusting the relevance scores it gives to different types of content as it seeks to maximise engagement. In the short term, new content types such as live video may become more prominent as part of a strategic experiment, but in the long term it is the observed relevance to Facebook users that matters.

While Facebook’s algorithms are complex, they ultimately depend on decisions made by the engineers in charge of the News Feed. This structure is necessitated by the huge number and diversity of Facebook’s daily active users and the importance of providing engaging posts to these users. Consequently, each change to the News Feed is rigorously tested through simulations, on focus groups and on selected users, before Facebook makes a final, gradual roll-out to all users (leaving aside a control group to assess long-term impact).¹³

News on the News Feed

From Facebook’s perspective, news serves the same function as all other content genres: it must keep users engaged with Facebook. News is prominent in the News Feeds of Facebook users because Facebook’s automated models, focus groups, human analysts or a combination thereof has consistently found it to be relevant.

On the News Feed, a news story appears as a single link displaying title, illustration and leading paragraph. Users are exposed to news stories on their News Feed posted or engaged with by friends and by Pages they have liked or followed, in an order determined by Facebook’s algorithm.

The relevance score factors of the News Feed are crucial for the reach of news on Facebook due to a mutually reinforcing mechanism. To simplify, the higher on a user’s News Feed a post is ranked, the more likely a user is to like or share it. And when a publisher’s post is liked or shared, that publisher will be ranked higher in the future on the engaging user’s News Feed and those of their friends.

Analyses of Facebook user behaviour suggest that small subsets of users are disproportionately important to overall engagement.¹⁴ These users are able to quickly distribute content (through likes and shares) to large audiences, especially if they have large networks. Because of this mechanic, relatively small groups of highly engaged users – “influencers” – either acting on their own or on behalf of a community or organization, play an outsized role in content amplification and thus in the relevancy of news and opinion posts on the Facebook News Feed.

¹³ Ibid.

¹⁴ H. Cole-Lewis, A. Perotte, K. Galica, L. Dreyer, C. Griffith, M. Schwarz, C. Yun, H. Patrick, K. Coa, and E. Augustson (2016), “Social Network Behavior and Engagement Within a Smoking Cessation Facebook Page”, *Journal of Medical Internet Research*, August; 18(8): e205.

To summarise, a user's exposure to news stories on Facebook, including their nature and prominence on the News Feed, are determined by a combination of factors largely endogenous to Facebook. A news story is thus removed from the order laid out by the publisher's editor on a website or in a print edition. On Facebook, editors control posts to their Pages, but not the news agenda.

Facebook has become more worried about "information operations" carried out for political ends, "such as false news, disinformation, or networks of fake accounts aimed at manipulating public opinion (we refer to these as "false amplifiers")". Facebook explains they "may attempt to distort public discourse, recruit supporters and financiers, or affect political or military outcomes."¹⁵

Facebook and news publishers

Facebook tools for publishers

Facebook has three highly important products for news publishers: the News Feed itself, Instant Articles and the Facebook Audience Network, an advertising platform for publishers.

Publishers can distribute content on Facebook in three ways:

1. Creating a Facebook Page and posting links to articles that those who have liked the Page receive in their News Feeds
2. Uploading articles to Facebook Instant Articles for mobile usage
3. Installing Facebook's share and like buttons on their websites and mobile apps for users to activate

Content engaged with on Facebook can further publisher goals by:

1. Increasing brand notoriety, widening exposure to the publisher's content
2. Providing advertising inventory on Facebook
3. Generating traffic to a site outside Facebook that can be monetised by advertising, affiliate or ecommerce revenue

Publishers' incentives to distribute content on Facebook depend on many factors, but the business model they have adopted is of particular relevance. Publishers reliant on advertising have active social media strategies to amplify stories with the aim of delivering referral traffic to their websites or on-platform consumption via Instant Articles. Stories may be optimised for social media for example by attention-grabbing headlines. By contrast, premium publishers charge for access and cultivate memberships, and thus have a relatively lower focus on Facebook (although some may allow social referral traffic through their paywalls).

Instant Articles

Instant Articles (IA) is a publishing tool to host text-based articles on Facebook's servers. This tool offers the app user faster transitions to content from the News Feed, and IA news stories are prioritised over non-IA ones. In the spring of 2016, Facebook made IA available to all publishers (rather than just the major news organisations invited to test the feature), provided the content is hosted on a separate website. (Facebook is preparing to launch a similar tool for publishers of video, such as broadcasters, known as Instant Video.)

¹⁵ J. Weedon, W. Nuland and A. Stamos, "Information Operations and Facebook", 27 April 2017.

As noted previously, publishers pursue different business models for their content and thus their relationship with Facebook in general, and with IA in particular, depends to some extent on their choice in this regard. The supply-side of IA reflects these incentives. Publishers without commercial aims, such as the BBC, will more readily load IA because they wish to facilitate the consumption of their content and do not prioritise referral traffic to their sites. Still, they might find that IA dilutes their brand by removing the news story from its “environment” (website, iPlayer), their content in effect being absorbed into the Facebook experience (indeed, users technically don’t leave Facebook when reading an IA news story).

Advertising reliant news publishers might well load their news stories on Instant Articles, but may complain that on-platform consumption cannibalises referral traffic to their own sites, and that the ad yield on Facebook is lower (see below).

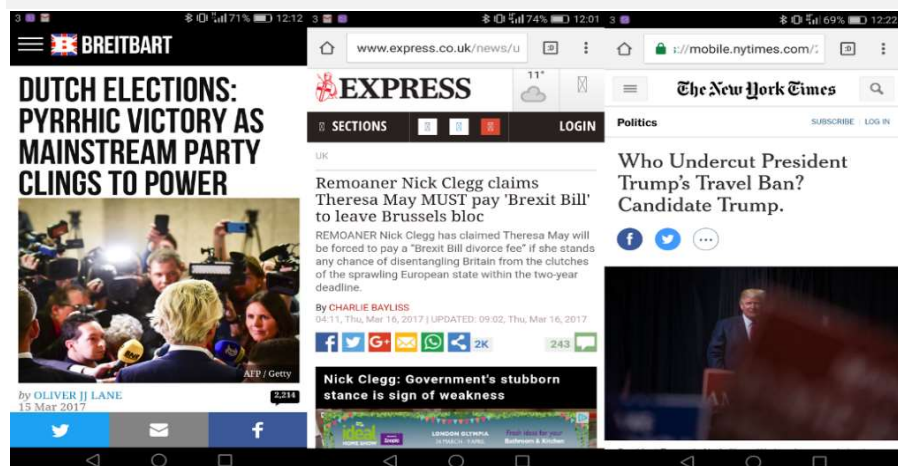
For less reputable publishers, IA arguably has the opposite effect. News stories are presented in a well-designed format which loads rapidly on a mobile browser and are very easy to share or like. The publisher benefits from Facebook’s branding.

As Facebook’s public post engagement data gathered by subscription services (e.g. Buzzsumo) does not distinguish between the source, whether IA or “normal” news article links, the importance of IA in driving engagement is not possible to assess.

Sharing button

One of publishers’ best practices to promote article sharing on Facebook is to feature Facebook’s share button just below the headline on the publisher site (see Figure 2). Sharing content might be seen as a form of personal endorsement, sending the signal to Facebook that it (and similar content or other content from the same publisher) is personally relevant. Facebook has recently announced it will down-rank content that, if read, makes the user less likely to share it. The position of the button precedes the body of the text, and Ofcom reports that 3 of 10 social media users often post links to articles without reading them before.¹⁶

Fig. 2: Facebook sharing buttons before body text, select mobile sites



[Source: Enders Analysis]

For publishers with large regular audiences to their own websites, a news story may become prominent on Facebook News Feeds “exogenously”, i.e. because of Facebook buttons. However, publishers with small regular audiences to their

¹⁶ Ofcom, *Adults’ media use and attitudes*, Report 2017, p. 10, June 2017.

websites that have achieved high reach on Facebook (measured by total engagements), such as The Canary, indicates that the endogenous effects of News Feed engagement are likely to be decisive for attaining reach.

Publishers' revenue on Facebook

As noted previously, publisher aims for Facebook may include generating revenues on Facebook. Publishers have two main ways of doing so *directly*, both heavily reliant on advertiser and/or agency partners.

The first is to publish sponsored content ("content marketing") where the article or video distributed on Facebook is itself an ad. However, this model succeeds only when the publisher has strong direct advertiser relationships (e.g. BuzzFeed or Vox). The second is to serve ads on Instant Articles, requiring the publisher to have agency or advertiser partnerships. These requirements are more often met by large and established publishers than new entrants.

Publishers may instead rely on Facebook's proprietary ad network, the Facebook Audience Network (FAN). FAN serves ads from Facebook's advertisers and thus does not require the publisher to have advertiser or agency partnerships. With FAN taking a cut of 30%, this option is frequently less attractive to publishers than directly selling ads on Facebook, but it nevertheless provides a useful way for smaller publishers to generate revenue.

Another consideration for advertising reliant publishers is that referral traffic to their websites may be prioritised over on-platform consumption through IA. Referral traffic, in addition to its 100% ad yield, has the advantage that the visitor can be monetised through ancillary revenues.

Broadcasters

To date, UK broadcasters have not engaged with Facebook to distribute news. The demand-side is a factor since 3 out of 4 UK online users prefer text over video for their online news.¹⁷ Advertisers consider that book-ending advertisements (at the start or end of the clip) is less effective and valuable than in-stream advertising (the equivalent of ad breaks on TV). Facebook is still working on video advertising.

The BBC, under the guidance of the BBC Trust (since dissolved), has been careful to prioritise the "branded environment" of the iPlayer. Service licences strictly limit the content that can be served outside approved environments.¹⁸ By contrast, Channel 4 has a remit which requires the broadcaster to meet the needs of a diverse and young audience, known to be prolific users of Facebook, and therefore has adopted a pro-active social media strategy.

Broadcast brands with active social media strategies for their Pages post short video clips designed to stimulate engagement and thus widen reach. These clips are produced in-house (BBC, Sky) or commissioned (ITV, Channel 4, Channel 5), and are either bespoke to Facebook or culled from programming. (Social media strategies for text-based eponymous websites: BBC News, Sky News, ITV News and Channel 4 News are distinct from that for broadcast content.)

Case studies: Brexit Referendum and General Election 2017

Overview

¹⁷ Reuters Institute Digital News Report 2017, p. 20.

¹⁸ BBC Trust Review, "BBC Network News and Current Affairs", April 2014.

This section of the report concerns two case studies on the reach of “themed content” on Facebook. The research compiled the list of news articles that were most engaged with on Facebook in the lead-up to: the Brexit Referendum vote of 23 June 2016; and the General Election on 8 June 2017.

Consumer interest in news is often piqued at times of critical political events. On Facebook, users may receive news stories in their News Feed that originate from sources including:

- Political parties, community movements or “information operations”
- News organisations (broadcast, newspaper, internet), noting that among these, newspapers and internet news outlets may display political alignment, while broadcasters are bound to observe impartiality
- YouTube, which hosts videos produced by a wide range of news organisations and commentators

Engagements (a combined total of likes, shares and comments) are the best publicly available proxy metric for audience reach on the Facebook platform. The total number is accessible using one of Facebook’s open interfaces, the Graph API, for any web page that has been engaged with (ie. shared, liked or commented) on Facebook. This data does not separate types of engagement, but likes, shares and comments all increase the overall views of content on the Facebook News Feed (as described above). On average, likes are by far the most common form of engagement, followed by shares and comments. In order to be engaged with, the content must first be seen. There is a legitimate distinction to be made between receiving the post in the News Feed, viewing the post and clicking through to the news story. Estimates of how many post views each engagement corresponds to range from 2 to 20 or more.¹⁹

Because Facebook’s News Feed algorithm favours engagement and perceived personal relevance, each engagement both exposes a post to more News Feeds and improves its ranking among them. These engagements may lead users to read the news stories through Instant Articles or by visiting the website.

Subscription service comScore’s traffic numbers for publishers²⁰ help to quantify the significance of referral traffic from Facebook: the platform accounts for around a quarter of all inbound traffic to national newspaper websites from desktops and laptops, up from 5 per cent in 2013. (Mobile referral traffic is not yet quantified). For online native publishers, the share is typically higher (over half of all traffic).

The hypothesis of the research is that the importance of Facebook as a news platform is even greater for publishers than comScore data suggests because it does not capture on-platform activity. This includes exposure to publisher content on the Facebook News Feed and readership of Instant Articles. This is where on-platform data becomes relevant for analysis.

Data on overall post reach (such as the number of unique viewers for a post or set of posts) is available to Facebook and is communicated to publishers, but not externally. Subscription service BuzzSumo uses public APIs to supply a search tool by keyword for published articles across Facebook, Twitter and Google+.²¹ A

¹⁹ H. Allcott and M. Gentzkow, “Social Media and Fake News in the 2016 Election”, *Journal of Economic Perspectives*, Volume 31, Number 2, Spring 2017, pp. 211–236.

²⁰ Since January 2015, comScore publishes mobile usage data alongside desktop and laptop data.

²¹ Google+ is Google’s social media platform, not to be confused with the search engine.

limitation of the exercise is that the engagements reported are for all users in English-speaking countries not just UK-based interactions.

The research project identified the 1,000 articles for each keyword (e.g. Brexit) most engaged with on Facebook, and coded them by publisher using the article's URL.²² All types of publishers and content types (including video) are included in the analysis. Appendix I and Appendix II list the top 100 such articles (the analysis was based on the top 1,000 articles in each case study) for each political event to give a flavour of the kind of content that achieved high levels of engagement.

It should be noted that tallies of engagements of news stories by publishers masks the role of news agencies as originators of content shared, liked or commented on social media. According to an analysis by NewsWhip²³ of similar, publicly available Facebook engagement data, Associated Press (AP) articles published by the agency's clients achieved a similar amount of total engagement in July 2017 as the leading English language publisher on the platform, Mail Online. However, this data covered all publisher content rather than news and opinion on a particular political topic.

Case study on the Brexit Referendum

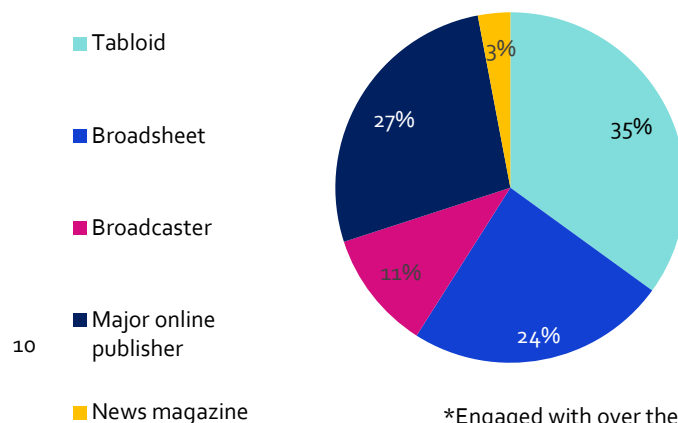
The research project examined the top 1,000 Brexit-themed posts by number of total engagements on Facebook in the four months prior to the referendum. These news stories originated mainly with the national newspapers, segmented into broadsheets and tabloids, plus BBC Sites (classified as a broadcaster brand) and major online publishers/platforms, such as YouTube.

The classification into broadsheet and tabloid matters to the analysis. Newspapers tend to differentiate in relation to peers to obtain competitive advantage in the marketplace. Newspapers accomplish this through political alignment, the extent of coverage of popular news genres such as celebrities, the role of columnists or commentators, and the tone of headlines and stories.

This differentiation is expressed in the marketplace through categories for print newspapers such as "broadsheet" (*The Guardian/The Observer, The Telegraph/Sunday Telegraph, The Times/The Sunday Times*, and associated websites) and "tabloid" (*The Sun/on Sunday, Daily Mail/on Sunday, Daily Express*, and associated websites). A tabloid typically leans to shock headlines.

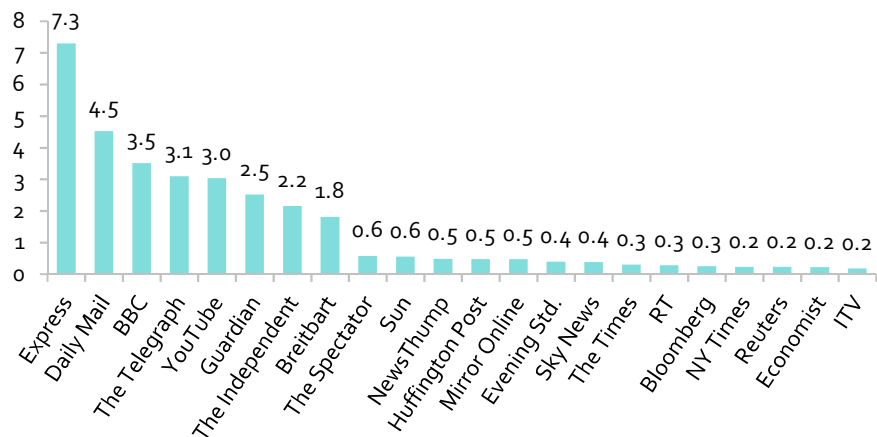
In the analysis of the top 1,000 news stories by engagements on Facebook, the highest shares were recorded for tabloids, with 35 per cent (Figure 3), led by the Express (Figure 4). Major online publishers/platforms came second with 27 per cent (Figure 3), led by YouTube and Breitbart (Figure 4). Broadsheets came third, with The Telegraph capturing the most engagements. Among broadcasters which offer news websites, the BBC was by far the most successful and the only one to make it into the top 10 publishers by number of engagements.

Fig. 3: Share of FB engagements, top 1,000 Brexit content by publisher type*



*Engaged with over the period 23 Feb-23 June 2016
[Source: Buzzsumo, Enders Analysis]

Figure 4: Top publishers of Brexit content by FB engagements* (m)



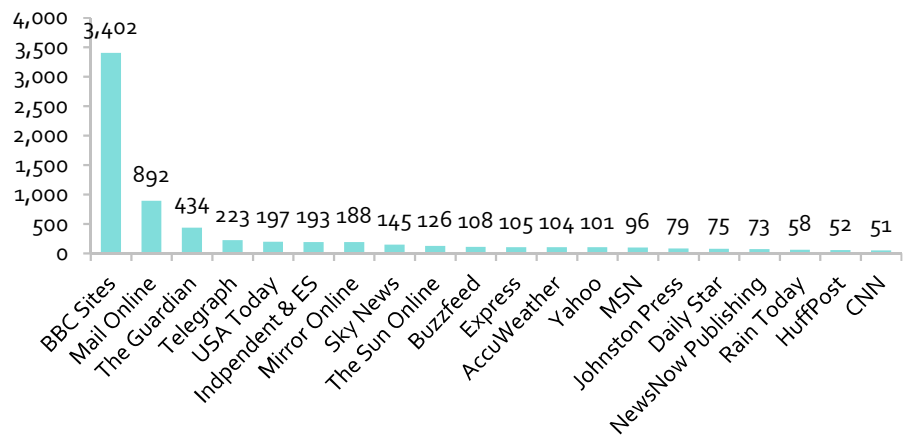
*engaged with over the period 23 Feb- 23 June 2016
 [Source: BuzzSumo, Enders Analysis]

The news stories engaged with on Facebook range from fact-based reporting to opinion and satire, verging on fake news. For broadsheets, most of the articles that were most engaged with on Facebook were opinion pieces, either strongly for or strongly against Brexit. The top tabloid stories were almost all fact-based reporting, although the headlines had a clearly sensationalist tinge, calling out claimed absurdities of the EU or pro-remain politicians. In some instances, the content displayed on the News Feed (the title, illustration and leading paragraph) proved a poor guide for the content of the actual article. Even if the content is not ostensibly fact-based reporting it can be highly informative, and conversely, content dressed up as hard reporting on the News Feed may be highly misleading, primarily entertaining or designed to convince politically.

The common element among most of the top content, regardless of publisher, was that the political “lean” of the article in question could clearly be detected by the elements published on Facebook. Users could easily detect whether the news story was in favour of or against Brexit. By engaging with the content, users could be inferred to have signalled a particular political stance of their own, which they wanted to communicate to their networks.

While the Express attained top ranking based on Facebook engagements with themed content, BBC Sites obtained the top position in the ranking produced by comScore of sites based on page views generated by visitors (see Figure 5). This data captures views of all pages of content viewed on these sites in June 2016, not just Brexit-themed content, making these comScore data not directly comparable to the Buzzsumo data on Facebook engagements with Brexit-themed content. However, the exercise demonstrates the difficulty of using comScore data alone when assessing the reach of publishers online.

Figure 5: UK online news publishers page views (m), June 2016



[Source: comScore, Enders Analysis]

General Election 2017

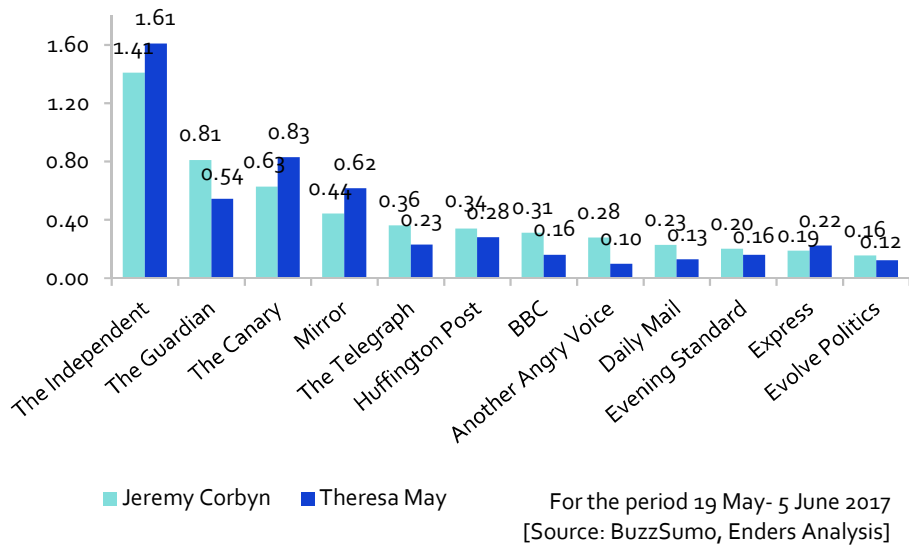
News-related activity on Facebook during General Election 2017 is also of interest as a case study. The research examined the reach of news stories, noting that political parties were also very active on the platform, both through posts to their Pages and through advertising.

Facebook is also taking the lion's share of both the main parties' online campaign ad budgets. The platform's ad targeting tools have become better than they were during General Election 2015, making it a powerful tool for targeted campaign messaging.²⁴

In this case study, news stories on Jeremy Corbyn produced by The Independent and the Guardian obtained higher reach than those produced on The Labour Party leader by other national news organisations (Figure 6). These two titles, which were supportive of Jeremy Corbyn, also produced articles on Mrs May that also obtained higher reach than those produced by newspaper organisations supporting the Conservative Party leader. (See Appendix II for the top 100 news stories engaged with on Facebook to obtain a flavour of the content.)

²⁴ In the 2015 general election, the Conservatives pioneered a Facebook-heavy online advertising strategy, spending over £1.2m on the platform, almost 10 times the amount spent by Labour and three times the amount spent on YouTube ads by either party. In the June 2017 General Election, Labour pledged to spend £1m on Facebook ads, which cements Facebook's position as the main digital advertising platform for the election. In terms of scale, a budget of this size in the UK is enough to serve well over a hundred million News Feed ad impressions on the platform, even with a high degree of audience targeting.

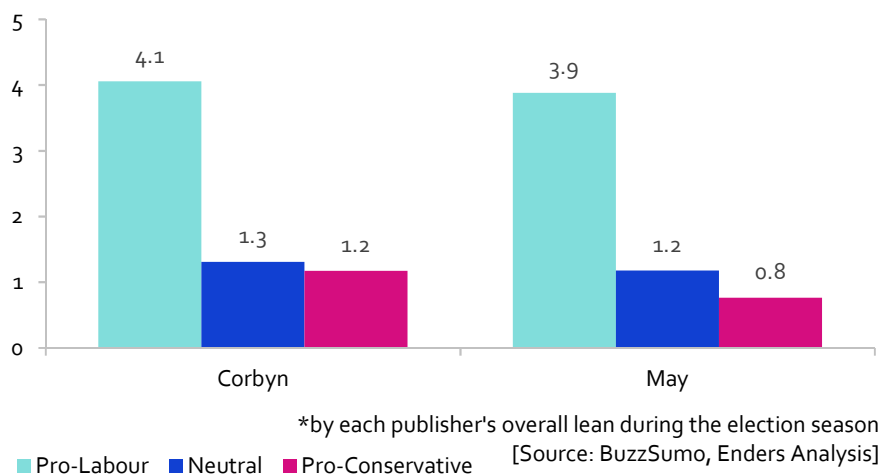
Figure 6: Top publishers by FB engagements with articles on party leaders (m)



Online native news sites like The Canary and even blogs like Another Angry Voice were able to achieve larger audiences than many strong print and TV news brands. Notably, the Express which was the most successful publisher on Facebook for Brexit-themed content at the time of referendum, did not perform particularly well in General Election 2017.

The high rate of engagement for The Independent, The Guardian, Mirror and online native pro-Labour publishers such as The Canary and Evolve Politics contributed to a highly pro-Labour skew in Facebook engagements. While the number of articles engaged with was quite evenly spread between pro-Labour and pro-Conservative, the number of *total engagements* with those articles tilted towards content against May and for Jeremy Corbyn (see Figure 7). On Twitter, engagements were similarly highly supportive of Corbyn on average. Worryingly for the UK's biggest news brands, a common angle among much of the most engaged with content was criticism of the campaign coverage of UK national newspapers and public service broadcasters.

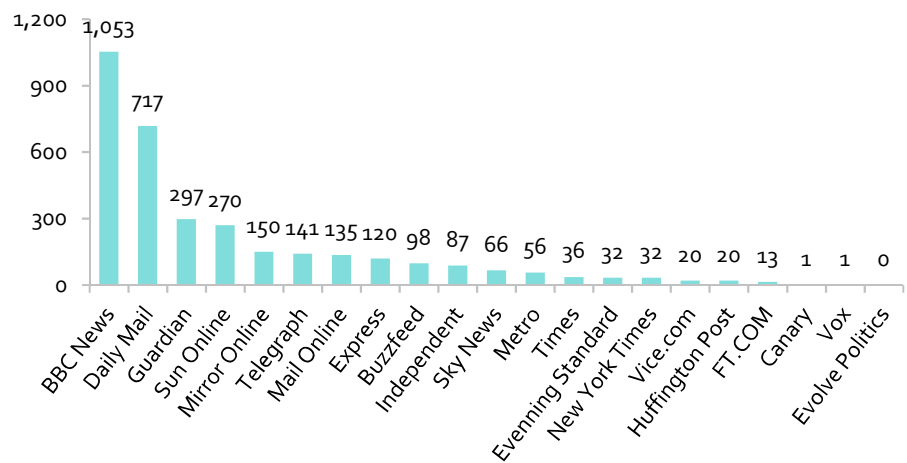
Figure 7: Facebook engagements with party leader coverage*



The conclusion is that the content discovery mechanisms on Facebook are shaking up the UK's partisan press landscape. Overall coverage weighted by distribution of engagements is much more left-leaning on social media than in print or on major news websites on average. The shift is, at least in part, due to the youth of the Facebook user base relative to likely voters.

However, according to data from comScore from April 2017, overall traffic to UK news websites was still dominated by established news brands with strong print newspaper circulations or a presence on TV (see Figure 8). BBC News in particular achieved the highest number of page views, despite being 7th overall in terms of themed content engaged with on Facebook (see Figure 6). This case study again highlights the caution that must be exercised in relying on comScore data alone to assess the reach of publishers.

Figure 8: UK online publisher page views (m) April 2017



[Source: comScore. Enders Analysis]

Appendix I

Most engaged with Brexit Referendum content in the four months leading up to 23 June 2016

	Publisher	Article	Facebook engagements	Twitter Shares
1	Daily Express (Leave)	Major leak from Brussels reveals NHS will be 'KILLED OFF' if Britain remains in the EU	463,885	3,734
2	YouTube	Brexit: Last Week Tonight with John Oliver (HBO)	333,712	21,549
3	YouTube	BREXIT THE MOVIE FULL FILM	222,491	10,338
4	YouTube	Portishead - SOS	170,670	4,737
5	Andy Williamson	10 points to consider about Brexit and the EU Referendum - Dr Andy Williamson	145,721	764
6	YouTube	Professor Michael Dougan on the EU Referendum	122,778	1,089
7	Independent (Remain)	After the leaks showed what it stands for, could this be the end for TTIP?	101,878	5,079
8	Business Insider	The EU referendum is not legally binding and can't force a Brexit	97,179	1,095
9	Daily Express (Leave)	Home Secretary Theresa May say many Britons 'BENEFIT GREATLY' from Sharia Law	94,805	2,352
10	This Is Money	World's largest aircraft maker picks Britain as home for its new European headquarters	88,000	1,037
11	Daily Express (Leave)	French voters ask for Frexit EU referendum after Germany and Brexit	86,975	1,778
12	The Guardian (Remain)	Patrick Stewart sketch: what has the ECHR ever done for us? - video	86,631	7,096
13	YouTube	Brexit The Movie	86,009	1,813
14	Daily Express (Leave)	Brexit SPREADS across Europe: Italy, France, Holland and Denmark ALL call for referendums	82,015	2,938
15	The Independent (Remain)	EU referendum: British public wrong about nearly everything, survey shows	81,904	4,028
16	Breitbart	Germany's Largest Bank Says Massive UK	79,723	4,894

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Growth After Brexit

17	The Spectator (Leave)	A Day of Infamy Coffee House	73,690	11,821
18	CNBC	London's new mayor takes on Donald Trump, religious extremism, and a Brexit: Report	68,258	212
19	The Independent (Remain)	You won't 'get back your country' if you vote for a Brexit	66,423	2,770
20	Breitbart	BBC Warns Football Fans Dressing as Crusaders 'Offensive' to Muslims	66,295	1,446
21	Evening Standard (Remain)	Why the UK may remain after Brexit even if we vote Leave, writes Anthony Hilton	64,471	618
22	The Telegraph (Leave)	Sir James Dyson: 'So if we leave the EU no one will trade with us? Cobblers...'	63,978	4,990
23	BBC	Corbyn ballot challenge ruling & Boris Johnson in Paris talks - BBC News	63,614	1,021
24	News Thump	Cats would vote to leave EU and then refuse to go out	63,139	334
25	The Guardian (Remain)	Brexit is a fake revolt – working-class culture is being hijacked to help the elite Paul Mason	59,816	4,459
26	Money Saving Expert	How to vote in the EU referendum - Martin Lewis' Blog...	56,836	2,932
27	News Thump	Leading Brexit campaigners coincidentally a shower of c*nts	54,998	317
28	News Thump	Transylvania joining EU could see one million vampires in UK by 2020	54,409	444
29	The Independent (Remain)	UK is most corrupt country in the world, says mafia expert Roberto Saviano	54,294	3,350
30	The Independent (Remain)	EU immigration has no negative impact on British wages, jobs or public services, LSE research finds	52,318	990
31	The Mirror (Remain)	Nigel Farage wants second referendum if Remain campaign scrapes narrow win	52,273	2,393
32	Daily Express (Leave)	Tony Blair: Britain must give up MORE powers to Brussels and mass migration 'GOOD for UK'	52,070	623
33	HuffPost	35 Reasons to Vote #Leave	51,950	395
34	BBC	Trump presidency rated among top 10 global risks: EIU - BBC News	49,598	3,776

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35	YouTube	The Moment Of Truth	49,463	2,923
36	The Independent (Remain)	This terrifying Rupert Murdoch quote is possibly the best reason to stay in the EU yet	49,336	3,472
37	BBC	Jo Cox MP dead after shooting attack - BBC News	48,103	10,437
38	The Guardian (Remain)	The non-EU workers who'll be deported for earning less than £35,000	47,774	2,516
39	The Sun (Leave)	WWII vets plead with Brits 'don't give away what we fought for' urging voters to back Brexit	46,604	2,491
40	The Guardian (Remain)	Eurotrash is back for one night only on the eve of the EU referendum	46,460	523
41	Daily Express (Leave)	'Praise Allah' bus ads get green light months after Lord's prayer ban	46,304	2,351
42	Daily Express (Leave)	GERMANY	46,242	4,982
43	The Economist	Divided we fall	45,804	802
44	Daily Express (Leave)	David Cameron ADMITS Brussels BLOCKED bid to rescue UK steel	45,220	1,674
45	Daily Mash	Britain to leave EU because of massive, blond-haired child	45,178	521
46	BBC	Iain Duncan Smith quits over planned disability benefit changes - BBC News	43,916	11,782
47	The Independent (Remain)	EU referendum: Poll reveals 10-point swing towards Brexit as Leave campaign gains momentum	43,686	7,249
48	The Times (Leave)	Leave EU and we'll make your lives a misery: Juncker's warning to Britain	43,521	866
49	Daily Mash	Britons demand to live in medieval village surrounded by a wall	42,991	550
50	News Thump	Growing confusion amongst idiots who think they need to 'take country back'	42,182	205
51	YouTube	Brexit: The (animated) Movie	42,107	2,503
52	The Spectator	A terrorist attack has happened in Europe. Let the standard response begin... Coffee House	41,969	2,316
53	MailOnline (Leave)	Poland abandons agreement with EU to take in 7k migrants after Brussels attacks	41,058	1,384
54	Daily Express (Leave)	Brexit: EU migrants pocket MORE tax credits cash and child benefits than BRITISH workers	40,948	1,030

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55	Daily Express (Leave)	Britain to hand over £1.8BILLION to Turkey - so it can join the EU	40,874	1,538
56	i newspaper (Remain)	Nick Clegg: what you will wake up to if we vote to Leave... - The i newspaper online iNews	40,696	1,222
57	YouTube	Brexit Song (John Oliver, Last Week Tonight)	40,528	281
58	Daily Mash	Man who has never left Huddersfield thinks Britain should leave the EU	40,146	358
59	Daily Express (Leave)	EU FALLING APART: Now HOLLAND wants its own Brexit-style referendum	40,068	1,977
60	Daily Express (Leave)	No wonder they want us to Remain: Germany fears Brexit because they would lose £35BILLION	39,180	2,270
61	Breitbart	Dalai Lama Warns Against Taking Too Many Migrants, Arab Domination: 'Migrants Should Return'	39,128	3,649
62	The Telegraph (Leave)	Boris Johnson: The EU wants a superstate, just as Hitler did	38,740	2,532
63	News Thump	Brussels sprouts to be renamed London sprouts in latest EU spat	38,045	151
64	The Telegraph (Leave)	It's time to call the killing of Jo Cox what it is: 'an act of far-Right terrorism'	37,726	1,610
65	The Guardian (Remain)	Brexit is the only way the working class can change anything Lisa Mckenzie	37,458	1,025
66	Square One Law	EU Referendum: Know the facts: Square One Law guide lays out four possible legal outcomes of Brexit	37,278	146
67	The Guardian (Remain)	Why I'll leave the UK if Britain votes no to Europe Oliver Imhof	37,194	406
68	The Telegraph (Leave)	Please Vote Leave on Thursday, because we'll never get this chance again	37,062	3,165
69	Your Newswire	France Announce Likely Exit From Europe Ahead of Brexit Vote	36,187	462
70	The Independent (Remain)	Brexit: Norway's Prime Minister Erna Solberg warns Britons 'won't like' life outside EU	35,978	1,505
71	Daily Express (Leave)	Bid to ban Muslims from replacing UK law with Sharia courts to be put before MPs TODAY	35,819	1,079
72	The Guardian (Remain)	Swedish footballer sent off for farting during match	35,737	1,464
73	Daily Express	Calais migrants: Refugees attempt to	35,012	4,814

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	(Leave)	reach Britain amid Euro 2016 ahead of EU referendum		
74	Evening Standard (Remain)	Sadiq Khan: There will be no more 'body shaming' adverts on the Tube	34,621	2,461
75	The Telegraph (Leave)	Barack Obama: As your friend, let me say that the EU makes Britain even greater	34,482	4,341
76	HuffPost	Euro 2016 England Fans Chant About Brexit At Violent Clashes In Marseille	34,354	476
77	Parliamentary Petition	Stop spending a fixed 0.7 per cent slice of our national wealth on Foreign Aid	34,069	4,202
78	Mail Online (Leave)	DANIEL HANNAN outlines ten bombshells the EU's keeping secret	33,843	3,631
79	News Thump	Majority of lemmings in favour of jumping off cliff	33,470	343
80	Mail Online (Leave)	Homophobic Orlando shooting headline on Turkish newspaper with ties to President Erdogan	33,362	4,166
81	The Independent (Remain)	David Cameron 'could face no-confidence vote by his own MPs over handling of EU referendum'	33,259	1,180
82	Daily Caller	London's Muslim Mayor Bans Sexy Women In Advertisements	33,207	2,020
83	The Guardian (Remain)	UK voters leaning towards Brexit, Guardian poll reveals	33,123	2,106
84	BBC	Pound plunges after Leave vote - BBC News	32,948	13,654
85	Medium	I'm fucking terrified.	32,923	453
86	Daily Mash	Britain in historic vote that only a handful of twats wanted in the first place	32,884	976
87	BBC	Jo Cox MP dead after shooting attack - BBC News	32,758	2,674
88	The Independent (Remain)	Our next referendum should be on the future of the monarchy	32,526	2,643
89	The Guardian (Remain)	Trump's popularity inexplicable and Brexit spells disaster, says Stephen Hawking	32,414	1,657
90	YouTube	The Truth About #Brexit	32,096	5,039
91	HuffPost	EU Referendum Poll Shows Young People Could Hold Key To June Vote	31,836	289
92	Daily Express (Leave)	New Zealand says future will be 'exciting' if Britain votes for Brexit	31,617	1,073

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93	Mail Online (Leave)	RICHARD BRANSON on why he's voting Remain	31,549	1,346
94	Daily Express (Leave)	Farage's fury as BBC bosses 'try to freeze him out' of Brexit debate	31,499	3,227
95	QZ	Possible names for EU exits for all members of the EU	31,104	1,092
96	Evening Standard (Remain)	EU referendum: Europeans launch 'Hug a Brit' campaign to persuade UK to stay	30,860	479
97	The Guardian (Remain)	Brexit supporters have unleashed furies even they can't control Polly Toynbee	30,839	1,277
98	Vimeo	Brexit: The Movie	30,339	5,866
99	Mail Online (Leave)	Queen refuses to return to London to meet Barack Obama, EPHRAIM HARDCASTLE writes	30,076	954
100	Daily Express (Leave)	EU referendum: Report reveals Britain won't lose trade deals if they leave EU	30,050	2,304

[Source: Buzzsumo, Enders Analysis]

Appendix II

Most engaged with "Corbyn" or "May" content in the four months leading up to the General Election on 8 June 2017

	Publisher	Article	Facebook engagements	Twitter Shares
1	The Independent	Theresa May announces she wants to bring back fox hunting	60,474	15,699
2	The Independent	Whatever you thought of Jeremy Corbyn before, you can't deny that his manifesto delivers	47,964	2,018
3	The Independent	Theresa May to create new internet that would be controlled and regulated by government	47,756	16,840
4	Evolve Politics	Theresa May's Tory manifesto SCRAPS THE BAN on elephant ivory sales after bowing to millionaire antique lobbyists EvolvePolitics.com	46,969	3,425
5	Evolve Politics	One of Britain's most influential rappers just smashed the entire anti-Corbyn argument in seconds EvolvePolitics.com	46,819	1,498
6	Tom Pride Blog	Desperate, underpaid NHS paramedic tells Theresa May: "I've seen things no one should have to witness"	43,876	1,065
7	The Guardian	By choice, I've never voted before. But Jeremy Corbyn has changed my mind Akala	41,992	1,547
8	Huffington Post	Corbyn Is The Most Electable Politician In A Generation	41,865	1,010
9	The Canary	A bystander took a behind the scenes photo of Theresa May that reduces her campaign to a sham [IMAGE]	41,808	615
10	The Independent	Conservative manifesto: Children to lose free school meals under 'lunch snatcher' Theresa May's plans	40,003	1,412
11	Another Angry Voice	Theresa May's extraordinary Facebook meltdown	37,284	504
12	The Independent	Labour climbs to highest poll rating since start of election campaign	36,963	1,736
13	The Sun	Manchester Arena bomber Salman Abedi, 22, was a Man United fan and uni dropout - as Theresa May warns another terrorist atrocity could be 'imminent'	35,324	152

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14	The Independent	UK Election: 90,000 young people register to vote in one day in boost for Jeremy Corbyn	32,100	2,140
15	The Independent	Theresa May is right to take school meals off primary school pupils – it's their fault we're in this financial situation anyway	31,881	959
16	The Independent	Labour cuts gap with Conservatives to single figures for the first time in mainstream poll	30,569	1,197
17	The Independent	Theresa May accuses remaining 27 EU members of 'lining up to oppose' Britain over Brexit	30,081	2,577
18	The Independent	Labour is surging in the polls – and it's all because the media is finally giving Jeremy Corbyn impartial coverage	28,900	4,163
19	The Independent	Danny DeVito endorses Jeremy Corbyn for Prime Minister	27,939	214
20	The Independent	Jeremy Corbyn gains eight points on Conservatives in new poll usually unfavourable to Labour	27,838	1,946
21	The Independent	Labour begins to poll higher under Jeremy Corbyn than it did under Ed Miliband	27,548	732
22	Mirror	Theresa May officially pledges fox hunting vote in Tory election manifesto	26,950	274
23	The Guardian	Maxine Peake: 'I'm a Corbyn supporter. We need a coup'	26,796	1,738
24	The Guardian	Jeremy Corbyn has defied his critics to become Labour's best hope of survival Gary Younge	26,505	2,315
25	The Independent	Jeremy Corbyn just had brunch with Jme and snapchatted it	26,300	395
26	The Canary	Theresa May struggles to answer when confronted live on TV about nurses going to foodbanks	26,254	1,223
27	Mirror	Theresa May skewered on live TV for refusing to accept nurses use food banks because of Tory austerity	26,232	2,913
28	Washington Post	Manchester explosion: Theresa May says another attack 'may be imminent' after Ariana Grande concert bombing	25,750	1,755
29	The Canary	It's obvious why the media isn't reporting John Cleese's extraordinary takedown of Theresa May The Canary	25,598	1,663
30	The	Why Jeremy Corbyn has the best long-	25,537	5,337

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	Independent	term plan for tackling terrorism on British soil		
31	The Independent	Labour support surges in Wales with 16-point shift towards Jeremy Corbyn's party	24,014	3,261
32	Sky News	Theresa May wants to bring back fox hunting	23,924	3,067
33	The Guardian	Theresa May ditches manifesto plan with 'dementia tax' U-turn	23,824	9,145
34	Newsthump	Most foxes won't vote Labour because Jeremy Corbyn 'just not credible as a leader'	23,760	333
35	BBC	Theresa May: I'm in favour of fox hunting - BBC News	23,567	1,342
36	The Telegraph	Exclusive: Jeremy Corbyn's left-wing Labour manifesto leaked	23,468	1,681
37	The Independent	Jeremy Corbyn's nationalisation policies are grounded in cold, hard economic sense. Europe proves it	23,193	1,706
38	Mirror	Theresa May confirms she wants to bring back fox hunting after secret Tory plot exposed	22,690	2,573
39	Liverpool Echo	Liverpool fans to unveil huge Jeremy Corbyn banner at Anfield tomorrow	22,673	2,557
40	The Guardian	Jeremy Corbyn has one thing Theresa May lacks: a personality Maurice Mcleod	22,596	441
41	The Canary	Even BBC reporters were left stunned by yesterday's pro-Corbyn crowds in West Yorkshire [VIDEO]	22,556	534
42	The Independent	The difference between Jeremy Corbyn and Theresa May in two pictures	22,356	336
43	The Canary	A 23 second clip of a younger Jeremy Corbyn has gone viral in the wake of the Manchester bombing [VIDEO]	21,282	1,209
44	The Independent	Five hundred head teachers accuse Theresa May of pushing schools 'to breaking point'	20,914	2,023
45	New Statesman	Unnoticed and unreported, Jeremy Corbyn is surging in the polls	20,791	829
46	Another Angry Voice	Read Jeremy Corbyn's speech on education policy	20,437	168
47	Mirror	Theresa May asks people of Britain to follow her - but won't say where she's going, says Jeremy Corbyn	20,345	7,945

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48	The Independent	I'll never forget what Jeremy Corbyn whispered in my ear at a campaign event last week	20,286	1,405
49	The Telegraph	Exclusive: MI5 opened file on Jeremy Corbyn amid concerns over his IRA links	20,183	4,844
50	The Independent	Wrexham shop told before Theresa May's visit not to sell eggs and flour over protest fears	19,932	1,100
51	The Guardian	Labour party's future lies with Momentum, says Noam Chomsky	19,707	2,788
52	The Independent	Liverpool fans unveil huge Jeremy Corbyn banner on the Kop during draw with Southampton	19,359	907
53	The Canary	Theresa May wants a dementia tax. But it could be a step too far even for the nasty party	19,334	344
54	The Independent	Theresa May refuses to rule out further disability benefits cuts	19,287	2,502
55	The Guardian	No more excuses: Jeremy Corbyn is to blame for this meltdown Jonathan Freedland	19,140	2,821
56	Waterford Whisper News	Disgusting & Vile Manifesto Reveals Jeremy Corbyn Wants To Help Poor People	18,933	164
57	The Guardian	Why Corbyn-bashing liberals must vote Labour on 8 June Joseph Harker	18,477	1,633
58	Stroud Newspaper	UPDATED: Stroud Labour vice-chairman says Manchester Arena terror attack is 'wonderful timing for Theresa May'	18,089	1
59	The Telegraph	Britain has not fought just war since 1945, says Jeremy Corbyn, prompting anger from veterans	17,998	1,217
60	The Times	Jeremy Corbyn was arrested at IRA demo	17,888	351
61	The Independent	Theresa May confronted by disabled woman angry over government cuts on campaign trail	17,727	498
62	The Mirror	Jeremy Corbyn just held a general election rally and thousands of people turned up	17,708	599
63	Huffington Post	BBC Question Time: Theresa May Excoriated By Calm Oxford Man Over Election And Jeremy Corbyn	17,377	370
64	The Canary	An investigation just caught the UK media trying incredibly hard to keep Corbyn out of Number 10	17,354	1,974

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65	Skwawkbox	Theresa May 'under investigation re Brexit profits'	16,920	3,030
66	The Independent	Noam Chomsky says he would vote for Jeremy Corbyn	16,888	505
67	The Canary	31 seconds of footage have come back to haunt Theresa May after the Manchester bombing [VIDEO] The Canary	16,693	1,383
68	The Independent	Tory election spending: CPS announces it will not charge Conservative candidates amid campaign spending allegations	16,687	301
69	The Guardian	Jamie Oliver condemns Theresa May for scrapping free lunches	16,493	2,259
70	The Independent	Theresa May says there are 'boy jobs and girl jobs'	16,471	124
71	The Guardian	In confronting Theresa May, Kathy has spoken up for all Britain's disabled people Frances Ryan	16,435	1,052
72	The Canary	Facebook had a nasty surprise for Theresa May when she decided to lie repeatedly live on air [VIDEO]	16,335	1,339
73	The Independent	Theresa May couldn't give a simple answer about food banks, but she had a very clear opinion on nuclear weapons	16,269	1,117
74	The Canary	The Court of Appeal just ruled that Theresa May broke the law. But the media are barely reporting it.	16,098	3,567
75	Daily Mail	Corbyn realises veteran wants to ask about army heroes	15,863	486
76	Wales Online	Large billboards calling Theresa May 'a threat' have been spotted in Cardiff	15,706	200
77	BBC	Conservative manifesto: Theresa May targets mainstream Britain' - BBC News	15,665	3,039
78	The Guardian	Theresa May faces angry NHS workers during LBC radio phone-in	15,441	1,520
79	The Guardian	Why would Theresa May ditch a pledge to ban ivory trading?	15,333	643
80	The Independent	Theresa May 'refusing to take press questions she hasn't pre-approved', claims Michael Crick	15,306	500
81	Reuters	British PM May sees lead over Labour fall by 10 points in a week: YouGov	15,204	3,145
82	The Independent	Labour draft election manifesto leaked: Jeremy Corbyn to renationalise Royal Mail	14,903	302

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		and pledge £6bn a year for NHS		
83	Evolve Politics	If the current polling trajectory continues, Jeremy Corbyn is headed for Number 10. EvolvePolitics.com	14,666	608
84	The Guardian	The six Brexit traps that will defeat Theresa May Yanis Varoufakis	14,516	1,685
85	The Independent	The British public believe media coverage of Jeremy Corbyn has been deliberately biased against him	14,496	1,234
86	The Independent	Theresa May's numbers gaffe was far worse than Diane Abbott's	14,473	2,132
87	The Independent	Labour hits new campaign poll high as Jeremy Corbyn launches manifesto	14,437	372
88	The Independent	Theresa May waters down 'dementia tax' in extraordinary U-turn after poll lead slashed	14,432	1,675
89	The Guardian	Corbyn's leaked draft manifesto: what Labour would do	14,329	325
90	Evolve Politics	Polls show Corbyn is rapidly gaining ground on Theresa May and the Conservatives EvolvePolitics.com	14,277	1,019
91	Daily Mail	Corbyn supporters selling anti-military propaganda	14,258	321
92	The Independent	Labour will be handed victory by pensioners abandoned by Theresa May, predicts John McDonnell	14,093	992
93	The Independent	PMQs live: Theresa May says rape clause law forcing victims to prove they were attacked is about 'fairness'	14,075	623
94	The Canary	BBC left red-faced after a desperate hunt for anti-Corbyn Labour voters leads directly into a trap [IMAGES]	13,930	1,843
95	Liverpool Echo	Jeremy Corbyn given rock star reception as he declares Merseyside 'music capital of UK'	13,923	1,247
96	The Independent	Theresa May warned of fresh court challenge over Brexit as 'law requires second referendum' on any agreement	13,580	2,154
97	The Independent	Jeremy Corbyn accuses Theresa May of 'hiding from the public' after employees were barred from workplace rally	13,534	1,226
98	The Political Analyzer	Poll: Labour surges, Tories collapse; Corbyn leads May by 8 points	13,345	140

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100	Ken Bell	Forget Corbyn and Sinn Fein: Meet the Senior Tory Who Was in the IRA	12,998	131

Keywords: 'Jeremy Corbyn' and 'Theresa May'. [Source: Buzzsumo, Enders Analysis]

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JOINT OPINION

1 We are asked to advise News Corporation concerning the scope of the impartiality rules in the Communications Act 2003 and the Ofcom Broadcasting Code. Our advice is sought in the context of the decision of the Secretary of State to seek Ofcom' s views on the News Corporation bid to take control of British Sky Broadcasting Group plc.

2 In our opinion, the impartiality rules help to ensure that, in practice, the owner of a television station (or the news editor) could not intervene to require news items to receive lesser (or indeed greater) prominence for political reasons, or no coverage at all for political reasons. We advise that the concept of "due impartiality" imposes duties in relation to the choice of stories for inclusion in the news programme, and the prominence given to a story. Such duties demonstrate that the concept of "due impartiality" itself makes an important contribution to maintaining plurality.

The background

3 At present, News Corporation owns (approximately) 39% of the shares in British Sky Broadcasting Group plc.

4 News Corporation wish to acquire the remaining (approximately) 61% of the shares in British Sky Broadcasting Group plc.

5 On 4 November 2010, the Secretary of State issued a European intervention notice in relation to the proposed transaction under section 67 (2) of the Enterprise Act 2002.

6 The Secretary of State has requested that Ofcom investigate and provide him with a report under Article 4A of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 SI No. 1592. The report is to be provided by 31 December 2010.

7 The Secretary of State has identified section 58 (2C) (a) of the Enterprise Act 2002 as the basis of his concern. It refers to

"the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience" .

8 Section 58 (2C) was added to the 2002 Act by the Communications Act 2003. Plainly it was intended to address issues other than those raised by competition inquiries into market concentrations.

9 In the Submission to Ofcom dated 23 November 2010, News Corporation and British Sky Broadcasting Group plc state, at paragraph 5.5:

"News Corp does not currently exercise influence over Sky News' editorial agenda (despite the degree of control it already has over Sky). This would not be changed by the Transaction".

10 Plainly there are many reasons for disputing that the News Corporation bid to take control of British Sky Broadcasting Group plc would have an adverse effect on plurality, given the variety of voices that are heard across the media, the fact that the bid (if successful) would not reduce the number of those voices, and the culture of journalistic editorial independence.

11 We are asked to focus on one matter the extent to which the legal requirements as to impartiality would, in any event, prevent News Corporation from interfering in the editorial judgment of Sky News.

12 We note that in paragraph 5.54 of its report dated 14 December 2007 to the Secretary of State concerning the acquisition by British Sky Broadcasting Group plc of 17.9% of the shares in ITV plc, the Competition Commission ("CC") considered that the impartiality rules imposed on television news broadcasters were a relevant factor in safeguarding media plurality, but that they left room for controllers of television channels to influence the news agenda. The CC stated that the legislative provisions and the Code:

"may not, however, necessarily prevent owners of television channels from influencing the news agenda by setting the overall strategy for news, the prominence of particular stories or types of news stories within that agenda or through the choice of editorial staff".

The provisions relating to impartiality

13 The United Kingdom has a long history of imposing impartiality requirements on news broadcasters. The current provisions are set out in sections 319–320 of the Communications Act 2003, which require Ofcom to set standards for the content of television and radio programmes, including news content.

14 Section 319 (2) (c) states that one of the standards objectives is:

"that news included in television and radio services is presented with due impartiality and that the impartiality requirements of section 320 are complied with".

15 Section 319 (2) (d) adds a further standards objective:

"that news included in television and radio services is reported with due accuracy".

16 These requirements apply to "news" as defined in section 319 (8) to mean "news in whatever form it is included in a service".

17 Section 320 adds " special impartiality requirements" which apply to television and radio services:

"(1) The requirements of this section are:

(a) the exclusion, in the case of television and radio services from programmes included in any of those services of all expressions of the views or opinions of the person providing the service on any of the matters mentioned in subsection (2);

(b) the preservation, in the case of every television programme service of due impartiality, on the part of the person providing the service, as respects all of those matters;

...

(2) Those matters are -

(a) matters of political or industrial controversy; and

(b) matters relating to current public policy.

...

(4) For the purposes of this section -

(a) the requirement specified in subsection (1)
(b) is one that (subject to any rules under subsection (5)) may be satisfied by being satisfied in relation to a series of programmes as a whole;

...

- (5) OFCOM' s standards code shall contain provision setting out the rules to be observed in connection with the following matters -
- (a) the application of the requirement specified in subsection (1) (b);

...

- (6) Any provision made for the purposes of subsection (5) (a) must, in particular, take account of the need to ensure the preservation of impartiality in relation to the following matters (taking each separately) -
- (a) matters of major political or industrial controversy, and
 - (b) major matters relating to current public policy,
as well as of the need to ensure that the requirement specified in subsection (1) (b) is satisfied generally in relation to a series of programmes taken as a whole".

18 The current version of Ofcom's Broadcasting Code is dated 2009 and took effect on 1 September 2010.

19 Section 5 of the Code states the "principles" applicable to "due impartiality and due accuracy and undue prominence of views and opinions":

"To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

To ensure that the special impartiality requirements of the Act are complied with".

20 Section 5 of the Code then defines "due impartiality"

"Due¹ is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. Due' means adequate or appropriate to the subject and nature of the programme. So due impartiality' does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signal led to the audience. Context is important".

In R v Secretary of State for the Home Department ex parte Brind [1991] 1 AC 696, the Court of Appeal considered (on a point which was not argued before the Appellate Committee of the House of Lords), similar requirements of due impartiality imposed on broadcasters by the Broadcasting Act 1981 and similarly emphasised the word "due " See Lord Donaldson of Lynton at p. 723B and McCowan LJ at pp. 731H-732B.

21 Section 5 of the Code then sets out a number of provisions designed to ensure due impartiality and due accuracy in news. These provisions include:

"5.1 News, in whatever form, must be reported with due accuracy and presented with due impartiality".

22 Rules 5.4 to 5.12 of the Code impose additional "special impartiality requirements " on television broadcasters in relation to the coverage of "matters of political or industrial controversy and matters relating to current

public policy" This covers all programme content, and not only news. The Code defines such matters as follows:

"Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations relevant European institutions, etc".

These provisions include:

"5.4 Programmes in the services must exclude all expressions of the views and opinions of the person providing the service on matters of political and industrial controversy and matters relating to current public policy (unless that person is speaking in a legislative forum or in a court of law). Views and opinions relating to the provision of programme services are also excluded from this requirement.

5.5 Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service ...This may be achieved within a programme or over a series of programmes taken as a whole.

...

5.7 Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes.

...

5.11 In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service in each programme or in clearly linked and timely programmes.

5.12 In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

23 Ofcom has also published a Guidance Note which addresses the concept of the person providing the service" as stated in Rules 5.4, 5.5 and 5.11 of the Code:

"The person providing the service' is a concept used in connection with the legal requirements for the licensing and compliance of broadcasting services. In this rule [ie Rule 5.4], it refers to the licensee, the company officers and those persons with an editorial responsibility for the service or part of the service rather than, for example, the programme presenter".

Analysis

24 In our opinion, the impartiality rules do apply to the relative "prominence" given to a news story or type of news story, one of the matters addressed by the CC (see paragraph 12 above).

25 To take a hypothetical example, suppose there is a news story very damaging to the Government of the day (a Bank of England Report on its mismanagement of the economy, or the Home Secretary criticises the Prime Minister) and the owner of the channel who supports the Prime Minister - orders the news channel to report this story accurately and impartially, but as the last item on the evening news, for 20 seconds, rather than as one of the lead items which it would deserve on any objective assessment of the news agenda. Or suppose to take an even more extreme example - the owner ordered that the story not be broadcast on the news channel at all.

26 In our view, this would breach the impartiality rules, since stories damaging to the Opposition would be given their proper prominence. Rules 5.5, 5.11 and 5.12 would be relevant (see paragraph 22 above). The person providing the service (for this purpose, the owner) would not be respecting due impartiality, and he would not be ensuring that views critical of the Government were "given due weight " See also Rule 5.7 on "due weight" The criterion of "due impartiality" prevents undue or improper influence on the (lack of) prominence of the story and, a fortiori, on a decision whether to report the story at all.

27 The same conclusion would follow if the news editor were to adopt the same approach of not giving a news item its due weight and prominence for political reasons, for example because he believes (rightly or wrongly) that this is the wish of the owner, without the owner having made any express statement. The news editor is also a "person providing the service" as defined in Ofcom's Guidance Note (see paragraph 23 above). Due impartiality prohibits the news editor from giving the story a lower priority, or excluding it altogether from the news broadcast, for political reasons. That is a breach of due impartiality because a similar story involving another political party would be reported, and reported high up the news agenda, and the story in question is not receiving such coverage for political reasons.

28 The CC Report dated 14 December 2007 states at paragraph 31 of the Summary:

"We note that the regulation of media enterprises in relation to plurality and impartiality are distinct. Impartiality relates to the fair and balanced treatment of differing viewpoints in relation to particular news stories but does not address the relative prominence given to each story. ...".

For the reasons set out in paragraphs 24–27 above, we do not accept that such a distinction can properly be drawn.

The concept of "due impartiality" does impose duties in relation to the choice of stories for inclusion in the news programme, and the prominence given to a story. Such duties

demonstrate that the concept of "due impartiality" itself makes an important contribution to maintaining plurality.

29 We recognise, of course, that selection of the news agenda is not an objective matter. Editorial discretion is enjoyed and necessarily so since "impartiality" is not and cannot be absolute, but is "due" See R (Boyd Hunt) v ITC [2002] EWHC 2296 (Admin) (6 November 2002, Newman J) at paragraph 25.

30 Nevertheless, a very great deal of the mischief which the public interest consideration of plurality seeks to achieve is addressed by the regulatory regime and the requirement of due impartiality.

31 In section 58 (2C) (a), the statutory concern for "sufficient plurality" is not confined to news reporting.

However, the CC said in paragraph 5.10 of its report dated 14 December 2007

"We concluded that a plurality of control within the media is a matter of public interest because it may affect the range of information and views provided to different audiences".

The CC focused on news in conducting a plurality review in paragraph 5.32 of its report because, it said,

"news and current affairs are the genres most closely connected with the formation of public opinion about

issues of national significance through the communication of a range of information and views".

So if Ofcom is satisfied about news reporting, it is difficult to see what concerns about plurality would remain in the present context.

32 We also note that in British Sky Broadcasting Group plc v Competition Commission [2010] 2 All ER 907, paragraphs 80 and 121, the Court of Appeal considered the meaning of the words in section 58 (2C) (a) of the Enterprise Act 2002 "a sufficient plurality of persons with control of...media enterprises...".

The Court of Appeal stated at paragraph 80 that the view of the CC was that

"what was required was not just an exercise of counting heads, and that it was proper and necessary to have regard to the actual degree of control exercised by one enterprise over another. If the control was less than complete, and if in practice it would not enable the controlling enterprise to dominate the policy and the output of the controlled enterprise, that was something that should be taken into account".

The Court of Appeal agreed with this approach at paragraph 121:

"when it comes to assessing the plurality of the aggregate number of relevant controllers and to considering the sufficiency of that plurality, the commission may, and should, take into account the actual extent of the control exercised and exercisable over a relevant enterprise by another".

So Ofcom is required not just to count heads but also to consider the practical effect.

32 In the present context, as we have noted, News Corporation has disputed that the bid would reduce the number of media outlets. The concept of "a sufficient plurality of persons with control of the media enterprises serving that audience" in section 58 (2C) (a) of the 2002 Act focuses on the overall news agenda in the United Kingdom, not on the ability in practice of the owner to influence the agenda of their own television news service. In any event, we advise that the provisions in the 2003 Act and the Code governing impartiality help to ensure that, in practice, the owner of a television station (or the news editor) could not intervene to require news items on their own television news service to receive lesser (or indeed greater) prominence, or no coverage, for political reasons.

[✂]

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[✂]

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15 December 2010

IN THE MATTER OF NEWS CORPORATION

and

THE SCOPE OF THE IMPARTIALITY
REQUIREMENTS IN THE COMMUNICATIONS ACT
2003 AND THE OFCOM BROADCASTING CODE

JOINT OPINION

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