SKY INITIAL SUBMISSION TO THE COMPETITION AND MARKETS AUTHORITY

SECTION 1: INTRODUCTION

- 1.1 This initial submission concerns the proposed acquisition by Twenty-First Century Fox, Inc. (**21CF**) of sole control over Sky plc (**Sky**) (**the Transaction**). On 15 December 2016, the Independent Committee of Sky announced that it had reached agreement on the terms of a recommended pre-conditional cash offer.¹
- 1.2 Sky makes this initial submission in response to the CMA's request of 20th September 2017 for initial submissions, following the Secretary of State (SoS)'s decision of the same date to refer the Transaction, on the grounds of plurality (the first public interest consideration) and genuine commitment to the attainment of the broadcasting standards objectives in s.319 of the Communications Act 2003² (the broadcasting standards objectives and the second public interest consideration). This submission should be read in conjunction with Sky's response to the specific issues raised in the CMA's request for initial submissions set out in Annex 1.
- 1.3 As was the case for Ofcom and the Department for Digital Culture Media and Sport (**DCMS**) in Phase I, the CMA will undoubtedly receive a huge number of submissions (many unsupported by evidence) urging it to investigate a wide range of often irrelevant or only tangentially related matters. However, the CMA has two discrete statutory questions to answer: first, could the Transaction itself be *expected* to result in *insufficient* plurality; second, could the Transaction itself be *expected* to result in *the merged entity having a lack of commitment to the attainment* of the broadcasting standards objectives, in either case to a degree that would be contrary to the public interest. The CMA must conduct an *objective assessment* of the *evidence relevant* to each question.
- 1.4 Such an assessment will show that there is no evidence that the Transaction would result in insufficient plurality or a lack of commitment to the attainment of the broadcasting standards objectives. In fact, such evidence as there is, demonstrates the opposite that post-Transaction there will be sufficient plurality and a merged entity with a genuine commitment to the attainment of the broadcasting standards objectives. The Transaction cannot therefore be expected to be adverse to the public interest on either the first or second public interest ground.

SECTION 2: THERE MUST BE STRONG AND OBJECTIVE EVIDENTIAL GROUNDS FOR THE CMA TO CONCLUDE THAT THE TRANSACTION ITSELF WOULD BE ADVERSE TO THE PUBLIC INTEREST

- 2.1 Sky recognises the important public interests in maintaining sufficient media plurality in the UK and in ensuring that broadcast licensees have a genuine commitment to the attainment of the broadcasting standards objectives.
- 2.2 Sky also considers there to be an important public interest in maintaining an objective, evidence-based and reasoned merger review process, and in that process proceeding expeditiously. For there to be confidence in that process, be that from investors or the wider public, it is essential that political

In view of the representation of 21st Century Fox and its Affiliates on the Sky Board, an Independent Committee of the Sky Board has been formed. The Independent Committee comprises six independent non-executive directors, Martin Gilbert (Deputy Chairman), Andrew Sukawaty (Senior Independent Director), Tracy Clarke, Adine Grate, Matthieu Pigasse and Katrin Wehr-Seiter, as well as two executive directors, Jeremy Darroch and Andrew Griffith, all of whom the Sky Board considers to be free from conflicts of interest with regard to the Transaction. The members of the Independent Committee are acting in accordance with their duties as directors and, in particular, in order to protect the interests of Sky Shareholders.

² The broadcasting standards objectives in s.319 of the Communications Act serve to: protect minors; avoid the encouragement or incitement of crime; ensure that news is reported with due accuracy and impartiality; ensure that the content of religious programmes is suitable; avoid harm and offence; and ensure that advertisements are appropriate.

interference is not given licence to drive perverse outcomes, excessive delay and unjustified barriers to corporate investment and growth.

- 2.3 Given these public interests, the CMA must have strong, substantiated, grounds for concluding that the Transaction would, in and of itself, give rise to such serious consequences for plurality in the UK and to such doubts as to the merged entity's commitment to the attainment of the broadcasting standards objectives that it could be expected to be adverse to the public interest. In this regard, Sky notes that:
 - (a) the evidential standard at Phase II is higher than Phase I: the CMA would have to conclude, on the basis of cogent and relevant evidence, that it is more likely than not that the Transaction could be *expected* to operate against the public interest;
 - (b) in respect of the first public interest consideration, the CMA would also have to demonstrate that the Transaction results in **insufficient** plurality in the UK, not simply a reduction in plurality. This is distinct from a competition assessment, appropriate clearance having been obtained under the EUMR; and
 - (c) in respect of the second public interest consideration, the CMA must demonstrate that the Transaction results in a lack of genuine commitment to the attainment of the broadcasting standards objectives, not to some broader nebulous dedication to the standards themselves. The question of genuine commitment to attainment of the broadcasting standards objectives is clearly different to a competition assessment; it is also different to whether Sky would remain 'fit and proper' in the event of the merger, this being a matter purely for Ofcom.³ That said, evidence of 21CF's and Sky's records of compliance and the findings of Ofcom, as expert regulator, that those records are "*in line with other broadcasters*" in reaching its decision that "Sky would remain fit and proper in the event of the merger" are relevant to the statutory question before the CMA.
- 2.4 There is no credible basis for the CMA to conclude that the Transaction operates against the public interest on either ground. In respect of the first public interest consideration:
 - (a) Sky has, since the establishment of Sky News, been motivated by powerful commercial and cultural drivers to ensure the editorial independence of Sky News, as reflected in Sky's published editorial guidelines (the Sky News Editorial Guidelines) provided at Annex 2,⁴ and indeed there are strong legal safeguards underpinning and reinforcing this. There is no evidence to suggest that the Transaction could be expected to alter those drivers. Indeed, by way of board resolution pre-transaction (the 21CF Board Resolution)⁵, 21CF has confirmed its commitment to Sky News' editorial independence and to the existing safeguards in place to preserve that independence, following completion of the Transaction.
 - (b) There is no basis for assuming that, following the Transaction, Sky News and News Corp would speak with "one voice". No credible mechanism by which this could take place in practice has been identified. Nor is there any evidence to suggest that 21CF would seek such alignment or accede to an attempt to bring about such alignment from the MFT or those associated with it. In this regard, Sky notes that there is no evidence of News Corporation or 21CF (or their officers serving on the Board of Sky) attempting to influence a Sky News editorial decision. Even if such alignment were hypothetically to be achieved, this simply could

³ See Ofcom's fit and proper decision of 12 April 2017 (**Ofcom's fit and proper decision**) at <u>https://www.ofcom.org.uk/__data/assets/pdf_file/0013/103621/decision-fit-proper.pdf</u>.

⁴ They are also made available publicly at http://news.sky.com/docs/sky_news_editorial_guidelines.pdf.

⁵ The 21CF Board Resolution of 20 April 2017 as described at paragraphs 2.25-2.27 of 21CF's Initial Submission to the CMA of 27 September 2017. See further paragraph 3.28 below.

not result in <u>insufficient</u> plurality, given the already (and increasingly) highly plural media landscape in the UK and Sky News' relatively small role in that landscape.

- 2.5 In respect of the second public interest consideration:
 - (a) The evidence of most direct relevance to a consideration of a licensee's commitment to the attainment of the broadcasting standards objectives in the UK is firstly the broadcast compliance measures the licensee has in place and secondly the licensee's compliance track record *in the UK*, where the particular standards objectives apply, against which commitment to attainment is to be judged. These are the key, objective measures of the licensee's *commitment to the attainment* of the broadcasting standards objectives.
 - (b) After a detailed and lengthy investigation, Ofcom, whose views as the expert industry regulator on broadcasting standards matters should be given significant weight, found that in comparison to other large broadcasters, Sky could be considered to have a "particularly good record".⁶ Sky has achieved such a record by maintaining strong internal measures in the form of the Editorial Policy and Compliance teams. Together these demonstrate Sky's commitment to the attainment of the broadcasting standards objectives.
 - (c) There is no evidence to support the proposition that, as a result of the Transaction, Sky's commitment to the attainment of the broadcasting standards objectives would diminish to a degree contrary to the public interest. For this to happen, 21CF would need actively to degrade Sky's existing compliance measures and there is no evidence that 21CF would seek to do this. In fact, such evidence as there is points the other way. In relation to 21CF's existing licensed services, Ofcom, the expert industry regulator, considers 21CF's compliance track record to be "good", and on a par with other large broadcasting groups. As regards Sky's licensed services, 21CF has confirmed its intention "to maintain Sky's excellent record of compliance with the Ofcom Broadcasting Code";⁷ which record Sky has achieved during 21CF's tenure as Sky's largest shareholder.
- 2.6 In summary it would be perverse, on the basis of objective and relevant evidence, therefore for the CMA to conclude that the Transaction would so profoundly alter pre-merger behaviour as to be adverse to either the first or second public interest consideration.
- 2.7 In any event it is important that the CMA conducts its review expeditiously and efficiently, retaining focus on evidence pertinent to the core statutory questions at hand, namely whether the Transaction can be *expected* to result in: a) *insufficient* plurality and; b) a *lack of commitment to the attainment* of the broadcasting standards objectives, to a degree that would be contrary to the public interest. It is important in particular that the CMA withstands attempts (as seen in Phase I) to introduce a wide range of irrelevant or only tangentially related matters, quickly disregard submissions containing no or irrelevant evidence, and proceeds to reach its decisions in a timely and de-politicised manner.

SECTION 3: THERE IS NO EVIDENCE TO SUGGEST THAT THE TRANSACTION WILL BE ADVERSE TO THE PUBLIC INTEREST IN MEDIA PLURALITY

3.1 Throughout Sky's 28 years of investment in Sky News, Sky News' editorial independence has been enshrined through clearly delineated organisational structures and internal procedures which are ingrained in the culture of Sky and more particularly Sky News. Sky's commitment to editorial independence is driven by the commercial benefits of an independent Sky News to Sky as a

⁶ Paragraph 10.28, Ofcom Public Interest Report, dated 20 June 2017.

⁷ See 21CF's recommended cash offer for Sky Plc of 15 December 2016 (the Rule 2.7 Announcement) and the 21F Board Resolution.

broadcaster and pay TV retailer. Those commercial drivers are reinforced by a strong and deep-rooted culture of independence (and vice versa), itself underpinned by rigorous legal safeguards.

Sky has a long-standing commitment to Sky News and has ensured that its organisational structure and internal procedures enshrine Sky News' editorial independence

Overview of Sky News

- 3.2 Sky News is a 24-hour international multimedia news service, offering a dedicated 24-hour television news channel and non-stop news content in the form of videos, graphics, and written articles and analysis on its website (<u>www.news.sky.com</u>). The Sky News App also allows users to live-stream the Sky News channel and otherwise access and share Sky News content. Sky News also 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.
- 3.3 Sky News has a network of international 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.
- 3.4 Sky News content is sold on a wholesale basis to [≫], third party broadcasters, website-providers, social media platforms and streaming services. Through Sky News Radio (part of Sky News), Sky supplies news and current affairs content on a wholesale basis to the Independent Radio News ("IRN") network of radio stations in the UK, as well as directly to other UK based radio stations.
- 3.5 Sky News distributes the Sky News SD channel on a FTA basis in the UK. In addition, Sky includes the Sky News SD channel as part of its wholesale channel supply agreements with third party retailers in the UK. Virgin Media and Sky subscribers also receive the HD version of the Sky News channel (in the case of Virgin, as a pay TV channel 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.
- 3.6 Sky News has provided a distinct and impartial news service since 1989.
- 3.7 Sky News' editorial independence has been enshrined in the organisational structure established by Sky. The internal structures and procedures ensure that Sky News' editorial function has effective independence and Sky News operates independently of other Sky channels, with its own editorial management and operational team.

Editorial structure and reporting lines

- 3.8 The Head of Sky News reports to Gary Davey, Managing Director of Content, but retains control of day to day editorial decision-making in respect of Sky News. The Head of Sky News does not seek editorial direction from Gary Davey, rather the reporting relationship is focused on corporate matters, such as approval of the Sky News budget.
- 3.9 Other than the Head of Sky News, there are six individuals who have primary responsibility for Sky News' editorial decision-making. These are: the Director of Content, the Director of Newsgathering, the Head of Home News, the Head of International News and the Head of News Output. These individuals report exclusively (both directly and indirectly) to the Head of Sky News on editorial matters.
- 3.10 In addition, each editorial manager has direct reports, including output editors, assistant editors and senior news editors, and those individuals in turn have direct reports who are generally journalists (staff and freelance).

- 3.11 On a day-to-day basis, there is no reporting to corporate management in relation to editorial decisions on news content and, in particular, corporate management do not attend editorial meetings.
- 3.12 There is no day-to-day interaction between Sky News' editorial function and Sky's Board or shareholders.⁸

Senior editorial appointments within Sky

3.13 John Ryley, the Head of Sky News, is responsible for senior editorial appointments within Sky News. John Ryley was appointed by Dawn Airey in 2006, who was Managing Director of Channels and Services at that time. Sky would expect any successor to be appointed in the same manner – by the current Managing Director of Content and on the basis of a strong editorial track record.

The Sky News Editorial Guidelines and day-to-day editorial decision-making

- 3.14 The purpose of the Sky News Editorial Guidelines is to set clear and public principles for the operation of Sky News to ensure it is conducted to the highest ethical and editorial standards and is appropriately managed and supervised. The Sky News Editorial Guidelines stipulate that Sky News' editorial function must be separate and independent from Sky's commercial/advertising function and from any possible external commercial or political pressure or influence. Those in an editorial function are made aware of the Sky News Editorial Guidelines as part of their compulsory induction training. They are also offered refresher training on a periodic basis.
- 3.15 Editorial independence is guaranteed therefore by guidelines and procedures providing for strict separation of Sky News' editorial function from commercial and other external influences. In particular, in respect of due impartiality and due accuracy, the Sky News Editorial Guidelines prevent Sky from allowing personal views to form part of its coverage and include a commitment not to show favour to or be influenced by any side of the story.
- 3.16 Decisions regarding the editorial content of Sky News' news programming, across all platforms, are taken exclusively by Sky News' editorial staff. Sky News' editorial managers have editorial independence and control over the choice, integrity, tone and content of their news reporting, whilst ensuring compliance with the Ofcom Broadcasting Code. Each editorial manager has final "sign-off" on Sky News content on all platforms without oversight or control from corporate management.⁹
- 3.17 The editorial agenda for the various Sky News services is set at five main daily meetings at which the choice of and a basic plan of story coverage is first agreed and then modified during the course of the day. Those taking part in these meetings vary but include the Head of Sky News, Directors of Newsgathering and Content departments, Output Editors and specialists. In addition, there are additional weekly meetings that take a longer range view of stories coming up.
- 3.18 In addition, the Sky News editorial team is located away from the Sky commercial functions, in a separate secure building on the Sky campus.¹⁰
- 3.19 The Sky Board and corporate management have no role in day-to-day editorial control of Sky's national and international news content across its platforms.¹¹

⁸ The Head of Sky News has on rare occasion provided briefings to the Sky Board on current matters of interest, but these briefings have no bearing on editorial decision-making.

⁹ Subject to the referral process set out in the Sky News Editorial Guidelines, applicable in exceptional circumstances only – see further footnote 11.

¹⁰ The Sky News team is shortly to be relocated to the Sky Studios building, from which other Sky channels are broadcast, but again will be located on a separate, secure floor.

Regulation: The Ofcom Broadcasting Code

- 3.20 Sky News is also subject to the impartiality requirements of the Ofcom Broadcasting Code, contravention of which could result in sanctions by Ofcom such as a fine or the loss of its licence, in addition to the publication of any finding. These rules require that television news be presented with due accuracy and due impartiality, and specifically prohibit 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.¹²
- 3.21 Sky's obligations under the Ofcom Broadcasting Code clearly provide a significant constraint on the ability of any proprietor or corporate management to exert editorial control over the output of Sky News. Sky News has enshrined the standards set out in the Ofcom Broadcasting Code in the Sky News Editorial Guidelines, as outlined above.

Mutually reinforcing commercial and cultural drivers and legal safeguards motivate Sky to maintain Sky News' editorial independence

- 3.22 Commercially, Sky derives brand value from operating a trusted, independent 24-hour news organisation. Sky News is an important part of Sky's offering. It contributes to Sky's reputation as a high quality broadcaster. Sky's customers value Sky News. They value it precisely because it is a trusted, independent, voice. Sky News makes a commercial contribution beyond that which is quantifiable from direct revenues alone. This explains why Sky continues to invest in Sky News when the costs of running a 24-hour news organisation are material and outweigh the direct revenues it generates.
- 3.23 Culturally, as recognised by the Competition Commission in *BSkyB/ITV*¹³, there is a strong and longstanding ethos of editorial independence in television news. At Sky News, this means that editors would resist attempts, were they to be made, from board directors, shareholders or corporate management to influence editorial decisions. The majority of senior Sky News staff has been in post for some time - John Ryley, the Head of Sky News, for example, has been in post for over a decade - and together with a large pool of staff to carry through this culture, Sky News' ethos of editorial independence has remained in place throughout the lifetime of Sky News.
- 3.24 Sky News' cultural ethos and the commercial drivers are mutually reinforcing. For example, Sky News' deep rooted culture of independence is reinforced by audience expectations of the independent and impartial reporting associated with news broadcast in the UK in general, and the Sky News service in
- 11 The Sky Board and corporate management generally have no visibility of the editorial decisions being made. However, given the potential ramifications for the company as a whole, there is a specific referral process in place between the Head of Sky News and the Sky Chief Executive for the rare occasions where providing accurate, impartial and fair coverage in the public interest might give rise to a potential conflict with the law. This referral process is set out in the Sky News Editorial Guidelines as follows: "Sky News and its journalists are required to respect the law and the Ofcom Broadcasting Code and will never seek conflict with either lightly. There may be very rare occasions where providing accurate, impartial and fair coverage in the public interest involves possible conflict with the law. Any proposal that might have the potential to contravene the law, in order to pursue a story considered to be in the public interest, must be subject to a rigorous and documented process of referral and consultation. On those rare occasions where it is proposed to pursue a story in a way which may bring us into conflict with the law, the matter MUST be referred immediately - and in advance of any action - to the relevant Head of Home or International News who will instigate a mandatory referral process, to include the Head of Newsgathering (renamed Director of Newsgathering and Operations), the Executive Editor (renamed Director of Content), the Head of Sky News (or designated deputy) and Sky's in-house legal department. Given the potential ramifications for the company as a whole, the Head of Sky News will also consult Sky's Chief Executive. All communications relating to such internal escalation must be recorded in writing and all such communications kept for at least 18 months."
- ¹² See paragraphs 5.1 and 5.4 of the Ofcom Broadcasting Code: <u>https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-code.</u>

Paragraph 5.75, Acquisition by British Sky Broadcasting Group plc of 17.9 per cent of the shares in ITV plc, Competition Commission Report sent to Secretary of State (BERR) 14 December 2007. particular. Such audience expectations mean that there would be a risk of viewers switching away if Sky News' independence and impartiality were diluted. This would, moreover, adversely impact the commercial contribution that Sky News makes to the overall Sky brand and portfolio.

3.25 Underpinning this, the Ofcom Broadcasting Code provides additional safeguards, which Sky has enshrined in the Sky News Editorial Guidelines. In the last ten years, no complaints regarding the impartiality of Sky News' output have been upheld.

There is no evidence to suggest that 21CF would not be motivated by the same drivers as Sky and the evidence that there is indicates it is committed to Sky News' independence

- 3.26 There is no evidence to suggest that post-Transaction, 21CF will not be motivated by the same commercial and cultural drivers and legal safeguards to maintain Sky News' editorial independence, still less that it would accede to an attempt to align the editorial positions adopted by Sky News and by each of the News Corp titles.
- 3.27 Such evidence as there is, moreover supports the view that 21CF would continue to be motivated to ensure Sky News' editorial independence. In particular, the Rule 2.7 Announcement and the 21CF Board Resolution underline its intentions to maintain the impartiality of Sky News post-Transaction.
- 3.28 The Rule 2.7 Announcement states that "21st Century Fox will continue to broadcast news under the Sky brand maintaining its excellent record of compliance with the Ofcom Broadcasting Code". Supplementing that statement of intention, the 21CF Board Resolution makes specific commitments regarding the key existing safeguards of Sky News' editorial independence. Specifically, the 21CF Board Resolution:
 - (a) approves the continued application of the Sky News Editorial Guidelines following completion of the Transaction, and provides that any changes to the Sky News Editorial Guidelines will require the approval of 21CF's Nominating and Corporate Governance Committee (NCGC) (which is composed solely of independent directors);
 - (b) provides the NCGC with exclusive oversight of the appointment and removal of the Head of Sky News, such that the Head of Sky News' appointment or removal (including any material changes in terms and conditions which could give rise to constructive dismissal) requires their approval; and
 - (c) provides that the NCGC's approval is required for any material changes to the authority or reporting relationship of the Head of Sky News.

Alignment between Sky News, News Corp and the interests of the MFT is highly implausible, in theory and in practice, and in any event sufficient plurality would remain in the UK

- 3.29 In assessing the impact of the Transaction on plurality in the UK, the CMA must examine the *quality* of control in fact exerted over 21CF and News Corp, and in turn Sky, by the Murdoch Family Trust (the **MFT**).¹⁴ The CMA cannot simply aggregate Sky News and News Corp and assume alignment between those and the interests of the MFT.
- 3.30 The importance of this issue for the assessment of plurality is that, for there to be any potential public interest concerns, not only would a clear mechanism by which the MFT could be said to exert effective

¹⁴ Paragraph 121, Case Nos: C1 2008/3053 and 3066 British Sky Broadcasting Group plc v The Competition Commission and the Secretary of State for Business Enterprise and Regulatory Reform [2010] EWCA Civ 2: "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".

editorial influence over the News Corp news interests and Sky News have to be identified, but compelling evidence would also need to be adduced as to why the mechanism is in fact likely to be used in this way.

- 3.31 So far as identifying a mechanism is concerned, a credible means by which the corporate governance of both 21CF and News Corporation (each with majority independent Boards) could be bypassed would need to be identified. Such a mechanism is highly implausible. Moreover, a credible mechanism would need to be identified whereby the alignment of the editorial decisions made by disparate media outlets operating within different timetables (e.g. a daily newspaper and a 24-hour rolling news service) could be brought about in practice. In circumstances where even the News Corp titles do not speak with "one voice" (for example the Times and the Sun frequently adopt different editorial lines), and given the practical difficulties, such alignment of editorial positions would also be highly implausible.
- 3.32 Moreover, there is no evidence in practice of such influence being attempted. No examples have been identified of editorial influence from the MFT or 21CF over Sky News under the current structure pre-Transaction. Indeed, Sky is not aware of any attempts by James Murdoch to influence a Sky News editorial decision during his tenure as CEO or Chairman of Sky or indeed by 21CF (or previously News Corporation) which has over the life of Sky News been the largest shareholder in Sky.
- 3.33 With no plausible mechanism by which the MFT could be said to exert editorial influence over Sky News, nor evidence in practice of any attempts to do so, the idea that the Transaction could give rise even to potential public interest concerns does not bear scrutiny. In any event, regardless of these issues, the evidence does not support the view that the acquisition of Sky News by 21CF would result in <u>insufficient</u> plurality in the UK.

Current levels of plurality are high and increasing

- 3.34 The UK news landscape is highly plural and becoming more so, with strong traditional players, such as the BBC, stronger than ever before, new online news providers now with substantial and growing reach and powerful online intermediaries changing news consumption patterns. In this context, it is implausible that the Transaction alone could be expected to result in insufficient plurality, contrary to the public interest.
- 3.35 The digital revolution generated by the rapid growth of the internet has led to significant news audience fragmentation. People are consuming news via more outlets (multi-sourcing), thereby reducing the influence of any single news provider, and new online players are emerging.
- 3.36 In parallel, the strength of some traditional news providers is dwindling:
 - (a) The power of the printed press has diminished most significantly. Printed newspaper circulation has fallen dramatically. Ofcom noted that this trend has become more pronounced in recent years, with the average UK net circulation of national daily titles declining 35% between 2010 and 2016, and national Sunday titles experiencing a 41% decline.¹⁵
 - (b) Whilst television remains the most popular source of news (achieving a 39% Share of References (**SoR**) in 2016), it too is in decline (falling from a 47% SoR in 2013).
 - (c) At the same time, news consumption via the internet and apps (including social media) has grown rapidly to such an extent that consumption via this channel is now almost equivalent to television – with a 37% SoR in 2016, vs. 21% in 2013.¹⁶

¹⁵ Paragraph 4.42, Ofcom's 2017 PIT Report.

¹⁶ Figure 8.1, p.62, Ofcom News Consumption Survey, 29 June 2017.

- (d) Radio has remained largely resilient to changes in the news landscape with a 16% SoR in 2016, as compared to 18% in 2013.¹⁷
- 3.37 Importantly, whilst many traditional news players have developed an online presence, they have done so with varying success. This has meant that the rapid growth of news consumption via the internet has not simply replicated these players' historic positions. The providers that have managed to harness the digital revolution have fared best, though they are nevertheless competing with more outlets than ever before:
 - (a) Multiple new online only news services have emerged and have been able to quickly rival traditional players. Online players, such as the Huffington Post and Buzzfeed, did not have UK editions in 2010 and now have greater online reach in the UK than Sky News.¹⁸
 - (b) The gateways used by consumers to access online news are now more likely to be indirect via social media or search engines, rather than directly from news providers. 68% of adults state that they "often" or "mostly" use a search engine or social media as their gateway for news, whereas only 46% state that they go directly to the website or app of a news provider.¹⁹ This means that well-established social media giants such as Facebook, and search engines, such as Google, act as online intermediaries between news providers and end-customers and have a powerful influence over news consumption patterns. Multiple news sources are increasingly aggregated and consumed through services and features such as Google AMP, Apple News and the Facebook Newsfeed. This is leading to audience fragmentation, as well as dilution of both news providers' brands and editorial curation. This trend is amplified by bespoke algorithms that drive the prominence of particular news stories (largely driven by the individual's preferences, rather than the source of those stories), and the practice of sharing individual news articles (e.g. via the Facebook Newsfeed) rather than linking to the homepage of news providers.
 - (c) Finally, even when traditional players have established an online presence, they have done so with varying degrees of success. The BBC has successfully embraced the growth of the internet as a news platform, with the largest reach of any news website in the UK, reaching 36.4 million adults in April 2017.²⁰ By contrast, ITV and Sky News do not even appear in the Top 5 news websites, on the basis of reach. Turning to newspaper providers, the Times' average monthly readership of the printed newspaper is much higher than that of the Guardian. However, the Times, which operates a strict paywall, has overall monthly readership (including both print and digital) far smaller than that of the Guardian, which has been very successful in developing its online presence.²¹ Indeed, online rankings for traditional printed news providers are very different to their offline rankings.²²

¹⁷ Slide 8, Ofcom News Consumption Survey, 29 June 2017.

¹⁸ Comscore, *Digital-native Millennials embrace 'traditional' media outlets*, 29 September 2016.

¹⁹ Figure 5.6, Ofcom News Consumption Survey, 29 June 2017.

²⁰ Figure 5.13, p.47 of the Ofcom News Consumption Survey, 29 June 2017, based on comScore data.

²¹ Figure 4.3, Ofcom News Consumption Survey, 29 June 2017.

See print reach as set out in Figure 4.2 of the Ofcom News Consumption Survey, 29 June 2017, as compared to the reach of the top 5 news websites in Figure 5.13. See also the differing proportions of print vs. digital monthly readership of national titles, as set out in Figure 4.3 of the Ofcom News Consumption Survey, 29 June 2017.

<u>A number of strong, alternative voices will remain outside of Sky News, 21CF and News Corp post-</u> <u>Transaction</u>

Position of the merger parties in the UK news landscape

- 3.38 Sky News, active in television news, radio and online, remains only one of many voices in the UK news landscape. It has successfully established itself on non-traditional news platforms, including via the Sky News website, app and social media accounts. This has enabled it to largely offset the decline in TV news audiences brought about by the digital revolution. Nevertheless, Sky News' relative importance in the UK news landscape should be considered with appropriate perspective. It achieved a cross-platform retail SoR of 6% in 2016, placing it significantly behind the BBC (42%), lower than ITV (9%) and only marginally ahead of DMGT (4%).²³ Relative cross-platform SoRs at the wholesale level were similar.²⁴
- 3.39 21CF no longer operates a television news channel in the UK and therefore is not active in the UK news landscape.
- 3.40 News Corp has a presence in the declining medium of print news, as well as a presence online and in radio (following the acquisition of Wireless Group in September 2016).
- 3.41 News Corp's newspapers have been less successful than other players in counteracting the decline in print news readership via establishing themselves online. On the basis of combined print and digital monthly readership, The Sun lies behind the Daily Mail / Mail on Sunday and the Daily Mirror / Sunday Mirror. The Times gates its online access behind a strict paywall and as such its digital readership is very small. Its combined print and digital monthly readership is the ninth largest in the UK, behind players including the Metro, the London Evening Standard and the Daily Express / Sunday Express.²⁵ In radio, the Wireless Group has a significantly lower reach than the BBC, Global and Bauer.²⁶ News Corp's cross-platform retail SoR in 2016 was 3%, behind the BBC, ITV and Sky, lower than DMGT (4%) and only marginally ahead of the Guardian Media Group (2%) and Trinity Mirror (2%).²⁷ Again, the wholesale picture was similar.
- 3.42 Further, the data adduced by Ofcom in the 2017 PIT Report did not provide a robust basis for it to accord Sky News and News Corp news services with greater importance than other news providers.²⁸
 - (a) Ofcom accords particular weight to the trustworthiness of the merging parties' news services.²⁹ Ofcom notes that Sky News is regarded as similarly trustworthy as public service broadcaster (**PSB**) news outlets, based on its survey data. However, by definition, this means that there remain four independent TV news providers outside of the merged entity post-Transaction, which command similar levels of trust.³⁰ It cannot, therefore, be an indicator that the

- ²⁷ Figure 8.4, Ofcom News Consumption Survey, 29 June 2017.
- ²⁸ For example, see paragraphs 2.19 to 2.23 of the Ofcom 2017 PIT Report.
- ²⁹ See paragraphs 2.22 to 2.23 of the Ofcom 2017 PIT Report.
- ³⁰ Figure 9.5, Ofcom News Consumption Survey, 29 June 2017.

²³ Figure 8.4, Ofcom News Consumption Survey, 29 June 2017.

²⁴ Figure 8.2, Ofcom News Consumption Survey, 29 June 2017.

²⁵ Figure 4.3, Ofcom News Consumption Survey, 29 June 2017.

talkSPORT is the only Wireless radio station referenced in the Ofcom News Consumption Survey and only 3% of all those who use radio for news, use talkSPORT for news. By comparison, of all those who use radio for news, 26% use BBC Radio 4, 26% use BBC Radio 3, 16% use BBC Radio 1, 8% use BBC Radio 5 Live and 6% use local BBC radio stations in England (BBC group radio stations); 10% use Heart, 9% use Capital, and 5% use Classic (Global group radio stations); 5% use Kiss, 4% use Absolute Radio, 4% use Magic and 4% use LBC (Bauer Group radio stations). See Figure 3.1, Ofcom News Consumption Survey, 29 June 2017.

Transaction would give rise to insufficient plurality. Ofcom also suggests that The Times is a particularly trusted news source. In fact, the data suggest that The Sun commands low absolute levels of trust and the lowest of all the tabloids rated, and whilst The Times commands higher absolute levels of trust, it is the least trusted of all the broadsheets rated.³¹

(b) Ofcom hypothesises that consumption of Sky News and The Sun via intermediaries may be proportionately greater than other news providers, and that therefore the 'true' reach and SoR of the merging parties may be materially larger than Ofcom's News Consumption Survey suggests.³² However, it does not adduce any robust evidence to support this hypothesis. Paragraph 6.37.3 of Ofcom's 2017 PIT Report relates to consumption through third-party services "such as Google AMP, Facebook Instant Articles, Apple News and Snapchat". It states: "Information provided by Sky and News Corp suggests that audiences have grown substantially between July 2016 and March 2017". Data submitted by Sky to Ofcom, in response to a request for information dated 5 April 2017, do indeed show an increase in the audiences Sky News reached through Apple News and Snapchat during the period July 2016 to March 2017. But only a comparison of this with audiences of other news sources via Apple News and Snapchat would give any meaningful insight.³³ Sky believes that any visible increase in Sky News consumption reflects the general growth in reach of these news platforms, impacting all news providers distributing on these platforms, rather than Sky specifically. This is a trend Sky expects to continue as platforms develop and promote increased use of their services. For example: Apple now directs users that search for news items using its Spotlight search function to content on the Apple News app, rather than directly to news providers' websites (as it used to); Facebook announced last month that it will soon start ranking faster loading webpages (including its own Instant Articles) higher in its News Feed; Google prioritises pages using AMP in its search results (as Ofcom pointed out in footnote 186 of its 2017 PIT Report); and Snapchat is developing its Discover platform to include a greater number of news providers and publishers.

Other news providers

- 3.43 The BBC remains, by some margin, the dominant voice in the UK news landscape. In the face of significant technological developments and changes in news consumption patterns, the BBC has maintained and, in some cases, strengthened its position across the three key platforms that have been most resilient to developments in the news landscape: television, radio and online.
- 3.44 Although ITV has been less successful in expanding into non-traditional services, it continues to perform strongly in TV news. Although generally in decline, given the continued popularity of TV as a news platform, ITV has retained its saliency and remains the second most consumed news source.³⁴
- 3.45 Channel 4, like Sky, has largely maintained its position overall counteracting a drop-off in TV news audiences with a successful expansion into non-traditional services.
- 3.46 As noted above, a number of printed newspaper providers, such as the Daily Mail, Daily Mirror and the Guardian have successfully established digital presences, thereby counteracting the decline in print news readership and growing their monthly combined print/digital readership, in some cases surpassing

³¹ Figure 9.7, Ofcom News Consumption Survey, 29 June 2017.

³² See paragraphs 2.20 to 2.21 and 6.27 to 6.39 of the Ofcom 2017 PIT Report.

³³ Limited inferences can be drawn from the Sky data in any event: Sky News only launched Google AMP in March 2017, so the data do not show a meaningful increase in the audiences Sky News reached through AMP in that period; Sky News does not, moreover, currently use the Facebook Instant Articles service to distribute content.

³⁴ Figure 6.1, Ofcom News Consumption Survey, 29 June 2017.

that of News Corp's newspapers. These publishers therefore have stronger voices compared to News Corp's newspapers than before.

3.47 Online-only providers, such as Huffington Post and Buzzfeed, have achieved greater reach in the UK than Sky News in a short period of time, and the growth of the internet as a news distribution platform facilitates the emergence and rapid establishment of further new players.

The Transaction would not result in insufficient plurality in the UK

- 3.48 Current levels of plurality are therefore strong (and becoming stronger) and the Transaction will have no material impact on this.
- 3.49 Even if Sky News has maintained its saliency by successfully embracing the digital revolution, News Corp's newspapers have not been so successful. Overall, as compared to 2010, if one were to adopt the flawed contention that it was appropriate to aggregate the news interests of Sky and News Corp, the combined relative influence has declined.
- 3.50 Further, there is a sufficient number and range of other well-established (and growing), trusted players that will remain active, independently of 21CF/Sky and News Corp post-Transaction, and which will continue to generate and disseminate diverse news content.
- 3.51 Taking all these factors into account, there are no credible grounds to conclude that the Transaction could be expected to result in insufficient plurality.

SECTION 4: THERE IS NO EVIDENCE THAT THE TRANSACTION IS ADVERSE TO THE PUBLIC INTEREST IN ENSURING GENUINE COMMITMENT TO THE ATTAINMENT OF THE BROADCASTING STANDARDS OBJECTIVES

- 4.1 The relevant statutory question for the CMA in relation to the second public interest consideration is whether the Transaction itself can be *expected* to result in Sky's *commitment to the attainment* of the broadcasting standards objectives being diminished to a degree that would be contrary to the public interest, based on an *objective* assessment of the *evidence relevant* to the question.
- 4.2 Ofcom's views of the Transaction's impact on the merged entity's commitment to the attainment of the broadcasting standards objectives must be afforded significant weight. Ofcom is of course the expert regulator in respect of broadcasting standards in the UK. It oversees the regime for awarding and overseeing all broadcast licences and for upholding the standards set out in s.319 of the Communications Act 2003. It is the main arbiter of those standards, as enshrined in a number of codes including Ofcom's Broadcasting Code. As the CMA is aware, Ofcom concluded unequivocally in the 2017 PIT Report that there was no robust basis to conclude that the merged entity would lack genuine commitment to the attainment of the broadcasting standards objectives. It then confirmed on two further occasions, at the request of the Secretary of State, that there were no grounds for referral in relation to the second public interest consideration.³⁵
- 4.3 For the same reasons that Ofcom takes the view that a person cannot "be said to lack "genuine" commitment to the Code merely because they intend to act only as the Code requires"³⁶, the CMA must approach the assessment of the merged entity's commitment to the attainment of the broadcasting standards objectives strictly on its terms, not expansively with reference to a nebulous concept of a broader dedication to the standards themselves. The question before the CMA is about the commitment to the attainment of the standards objectives. Nothing more. This is different to a competition assessment and to an assessment of the fitness and propriety of the licence holder. The

³⁵ Letter from Ofcom to the SoS, dated 25 August 2017 and letter from Ofcom to the SoS, dated 4 September 2017.

³⁶ Page 5, letter from Ofcom to the SoS, dated 25 August 2017.

latter is a matter purely for Ofcom, albeit that evidence in relation to 21CF's and Sky's records of compliance and Ofcom's findings, in its capacity as expert regulator, that those records are "*in line with other broadcasters*" are relevant to the statutory question before the CMA.³⁷ Further, to infer from different broadcasting approaches in other jurisdictions, where there is no breach of the relevant regulatory standards, that the merged entity lacks commitment to the attainment of the UK broadcasting standards objectives would be irrational, and would present an unwarranted restriction on freedom of speech. The CMA must avoid such subjective judgements and keep to objective and relevant measures.

- 4.4 The evidence of most direct relevance to any assessment of *commitment to the attainment* of the broadcasting standards objectives are the mechanisms a licensee has in place capable of demonstrating that commitment and the track record of compliance under those mechanisms in the UK where those standards objectives apply. This is also the view taken as to relevance by Ofcom in its Phase I assessment.³⁸
- 4.5 Ofcom assessed Sky's and 21CF's compliance records on their own terms and in comparison to similar scale broadcasters. In relation to the 54 UK broadcast licences held by Sky and the 14 UK broadcast licences held by 21CF, Ofcom's assessment highlighted that over the past five years, neither broadcaster had been sanctioned for compliance breaches and their respective compliance records were comparable with similar broadcasters. Ofcom considered that both Sky and 21CF's compliance records were "good"³⁹.
- 4.6 Sky has met its broadcasting standards obligations (thereby demonstrating its commitment to the attainment of the broadcasting standards objectives), by maintaining strong Editorial and Compliance teams in respect of all its broadcasting activities. Sky has a significant Editorial Policy and Compliance team, made up of 28 permanent members of staff. Sky has supplemented these arrangements with a separate and dedicated Broadcast Compliance Lead for Sky News and Sky Sports News, and Sky News has chosen to reinforce the standards mandated by the Code in respect of news provision in its own guidelines. More generally, Sky diligently ensures that its staff are well versed in broadcasting standards. Sky has a dedicated E-learning programme for Broadcast Content and Standards that is available to all relevant Sky employees via the 'My Sky Development' E-learning Portal. The Editorial Policy and Compliance team also provide bespoke training for a range of departments across the business. In addition to such formal training, relevant Sky employees also gain practical training on a day-to-day basis during the course of their compliance work.
- 4.7 The question before the CMA is whether, as a result of the Transaction, Sky's existing commitment to the attainment of the broadcasting standards objectives would diminish to such a degree that it would be contrary to the public interest. For this to happen, 21CF would need actively to degrade Sky's existing compliance measures. There is no evidence to support such a proposition and such evidence as there is points the other way.
 - (a) First, in so far as 21CF's licensed services are concerned, Ofcom the expert, competent regulator in charge of broadcasting standards considers 21CF's compliance track record to be "good", and on a par with other large broadcasters.
 - (b) Second, as regards Sky's licensed services, 21CF has in the Rule 2.7 Announcement, confirmed its intention "to maintain Sky's excellent record of compliance with the Ofcom Broadcasting Code". 21CF has repeated this intention in the 21CF Board Resolution, whilst

³⁷ See paragraph 2.3 (c) above.

³⁸ Pages 4-5, letter from Ofcom to the Secretary of State, dated 25 August 2017.

³⁹ See paragraph 10.28, Ofcom 2017 PIT Report and page 4 of the letter from Ofcom to the Secretary of State, of 25 August 2017.

also confirming its desire for Sky to continue to maintain and observe the Sky News Editorial Guidelines - a commitment regarding Sky News' editorial independence also being relevant to any assessment of 21CF's broader commitment to attainment of the broadcasting standards objectives. Sky moreover notes that its record of compliance has been achieved during 21CF's tenure as Sky's largest shareholder, whilst 21CF has had Sky Board representation and whilst 21F's CEO, James Murdoch, has been CEO and Chairman of Sky.

- 4.8 The evidence does not therefore support the proposition that 21CF would actively seek to degrade Sky's existing compliance measures. On the contrary, the evidence suggests that 21CF would maintain Sky's compliance measures and in turn continue post-Transaction to maintain its commitment to the attainment of the broadcasting standards objectives.
- 4.9 In light of the significant risks to the public interests in freedom of speech and an expeditious, evidence and reason-based merger review process free of political interference, it is critical that the CMA maintains a strict focus. This should be on the relevant question of commitment to attainment of the *UK* broadcasting standards objectives, according significant weight to the views of Ofcom as expert regulator on such matters on the one hand and disregarding irrelevant evidence, tangential claims and opinions, however forcefully made, on the other. In particular:
 - (a) matters of corporate governance outside the broadcasting context are not in and of themselves probative of a commitment (or otherwise) to UK broadcasting standards. As Ofcom noted, the correct approach is that "something in the nature of the corporate governance concern has to give rise to an identifiable risk in terms of broadcast standards compliance"⁴⁰ for it to be relevant to the assessment; and
 - (b) evidence of the merger parties' different reporting styles and broadcast content outside the UK, in jurisdictions with different broadcasting standards, carries no relevance to commitment to the attainment of UK broadcasting standards. This is especially the case where such broadcast content is in compliance with the relevant broadcasting regime. As Ofcom noted, it is more appropriate to place weight on compliance in jurisdictions with similar regimes to the UK, and it is not useful to draw parallels with other jurisdictions where the regulatory framework, audience expectations and commercial drivers differ, e.g. the US, given the significant political, cultural and regulatory differences to the UK.⁴¹
- 4.10 In summary, there is no evidence to support the proposition that 21CF would degrade Sky's existing compliance measures: Ofcom considers 21CF's record to be "good" and on a par with other large broadcasters; 21CF has confirmed its intention to maintain Sky's excellent record of compliance with the Ofcom Broadcasting Code; together with the Board of 21CF's Directors' specific commitment to maintain the Sky News Editorial Guidelines, the evidence indicates that the merged entity would continue to have a genuine commitment to the attainment of the broadcasting standards objectives.

SECTION 5: CONCLUSION

5.1 Sky looks forward to working with the CMA and is confident that the CMA's review will confirm that the Transaction could not be expected to operate against the public interest, on the basis of either the first or the second public interest consideration.

Sky

September 2017

⁴⁰ Page 2, letter from Ofcom to the Secretary of State, dated 4 September 2017.

⁴¹ Page 5, letter from Ofcom to the Secretary of State, dated 25 August 2017.

Annex 1

Response to specific issues set out in the CMA's request for initial submissions (Annex B) of 20 September 2017

Background on Sky

- A history of Sky, covering Rupert Murdoch's initial acquisition of a stake in Satellite Television Limited in 1983, its founding as Sky Television plc in 1989 and its subsequent merger with British Satellite Broadcasting in 1990 through to the present day.
 - In June 1983, the shareholders of Satellite Television agreed an offer to give News International 65% equity. News International subsequently took full control of Satellite Television.
 - Sky Television, the UK's first satellite TV service, was launched by News International in February 1989.
 - BSkyB was formed in November 1990 when Sky Television Plc merged with British Satellite Broadcasting.
 - BSkyB floated on the London and New York stock exchanges in November 1994 and entered the FTSE 100 index the following year.
 - In November 2014, BSkyB acquired Sky Italia and Sky Deutschland and BSkyB changed its name to Sky Plc.
- An outline of existing cooperation between Fox News and Sky News (if any), for example, sharing of content or cooperation between editorial teams, how this has changed over the last ten years and how this would change if the merger were to proceed.

[] The teams operate solely under the direction of the organisation they are employed by, free of outside editorial influence.

[²]There is no editorial collaboration between Sky News and Fox News at a senior level. Neither Sky News nor Fox News exerts editorial control over the other.

Sky News does not have any other relevant arrangements with Fox News.42

The approach to cooperation between Sky News and Fox News has not materially changed over the last 10 years. Sky is not aware of any plans to change the degree of cooperation post-merger.

• An outline of the existing cooperation (if any) between Sky News and News Corp, including News UK, for example, sharing of content or cooperation between editorial teams, how this has changed over the last ten years and how this would change if the merger were to proceed.

[≫].43

[%]

[※]

⁴² This does not include any informal ad hoc meetings between editorial staff and counterparts at Fox News that take place in the ordinary course of business.

For completeness, it is also noted that: (1)[³]; (2) Sky understands that Wireless Group, a subsidiary of News Corp, sources news feeds from the IRN network, but this does not involve a direct contractual relationship between Sky and Wireless Group.

Sky News does not have any other relevant arrangements with News Corp.44

To the extent that Sky News' and News Corp's newspaper titles do interact in relation to individual news stories, it is at an operational level, on terms that Sky News would expect to be the same as for any other news provider.

The approach to cooperation between Sky News and News Corp has not materially changed over the last 10 years. Sky is not aware of any plans to change the degree of cooperation post-merger.

Information about the merger

(See Part 3 of Merger Assessment Guidelines (CC2 (Revised)).)

• A statement setting out how the future plans for the merged entity will change or otherwise affect the existing running, governance and operations of Sky News.

As set out in paragraph 3.28 of the main initial submission, the Rule 2.7 Announcement states that "21st Century Fox will continue to broadcast news under the Sky brand maintaining its excellent record of compliance with the Ofcom Broadcasting Code". Supplementing that statement of intention, the 21CF Board Resolution makes specific commitments regarding the key existing safeguards of Sky News' editorial independence. Specifically, the 21CF Board Resolution: approves the continued application of the Sky News Editorial Guidelines following completion of the Transaction; provides the Nominating and Corporate Governance Committee ("NCGC") (which is composed solely of independent directors) with exclusive oversight of the appointment and removal of the Head of Sky News; and provides that the NCGC's approval is required for any material changes to the authority or reporting relationship of the Head of Sky News.

Media plurality

44

• An explanation of existing constraints (if any) preventing the Murdoch Family Trust or any member of the Murdoch family from influencing the output of Sky News and to what extent these constraints would change if the merger were to proceed.

As explained in paragraphs 3.1-3.33 of the main initial submission, there are many constraints that exist preventing the MFT or any member of the Murdoch family from influencing the output of Sky News, including:

- Sky News' editorial function has effective independence and operates independently of other Sky channels, with its own editorial management and operational team;
- the Sky News editorial team is located away from the Sky commercial functions, in a separate secure building on the Sky campus;
- decisions regarding the editorial content of Sky News' news programming, across all platforms, are taken exclusively by Sky News' editorial staff;
- the Sky News Editorial Guidelines set clear and public principles for the operation of Sky News to ensure it is conducted to the highest ethical and editorial standards and is appropriately managed and supervised;
- the Sky News Editorial Guidelines prevent Sky News from allowing personal views to form part
 of its coverage and include a commitment not to show favour to or be influenced by any
 side of the story; and

Again, this does not include any informal ad hoc meetings between editorial staff and counterparts at News Corp that take place in the ordinary course of business.

• Sky News is also subject to the impartiality requirements of the Ofcom Broadcasting Code, contravention of which could result in sanctions by Ofcom such as a fine or the loss of its licence, in addition to the publication of any finding.

The extent to which these constraints would change post-merger is limited by 21CF's statement of intention in the Rule 2.7 Announcement and subsequent Board Resolution, as referred to in paragraph 3.28 of the main initial submission and in response to the request above on "Information about the merger".

Availability

(See Part 3.8 of the Ofcom Measurement Framework for Media Plurality (2015))

- Your views as to how availability of national news sources has changed since the Competition Commission's analysis for the BSkyB/ITV merger.
- Your views as to whether there will be any sizeable change to the availability of national news sources in the next three years. Similarly, your views on whether there will be any sizeable barriers to availability in the next three years. If there are any foreseeable or agreed changes to Sky News' news outlets, such as use of online paywalls or distribution on different online platforms, please set these out.

As set out in paragraph 3.34-3.35 of the main initial submission, the UK news landscape is highly plural and becoming more so. The digital revolution generated by the rapid growth of the internet has led to significant news audience fragmentation. Since there are no barriers to growth on the internet, it is very likely that there will be a greater number of national news sources available in the future.

There are currently no foreseen changes to Sky News' news outlets. To the extent that any such changes were to occur, they would not in any event be expected to materially affect the availability of national news sources since a wide variety of UK based news outlets already exist.

Impact

(See Part 3.13 of the Ofcom Measurement Framework for Media Plurality (2015))

Any consumer research you hold, plus your management perception of the impact of your news
output on UK audiences, how this compares with other sources of news and how this varies
between different sections of the audience and across platforms. In this context we take 'impact'
to include both influence over people's viewpoints and the position of an issue in the news
agenda.

Attached as **Annex 3** is [\gg]. Also attached as **Annex 4** is [\gg]. These documents were also provided in response to question 16 of the CMA RFI dated 20 September 2017, as submitted on 27 September 2017.

Management considers Sky News to be well-regarded as a source of impartial news, but as explained in paragraph 3.38 of the main initial submission, Sky News remains only one of many voices in the UK news landscape and Sky News' relative importance in the UK news landscape should therefore be considered with appropriate perspective: it achieved a cross-platform retail SoR of 6% in 2016, placing it significantly behind the BBC (42%), lower than ITV (9%) and only marginally ahead of DMGT (4%).⁴⁵

⁴⁵ Figure 8.4, Ofcom News Consumption Survey, 29 June 2017.

Broadcasting standards

• Your views as to whether and how Sky has demonstrated a genuine commitment to broadcasting standards in the UK (in compliance with the Broadcasting Code), and overseas.

Sky has demonstrated a genuine commitment to the attainment of broadcasting standards as evidenced by the fact that, in at least the past five years, it has not been sanctioned for compliance breaches in relation to the 54 UK broadcast licences it holds.

After a detailed and lengthy investigation, Ofcom found that in comparison to other large broadcasters, Sky could be considered to have a "*particularly good record*".⁴⁶

The response to questions 9-11 of the CMA RFI dated 20 September 2017, as submitted on 27 September 2017, explains specifically how Sky demonstrates its commitment to the attainment of broadcasting standards, i.e. what policies, procedures and processes are in place to ensure compliance with the Ofcom Broadcasting Code. See also paragraphs 3.7 to 3.25 of the main initial submission above.

⁴⁶ Paragraph 10.28, Ofcom Public Interest Report, 20 June 2017.

Annex 2

The Sky News Editorial Guidelines

Editorial Guidelines



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Introduction

Dear colleagues,

This is the third edition of the guidelines which has been updated to reflect your feedback and to provide relevan⁺ guidance on the issues we deal with on a daily basis.

Sky plays a highly valued role in the lives of millions of peacross the UK and Ireland – and Sky News is a very important part of that: with our linear TV, digital and radio services we can reach almost everyone in the UK with first class content, provide value to our customers and give non-subscribers a window on Sky's products. Social media plays an increasingly important role in our daily working lives and it is important that we apply the same standards to all of our content on whichever platform we share it.

Our reputation as a news organisation is our most valuable asset so it is vital that our journalism is always of the highest quality. If it isn't – and we make bad decisions, poor judgements or mistakes – we put at risk the trust of our audiences and the potential damage will resonate well beyond the newsroom.

So, we must ensure that we always act responsibly, with our customers' and potential customers' interests at heart. We must be attuned to Sky's Ways of Working and doing the right thing. That way we will always make a positive contribution to the wider company and share in the success of Sky.

The purpose of these guidelines is to help you produce high quality news with confidence. Journalism in the UK has never been under greater scrutiny; every journalist working for Sky News has a duty to understand the legal and regulatory framework in which we operate and our own in-house guidelines and practices. We need to have the processes and structures in place to assess stories, with risk attached, quickly and comprehensively.

Senior editors, producers, correspondents and our in-house lawyers have helped draw up these guidelines. The guidance is not exhaustive, and not a substitute for editorial decisionmaking, but it does provide crucial information for those occasions where we have difficult and sensitive decisions to make or where we might fall into conflict with the law or regulatory codes under which we operate.

These guidelines will help ensure that we always do the right thing.

John Myley

John Ryley Head of News

Key messages

These guidelines are designed to ensure that Sky News' journalism and output is conducted to the highest ethical and editorial standards and is appropriately managed and supervised. They recognise that there is rarely a "one size fits all" approach and that in some cases it may be necessary to consider the need to balance the right to privacy with that of freedom of expression.

The four key messages from this document are:

- Sky News journalists are required to respect and abide by the law and the obligations imposed upon us under the Ofcom Broadcasting Code.
- Always follow the referral processes set out in this document.
- Keep written records and accurate, contemporaneous and detailed notes.
- Adhere to the rules set out in this booklet. This is a requirement, not a choice.

You can find the Ofcom Broadcasting Code at:

http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/

Referral process

Sky News and its journalists are required to respect the law and the Ofcom Broadcasting Code and will never seek conflict with either lightly. There may be very rare occasions where providing accurate, impartial and fair coverage in the public interest involves possible conflict with the law. Any proposal that might have the potential to contravene the law, in order to pursue a story considered to be in the public interest, must be subject to a rigorous and documented process of referral and consultation.

On those rare occasions where it is proposed to pursue a story in a way which may bring us into conflict with the law, the matter MUST be referred immediately – and in advance of any action – to the relevant Head of Home or International News who will instigate a mandatory referral process, to include the Head of Newsgathering, the Executive Editor, the Head of Sky News (or designated deputy) and Sky's in-house legal department. Given the potential ramifications for the company as a whole, the Head of Sky News will also consult Sky's Chief Executive.

All communications relating to such internal escalation must be recorded in writing and all such communications kept for at least 18 months.

1. The law

Sky News journalists must have a comprehensive understanding of the law, particularly with regard to contempt, defamation, privacy, data protection and copyright. In addition, everyone must have an understanding of the Ofcom Broadcasting Code relating to Fairness and Privacy, Harm and Offence, Due Impartiality, Protecting Under 18s, Crime, Religion, Elections and Referendums and Commercial References in programmes. If you feel that your understanding of the law is in any way insufficient, it is your responsibility to inform your line manager in order for training to be arranged.

Sky News has its own dedicated lawyer based in the newsroom to assist with all legal issues as well as a team of duty lawyers who are all available to provide training and specific advice. Regular media law training sessions are held throughout the year and it is your responsibility to attend these to ensure you remain up-to-date with the law.

Where there may be doubt or uncertainty over a legal issue – in the first instance check with the Head of Home News or Head of International News, as appropriate.

Remember: if in doubt, do not proceed, broadcast or publish. Always refer upwards.

2. The public interest – conflict with the law

In the context of potential conflicts with the law, we need to be clear that certain acts are illegal and could result in a criminal prosecution and/or a civil claim. The public interest does not provide a charter for breaking the law or ignoring broadcasting regulations and there is generally no public interest defence to breaking the law.

The Director of Public Prosecutions (DPP) has issued guidelines for prosecutors on assessing the public interest in cases affecting the media. These guidelines recognise that cases involving the potential prosecution of journalists for offences that may have been committed in the course of their work as journalists are difficult and sensitive. The DPP's guidelines include the following which provides a helpful reminder of what can be understood by 'public interest':

31. The public interest served by freedom of expression and the right to receive and impart information has never been defined in law. However, examples of conduct which is capable of serving the public interest include the following:

- (a) Conduct which is capable of disclosing that a criminal offence has been committed, is being committed, or is likely to be committed.
- (b) Conduct which is capable of disclosing that a person has failed, is failing, or is likely to fail to comply with any legal obligation to which s/he is subject.

- (c) Conduct which is capable of disclosing that a miscarriage of justice has occurred, is occurring or is likely to occur.
- (d) Conduct which is capable of raising or contributing to an important matter of public debate. There is no exhaustive definition of an important matter of public debate, but examples include public debate about serious impropriety, significant unethical conduct and significant incompetence, which affects the public.
- (e) Conduct which is capable of disclosing that anything falling within any one of the above is being, or is likely to be, concealed.

It is vital to note that these are only guidelines and are not, in any event, meant to be exhaustive. It does not mean that if we can satisfy any – or all – of these that we may proceed without risk of prosecution, nor do so without the referrals and escalation described above.

Any grounds for an investigation that involves significant intrusion into any individual's privacy must be very strong. Before we start out we must be certain that any such intrusion is outweighed by the seriousness of the story and the amount of public good that will be delivered by its publication and/or broadcast.

Even if you believe that this test has been satisfied, the story must still be subject to the mandatory referral process set out above.

By way of guidance, the DPP has identified the following areas as being most likely to bring journalists into conflict with the law:

- a. Bribery Act 2010
- b. Computer Misuse Act 1990
- c. Data Protection Act 1998
- d. Misconduct in Public Office
- e. Official Secrets Act 1989
- f. Perverting the Course of Justice
- g. Regulation of Investigatory Powers Act 2000
- h. Serious Crime Act 2007

It is vital that you are familiar with these areas of the law. If you anticipate any kind of conflict, you should always refer upwards.

On very rare occasions Sky News might receive material from external sources, such as websites or other news organisations, which could have been gathered illegally or in breach of Ofcom guidelines. The decision on whether to run such material will be subject to the process of referral set out at the start of these guidelines. In taking such decisions the Head of Newsgathering, the Executive Editor and our legal team will apply the same principles to the broadcast of such material as would apply if the material had been gathered ourselves – namely can we verify its authenticity, can we be sure of its provenance, and is it in the public interest to broadcast it.

3. Bribery act 2010 facilitation payments and hospitality

Sky News' anti-bribery and corruption policy prohibits the making of facilitation payments.

Facilitation payments are unofficial payments made to public officials in order to secure or speed up the performance of a routine or necessary action. They are sometimes referred to as 'speed' or 'grease' payments. They are usually payments made to obtain a service which the recipient is required to provide, i.e. grant of entry, passage through check point etc.

Sky News will not jeopardise your safety and if you consider your personal safety to be jeopardised/threatened as a result of not complying with a request to make a facilitation payment, such a payment will not be considered a breach of the policy. This does not in any way alter the policy as regards the making of facilitation payments in the absence of such threat or the payment of other types of bribes, which are all prohibited.

If you have to make such a payment you should make a written record as soon as possible and report it to the relevant Head of Home or International News.

Any gift or hospitality offered to you with an estimated value over $\pounds 250$ must be logged in Ariba and approved by your manager. $\pounds 250$ is a cumulative total. If over the course of a year the value of gifts and/or hospitality from any one source exceeds $\pounds 250$ they need to be logged and approved by your line manager.

4. Privacy

This is a fast-moving and complicated area of media law which is subject to a great deal of debate and uncertainty. We need to be clear amongst ourselves and able to demonstrate to our audience that we are transparent, honest and fair.

The law recognises that people have a 'reasonable expectation of privacy' but the degree to which we can report and record what they do is determined by a range of factors. These include the individual's public profile and reputation, the nature of the activity which makes them potentially news-worthy, and what they were doing and where they were when they were approached or recorded.

We cannot and should not breach anyone's privacy without an exceptionally good reason. Any proposal to do so must be authorised in advance by the Head of Newsgathering, the Executive Editor and our legal team.

Any invasion of privacy – such as secret recording or 'doorstepping' – must be warranted, usually by demonstrating that the amount of public good that will be delivered by broadcast and/or publication of the story will outweigh the intrusion. The method used to obtain material must be proportionate to the subject matter. In particular, we do not conduct 'fishing expeditions' into people's private lives.

Any proposal to carry out secret/covert filming must be authorised in advance by the Head of Newsgathering, the Executive Editor and our legal team. This process must be documented and all relevant documents kept for at least eighteen months. Care should be taken to protect against disclosure of private addresses and/or personal family information (which can include photographs). In particular when filming websites or in sensitive situations we should make sure that we do not inadvertently show private information.

Special care should be taken when filming private residential addresses. Consider carefully whether their inclusion is necessary. If we are featuring a property linked to a controversial historical story that has since changed hands consider how the current residents would feel. If we decide to anonymise a property it is important that we do so properly. It is not enough simply to obscure the house number if people in the locality would be readily able to identify it.

Consent should normally be obtained before a person or organisation's privacy is infringed, unless such infringement is warranted (and confirmed and documented internally as such). In addition, consent for broadcast should also be obtained, unless broadcast without such consent is warranted. This will be determined by the relevant Head of Home or International News and the Head of Newsgathering, in consultation with our legal team. If a contributor has agreed to be identified as the victim of a sexual offence that consent must be confirmed in writing.

Special care should be taken over the broadcast of situations involving suffering and personal distress. Care should be taken to avoid identifying any dead and injured before next of kin have been informed.

5. Defamation

We might defame someone if we lower their reputation in the minds of 'right-thinking people'. An alternative definition refers to an assertion which exposes anyone to 'hatred, ridicule or contempt'.

Any story which has the potential to be defamatory must in the first instance be referred to either the Head of Home or International News.

There are a number of possible defences to defamation including truth, privilege, or honest opinion. Each of these sound relatively simple and straightforward but they are not; they are highly complicated legally – and we may end up having to argue our case in a court of law. Therefore any story involving potential defamation needs to be subject to rigorous editorial scrutiny.

For example, our coverage of parliamentary debate gives us what is known as 'qualified privilege' in matters of defamation. BUT that is no defence at all against contempt – just because someone says something in Parliament does NOT mean we can simply repeat it without any concern over legal repercussions.

If you become aware of a potentially defamatory statement on any platform then it should be raised immediately with the relevant Head of Home or International News and our dedicated lawyer.

If in doubt, refer up.

6. Live libels

We are a 24-hour breaking news operation, and much of our output is live, so we clearly have to be particularly vigilant about the perils of defamatory remarks being made live onair. What our guests say is ultimately OUR responsibility and consequently our problem if it's libellous.

If you feel that an upcoming interview or live broadcast has the potential for defamatory remarks being made, seek advice from the Executive Editor. We need to be able to demonstrate that we took care in advance to avoid being liable ourselves for the defamation.

Should a defamatory comment occur, the presenter or reporter should distance Sky News from the comment immediately and terminate the interview as soon as is possible. It should not be repeated, clipped, displayed on straps or posted on any other platform. Make sure all platforms are aware of any issue.

7. Contempt

The law on contempt is designed to stop reporting which would interfere with the course of justice, or unduly influence the result of a court case. If no additional reporting restrictions are in place we cannot be guilty of contempt in respect of reporting events in court if we produce a fair and accurate report of a court case held in public, published contemporaneously and in good faith. Also remember, however, that it is still possible to commit contempt when a court case is underway. We must confine our reporting to facts raised in open court in front of the jury.

Legally, criminal proceedings are 'active' from the moment of the first formal step in launching a prosecution. Technically, this is from the moment of arrest or issuing of a warrant. A civil case is 'active' when a trial date is fixed, or when the case is 'set down for trial'.

When reporting on a case such as this, the key questions are:

Are proceedings active?

Does the report create a substantial risk of serious prejudice?

Have any other case-specific reporting restrictions been imposed?

If a case is 'active'...

- Do not report anything which implies the guilt or innocence of the accused (which includes previous convictions, evidence of bad character or admissions of other crimes).
- Do not criticise the Judge, Crown or Defence, or the fact of the prosecution itself.
- Do not anticipate the course or the outcome of the trial.
- Do not compromise a prosecution or defence by publishing photographs or IDs, or identifying members of the Jury (e.g. at court exits and entrances).
- Do not taint any potential witnesses with promises of payment.
- Do not interview actual or likely witnesses while proceedings are active.
- In a civil case, do not reveal that a 'payment into court' has been made (a formal offer to settle for the amount paid in).

Remember: these rules also apply to military Courts Martial and Inquests.
8. Copyright and fair dealing

The Copyright Act provides a defence which effectively permits, in limited circumstances, the use of copyright material from other sources without infringing copyright. This is called fair dealing and is intended for use when reporting current events. But it does not mean we can put any video we like to air.

Points to consider:

- Photographs are excluded from the fair dealing defence.
- Is it for reporting current events?

All requests for fair dealing should be referred in the first instance to the relevant Head of Home or International News. If they are satisfied that the clip can be legitimately used under fair-dealing, we must do the following:

- Duration to be used will be determined by the relevant Head of Home or International News.
- It must be credited on-screen to the copyright holder throughout the entire duration.
- Our justification for using the clip must be referenced in the script.

Be aware that there can be other factors at work in deciding if we can fairly-deal.

Copyright material of sports events are governed by different industry rules and are usually exempt. Any questions relating to use of sports footage should be directed to the sports desk.

It is not our policy to broadcast another station's news output or exclusive content.

A note on YouTube and other internet video sites: if we are looking to use material from any of these platforms in circumstances where we cannot fair deal it, we should where possible attempt to obtain the permission of the copyright holder (usually the person who posted it), NOT the platform on which it is held. Generally, sites such as YouTube will NOT be the copyright holders. If we believe the material has been posted on a site in breach of copyright we should not use it.

Remember that Sky News Online and other digital platforms are subject to the same copyright restrictions.

9. Compliance and regulation

In addition to media law, much of what we do is governed by principles enshrined in the Ofcom Broadcasting Code. These principles are based in part on objectives set out in the 2003 Communications Act. It is up to us to know the standards and to comply with them.

It is the duty of every Sky News journalist to ensure that they are entirely familiar with the Ofcom Broadcasting Code and the requirements it makes of us. It is Sky News' policy to abide by the Code; broadcasters can be fined – or worse – for breaching it.

10. Fairness

People taking part in a news item should be treated fairly. They should be told the nature and subject of the item. If an interviewee will be going live, head-to-head with another guest or an opponent, they should be told in advance. All recorded interviews should be edited fairly.

For people not in a position to give informed consent (e.g. children and vulnerable adults) the permission of a carer should be obtained.

People who are the subject of reports should not be treated unfairly. Where wrongdoing is alleged, they should be offered an opportunity to respond.

The use of deception or misrepresentation is only justified if there is a clear public interest justification and if the information could not be obtained by any other means. Even in these cases, the actions taken must have undergone the mandatory referral process set out earlier.

11. Due impartiality and due accuracy

Sky News must always be duly impartial and duly accurate. We always strive to solicit a broad range of views and voices on our stories and never to show favour to – or be influenced by – any side of a story.

The Communications Act and the Ofcom Broadcasting Code set out special impartiality requirements for coverage of matters relating to political or industrial controversy or matters relating to public policy.

The rules include:

- Not allowing our personal views or opinions to form a part of our coverage.
- Making sure views and facts are not misrepresented.
- Making sure all significant opinion is duly reflected on any controversial issues.
- Making sure any personal interest of a reporter or presenter is made clear to viewers they must not use their position to express their own views.
- Members of staff have a duty to disclose to senior management any personal interest which may potentially jeopardise their duty to report with due impartiality.
- Making sure particular views and opinions are not given undue prominence over others.

We should also make sure that the personal views and interests of those we invite to contribute are established and made clear to the viewer if it would be misleading not to do so. If we are not certain of a guest's views we should ask them before allowing them on any of our platforms.

When using video or still images of people in the news it is crucial that we do not make mistakes. We should NEVER use pictures from an online source without double checking they are correct. Particular caution is required with people who are relatively unknown. If there is even the smallest doubt about the identity of the person featured the material should not be passed on. Once it is in the system mistakes become much more likely. The consequences of such mistakes are extremely serious from a reputational and financial perspective.

12. Elections and referendums

Particular attention must be paid to fairness, impartiality and balance at times of elections and referendums. Our journalism will be under particular scrutiny at these times and we must be certain to be fair, impartial and rigorous on all our platforms.

Remember, we abide by the rules set out in the Ofcom Code.

On occasions, we may come under pressure from political parties or their representatives. If this should happen – or if you receive a complaint – do not take the argument on there and then; refer it to the Managing Editor – External Relations.

Further guidance and reminders of the rules will be issued in the run-up to elections and referendums but it is still important that all journalists are familiar with them.

13. Commercial issues

There are two key principles governing commercial issues:

- The clear separation of advertising and editorial elements.
- Independence of any external commercial or political pressure or influence.

Products and services must not be promoted in programmes. This includes premium rate phone lines – except where they are clearly programme related. If products and services are featured in programmes it should be because there is a genuine editorial need. We should never promise how or if we are going to feature a product or service in any of our programmes.

There should be no undue prominence given within a programme to products and/or services.

Programme related material (such as fact sheets and websites) must only be promoted where editorially justified.

14. Protecting under-18s

One of the main objectives of the Ofcom Broadcasting Code is to protect those under the age of 18 from unsuitable material. This can include violence, sex, offensive language and material relating to the use of drugs and stimulants.

There are also rules designed to protect those under 18 who take part in programmes. Young people may not have the same judgement as adults, so care must be exercised to ensure that they are not exploited.

Under-18s involved in court cases cannot usually be identified by law. But care should also be taken to justify any identification of under-18s linked in other ways to sensitive stories, including victims or eye-witnesses. If in doubt, refer to the relevant Head of Home or International News.

Remember we have a duty of care to protect the emotional and physical welfare of those under 18 that we feature. That duty of care remains regardless of any consents obtained.

15. Complaints and mistakes

If someone contacts us to query or challenge something we have broadcast or published, do not have a full discussion with them there and then. Thank them for calling in, make a note of their name, number and the time of the call, and then refer it to your Executive Producer and/or the Managing Editor – External Relationships. If it relates to a legal issue please make sure that our dedicated legal advisor is aware.

It is the duty of on-air output teams and the news desk to monitor the Sky News inbox at all times.

16. Breaking news stories

Unless notified through official channels, news of the death of a prominent member of the royal family or senior serving politician (such as the Prime Minister or Chancellor), or the calling of a general election <u>should not be broken</u> without reference to the relevant Head of Home or International News, Executive Editor or Head of Newsgathering.

Where such stories are officially notified (validated news releases, or Press Association wire) the news can be broken without referral, but senior management (as listed above) must be notified as soon as possible.

If a story breaks which involves an employee of BSkyB we should ensure that our corporate communications department is informed immediately. As always, we should show particular sensitivity when reporting on ourselves or one of our colleagues.

Stories with potential for commercial and/or reputational consequences for other parts of Sky should not be broken without reference to the Head of News, Executive Editor or Head of Newsgathering.

When dealing with natural disasters or other tragic events particular caution is required to make sure that we report in such a way that, as far as possible, protects the dignity of the victims and their families.

17. Newspaper Reviews

Newspaper reviews form a significant proportion of our output. Our coverage of the content of newspapers in reviews or otherwise is subject to the same editorial and legal restrictions as any other content. We are responsible for comments made by our contributors so it is extremely important that any guests or occasional contributors are carefully briefed to avoid including detail we wouldn't include ourselves. If the story relates to an ongoing active criminal case or is particularly controversial we should consider carefully whether it is appropriate to discuss with our guests.

If featuring newspapers or magazines on screen we have to be very careful about how we treat any photographs contained in them. Fair Dealing does not apply to photographs. We should not zoom in on or focus solely on a photograph. If we do we open ourselves up to the possibility of expensive legal complaints from copyright holders. Generally it will be OK to feature a full front or inside page as part of a review as long as we are not focussing on photographs to the exclusion of the page around them. If in any doubt about whether we should be using an image please seek advice.

18. Multi-product thinking

We are a multi-product broadcaster; multiple outlets, several different versions of each story running simultaneously with on-screen straps, panels and many different added extras. The same standards are expected of our journalism across all media. Our content must all be world-class, editorially robust and produced to the highest standard. It is vital that the decisions we take are enforced with equal rigour throughout all that we do. When it comes to big editorial, legal or compliance decisions we must be truly joined-up in our thinking.

Similarly, these guidelines apply to all Sky News staff – whether you work in the TV newsroom, on a digital platform or out on the road, we must all abide by the same guidelines, principles and ways of working.

If we are not confident that a story is legally or editorially robust enough to run on television, it should not run in any form on any other platform.

19. Portrayal

Sky News is committed to reflecting the United Kingdom the way it is – so that our coverage properly represents all of its cultures, races and religions and doesn't discriminate against anyone. Sky News is committed to increasing the number of female and ethnically diverse experts and commentators appearing on television news and radio.

References to sex, sexual orientation, disability, ethnicity and age should only be made where pertinent to the news story. We should not perpetuate stereotypes – for example people who are disabled should not only ever appear because they are disabled; people from ethnic minorities should not only appear because of issues related to ethnicity or religion; our coverage as a whole should reflect the nation as a whole.

20. Note-taking

Accurate note-taking has never been more important – just look at the different versions of events exposed by various high profile inquiries into media practices. Face-to-face or by telephone, you must keep accurate, detailed and contemporaneous notes.

Keep a notebook with your name on the front and the date it was started. If you keep your notes electronically make sure they are thorough, dated, and effectively backed-up. Avoid making notes on spare pieces of paper. Date each new day, and wherever possible, note the time of each conversation. Your notes should be as full as possible; if you use shorthand, transcribe the notes as soon as possible.

If you agree a course of action at a meeting, record it by email with the other participants afterwards and ensure that everyone is happy with the approach.

If it is inappropriate to make notes at the time of the conversation, write them up as soon as you can. Keep important notes and emails for at least eighteen months in case of legal queries.

All work email communications should be conducted through your Sky News account rather than a personal one, for reasons of transparency and retrieval.

21. Payment

As part of our everyday business we make payments to interviewees, for stills, footage, copy, and for facilities. However, there may be exceptional circumstances in which advice from senior editorial management must be sought. These include, but are not limited to, any proposal to pay convicted criminals, actual or potential witnesses in court cases and public employees.

Any payment outside or beyond usual day-to-day expectations must be referred to the relevant Head of Home or International News.

We do not pay politicians, campaigners, trade union representatives, lobbyists, or similar individuals, for interviews. This list is not exhaustive. If you are ever in doubt about a guest payment please refer to the Managing Editor – External Relationships.

Make sure you are familiar with the fundamentals of the Bribery Act.

22. Reconstructions

We would only consider shooting or using a reconstruction after the approval of the Executive Editor. On the rare occasions we do this, a reconstruction tag should be displayed for the duration of that sequence. As well as being Sky News policy, this is a requirement of the Ofcom Broadcasting Code.

23. Social media and public appearances

This is an area that is becoming increasingly important in terms of news gathering and reporting. Recent high profile cases have demonstrated the need to be vigilant. Common sense should guide your behaviour on social media, as it should guide your behaviour on all occasions when you are associated with Sky News.

As a Sky News journalist you are expected to use social media responsibly, adhering to the principles of fairness, accuracy, impartiality, legality and rigour.

You are personally responsible for the content you publish on social networks.

Do not undermine the work of colleagues who are assigned to a particular story by posting information which contradicts or devalues their journalism.

Breaking news

Particular caution is required with regard to contempt of court and defamation. If you are not certain that a posting on social media would be considered suitable for any of our platforms then DO NOT post it. If someone else has posted something that could be considered in contempt of court, defamatory or in clear breach of privacy DO NOT link to it, retweet it or reproduce it in any way.

Always pass breaking lines to the news desk and video to Sky News Centre before posting on social media networks.

Professional and personal

Updates from your Sky-linked social media accounts can reflect your personality and personal interests, to an extent. You should be guided by common sense and by the principles outlined above.

If you regularly use social media to comment on areas of interest outside work or chat to your friends use a separate private account to do so.

Twitter

It is your responsibility to ensure anything you tweet or re-tweet on a story is consistent with Sky News' cross-platform editorial decisions and guidelines. You should never re-tweet any content that we would not be prepared to put on any of our platforms. Be mindful that, on occasion, information is not broadcast for reasons of taste or security. This is particularly important for breaking or developing news stories.

If in doubt, check with your line manager or the news desk.

Remember, breaking news lines should be passed to the news desk before they are posted on social media. This includes information from tweets and re-tweets.

Be aware that a re-tweet could be perceived as an endorsement. Consider adding context to your re-tweets. If you re-tweet a statement that is defamatory then action could be taken against you as well as the original tweeter.

Any work related Twitter account username should contain the word 'Sky'.

Be sensible

Do not say anything on social media which may bring Sky News into disrepute.

Do not be offensive, use bad language or language that could be perceived as offensive to a reasonable person.

Always adhere to the Terms of Use and seek to conform to the norms of the social media platform being used.

Always respect the law, including those laws governing defamation, privacy, discrimination, harassment and copyright.

Only discuss publicly available information. You should not comment on or disclose confidential Sky information (such as financial information, future business performance, business plans or personnel issues).

Avoid engaging in arguments on social media. On matters of company policy no member of staff is authorised to speak on behalf of Sky News without permission from the Head of Sky News.

Public Appearances

Any public appearance that you make representing Sky News must be cleared in advance by your line manager and notified to PR. Examples of relevant public appearances would include (but are not limited to) panel discussions, lectures and presenting awards ceremonies. If you have been asked to appear as a result of your role with Sky News then you will be expected to conduct yourself in the same way as you would in your daily working life.









NON-CONFIDENTIAL Version

Annex 3

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NON-CONFIDENTIAL Version

Annex 4

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