

Kevin Bakhurst
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Ofcom
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From: Joel Bamford
Project Director

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27 September 2017

Dear Kevin

Re. Request for information and assistance relating to the acquisition by Twenty-First Century Fox, Inc. (Fox) of the entire share capital of Sky plc (Sky) (the Fox/Sky transaction).

1. Further to the letter sent on 25 September 2017 setting out an agreed basis for the provision of information and assistance by Ofcom to the CMA, I write on behalf of the CMA to formally request Ofcom provides information and assistance in relation to the exercise of the CMA's functions in reviewing the Fox/Sky transaction. This request is made in reliance of section 105(3A) of the Enterprise Act 2002 (the "Act"):

(3A) OFCOM shall give the CMA

- (a) such information in their possession as the CMA may reasonably require to enable the CMA to carry out its functions under [Part 3 of the Act]; and
- [(b) any other assistance which the CMA may reasonably require for the purpose of assisting it in carrying out its functions under this Part and which it is within the power of OFCOM to give.]

2. This provision is made applicable to the exercise of the CMAs functions under The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (the Order) by virtue of Article 15 and Schedule 3 paragraph 1(1)(m) of the Order.
3. Further, Part 9 of the Act, specifically section 241(3)(a), provides a gateway for the disclosure of specified information to the CMA that has come to Ofcom in connection with the exercise of its statutory functions in relation to its review of the Sky/Fox transaction. The CMA confirms that such specified information will only be used for the exercise of the CMA's functions under the Act including in relation to its functions under the Order.

4. Insofar as Ofcom considers any of the considerations set out in section 244 of the Act apply in relation to the disclosure of the requested information to the CMA we would be grateful if you could inform us of this so that we can discuss further.
5. The information that we request is as follows. Please note that the information requests marked by an * are those we would like Ofcom to prioritise in sending to us (i.e. within 2 days of receiving this request). The remaining information we would be grateful for within 2-4 days of this request.
 - *All submissions from Fox and Sky (the Main Parties) to Ofcom and requests made to the Main Parties by Ofcom (including submissions / requests made following the letters from the Secretary of State to Ofcom on 7 and 31 August).
 - *All substantive third party submissions to Ofcom, referred to as the '42 detailed responses' in Ofcom's Public Interest Test report to the Secretary of State on 20 June 2017 (the Public Interest Test report).
 - *Any information requests from Ofcom made to third parties and parties related to the Main Parties (including but not limited to News Corp, Cruden Financial Services LLC and the Murdoch Family Trust), and any subsequent response from these parties to Ofcom.
 - Non-substantive submissions, referred to as the 51,513 responses to Ofcom's Invitation to Comment, received from members of the public.
 - To the extent that they contain information which overlaps with the issues Ofcom considered during its work on the broadcast standards public interest consideration in the Phase 1 inquiry, any substantive submissions received relating to Ofcom's duty to be satisfied that broadcast licences remain fit and proper.
 - Any relevant background material – such as academic articles or specialist reports – used by Ofcom to analyse/interpret the third party submissions, and/or which Ofcom would consider relevant to analysing these submissions.
6. The assistance we request, drawing on Ofcom's technical expertise as the UK regulator for communications, at this stage of the investigation is:
 - A presentation to the Inquiry Group on the UK broadcast licensing and enforcement regime, covering regulation, processes and Ofcom's approach. It should deal with all matters Ofcom has considered in the course of its work on the broadcast standards public interest consideration. It should also focus on broadcast standards regulation and enforcement, and in particular due accuracy and due impartiality.
7. We envisage the presentation taking place in two parts, each of 1.5 to 2 hours.
8. We will write further in respect of further assistance that we request in relation to carrying out our functions.
9. Please let me know if you would like to discuss this request or have any questions about it.

Yours sincerely,

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Joel Bamford Project Director

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