

**Douglas H. Wigdor**

October 24, 2017

**VIA EMAIL**

Ms. Anne Lambert  
21st Century Fox/Sky plc Merger Inquiry Chair  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London WC1B 4AD

Re: Claims Against Twenty-First Century Fox, Inc., et al.

Dear Ms. Lambert:

We write to the Competition and Markets Authority (“CMA”) in connection with the proposed acquisition of all shares in Sky plc (“Sky”) by Twenty-First Century Fox, Inc. (“21CF”). We are a New York City based employment litigation firm and I am also admitted to Her Majesty’s Courts of England and Wales. Since July 2016, we have had the privilege of representing 26 current and former employees of 21CF and Fox News Network LLC (together, “21CF,” “Fox” or the “Company”) in connection with their claims of gender and/or race discrimination, harassment, and retaliation.<sup>1</sup>

Previously, we wrote to Ofcom to provide information that may have been relevant to its review of 21CF’s bid to takeover Sky, and attach copies of that correspondence hereto.<sup>2</sup> On May 11, 2017, I met with Ofcom regulators to discuss our clients’ experiences at 21CF. During that meeting, I requested that 21CF lift confidentiality clauses that apply, no doubt, to many former and/or current 21CF and/or Fox News employees. For those current and/or former clients that we represent(ed)

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<sup>1</sup> Fox News Network LLC (“Fox News”) is incorporated in the U.S. Recently, 21CF made the decision to pull Fox News from U.K. broadcasting. See <https://www.theguardian.com/business/2017/aug/29/sky-to-stop-broadcasting-rightwing-us-channel-fox-news-in-uk>. However, after Roger Ailes was forced out of the Company in August 2016, Rupert Murdoch assumed the leadership position at Fox News. Presently, Mr. Murdoch remains the acting Chief Executive Officer (“CEO”) of Fox News. For a number of our clients, events giving rise to unlawful conduct by Fox News Executives took place subsequent to Mr. Ailes’s exit and while Mr. Murdoch was in charge.

<sup>2</sup> See Appendix 1 attached, listing our prior correspondence to Ofcom on May 3, 2017, May 8, 2017, May 22, 2017, August 3, 2017 and August 9, 2017. Our letters included substantial exhibits. It is our understanding that Ofcom has forwarded you complete copies of our prior submissions, including the exhibits attached. Please let us know if you are not in possession of the correspondence or supporting documents and we will promptly send them to you.

that are not subject to confidentiality obligations we, and these clients, are ready and willing to meet with the CMA in the coming weeks. Our clients welcome the opportunity personally to answer any questions you may have about their experiences, including with the leadership, governance and corporate culture at 21CF.

## **I. Current Representation**

Without repeating the contents of our correspondence to Ofcom that details the claims of our clients and the corresponding lawsuits that have been filed, below is a list of active cases against 21CF, the names of the former and current employees involved, and a brief description of the nature of the claims at issue:

1. Tichaona Brown, et al. v. Twenty-First Century Fox, Inc., et al., Index No.: 22446/2017E (N.Y. Sup. Ct., Bronx County)<sup>3</sup> (the “Brown Action”). Plaintiffs in the Brown Action filed a Proposed Class Action complaint alleging systemic racial discrimination and retaliation at the Company, spanning more than a decade and continuing through the present.
2. Adasa Blanco, et al. v. Twenty-First Century Fox, Inc., et al., Civil Action No.: 17-03017 (United States District Court, Southern District of New York). Plaintiffs Adasa Blanco and Vidya Mann have brought claims alleging pregnancy and racial discrimination.
3. Naima Farrow v. Twenty-First Century Fox, Inc., et al., Civil Action No.: 17-03836 (United States District Court, Southern District of New York). Plaintiff Farrow alleges claims of pregnancy discrimination and racially hostile work environment.
4. Jessica Golloher v. Twenty-First Century Fox, Inc., et al., Index No.: 154148/2017 (N.Y. Sup. Ct., New York County). Plaintiff Golloher has brought claims alleging that the Company has subjected her to gender discrimination and retaliated against her for engaging in the protected activity of reporting discrimination.
5. Wasim Rafick v. Twenty-First Century Fox, Inc., et al., Charge No.: 520-2017-02099 (U.S. Equal Employment Opportunity Commission). Complainant Rafick alleges systemic racial discrimination and retaliation at the Company, spanning more than a decade.

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<sup>3</sup> The following individuals are involved in this matter: Tichaona Brown, Tabrese Wright, Monica Douglas, Kelly Wright, Musfiq Rahman, Mark LeGrier, Mariela Lindsay, Vielka Rojas, Griselda Benson, Mauretta Thomas, Senami Tolode, Claudine McLeod and Elizabeth Fernandez.

6. Lidia Ujkic v. Twenty-First Century Fox, Inc., et al., Civil Action No.: 16-09608 (United States District Court, Southern District of New York). Plaintiff Ujkic has brought claims alleging gender, pregnancy, age, national origin, disability, gender and ethnicity discrimination, hostile work environment, and retaliation since filing her case that is continuing through the present.
7. Rod Wheeler v. Twenty-First Century Fox, Inc., et al., Civil Action No.: 17-05807 (United States District Court, Southern District of New York) (the “Wheeler Action”). Plaintiff Wheeler alleges defamation engaged in by the Company against him, in connection with the Company’s publication of an article containing fake news generated to further 21CF’s own political agenda that was published on May 16, 2017.

The facts about harassment, discrimination and retaliation as set forth in the respective complaints, and the supporting evidence, unquestionably presents serious issues as to whether the leaders of 21CF operate with the level of integrity, accountability and fairness needed to effectuate media plurality or to adhere to broadcasting standards.

## **II. Did 21CF Fail to Disclose Facts About a \$32 Million Settlement with a Female Employee Involving an Alleged Non-Consensual Sexual Relationship with Bill O’Reilly**

On October 21, 2017, the New York Times (the “NY Times”) published an article revealing that 21CF renewed Bill O’Reilly’s contract after it received a complaint by yet another female alleging a non-consensual relationship at the hands of Mr. O’Reilly. See Ex. A. According to the article, in January 2017, Lis Wiehl, a legal analyst at Fox for 15 years, sent 21CF and Mr. O’Reilly a draft of a lawsuit that contained allegations of repeated harassment, a nonconsensual sexual relationship and the sending of gay pornography and other sexually explicit material to her by Mr. O’Reilly. In January 2017, according to the NY Times, a deal was struck with Ms. Wiehl for \$32 million to be “paid out over a period of time,” and Ms. Wiehl separated from Fox.

In a statement, 21CF claimed that it was not privy to the amount of the settlement and regarded Mr. O’Reilly’s January settlement “as a personal issue between the two of them,” suggesting that 21CF had no involvement in the matter. You may consider it relevant that in February 2017, *after* the settlement was reached with Ms. Wiehl, 21CF renewed Mr. O’Reilly’s contract and increased his annual compensation from \$18 to \$25 million for the next four-years.

The NY Times obtained a copy of an Affidavit signed by Ms. Wiehl on January 17, 2017. See Ex. B. The Affidavit states that she had “resolved all of [her] issues” with Mr. O’Reilly and “reached an accommodation with Fox News regarding the termination of [her] employment. I have no claims against Fox News.” Id. The Affidavit appears to demonstrate that, at the very least, 21CF

was a beneficiary of this so-called “personal issue,” or at worst that 21CF was somehow involved in the settlement process.

In response to the NY Times article, 21CF claimed that the four-year contract with Mr. O’Reilly gave the Company an out if further information came to light regarding Mr. O’Reilly. When Fox fired Mr. O’Reilly on April 19, 2017, which raises yet another issue, namely, whether another female employee issued a complaint against Mr. O’Reilly between the time of his contract renewal in February 2017 and April 19, 2017. If that did not happen, it is difficult to discern any meaning to the statement it made.

What appears to have actually happened in the weeks leading up to Mr. O’Reilly’s termination was that the NY Times published a scathing article on April 1, 2017, exposing previously secret settlements between 21CF and former female employees regarding Mr. O’Reilly’s sexual misconduct. See Ex. C. The public outcry and media backlash after this news increased pressure on 21CF to drop Mr. O’Reilly. Yet, 21CF resisted and continued to stand by Mr. O’Reilly. Thereafter, a number of well-known companies decided to pull their advertising campaigns from 21CF in order to distance their products from Mr. O’Reilly. Only after this harm to 21CF’s bottom line, does it appear that the Company finally decide to terminate Mr. O’Reilly. When it did, 21CF rewarded Mr. O’Reilly with another \$25 million.

Based on Ofcom’s report, between January and April 18, 2017, 21CF Executives, including Gerson Zweifach, General Counsel for 21CF, and James and Lachlan Murdoch, met with and spoke under oath to Ofcom on at least four occasions. Nothing in the Ofcom report suggests that the 21CF Executives disclosed Mr. O’Reilly’s settlement with Ms. Wiehl.

### **III. Requests for Documents by the U.S. Department of Justice to 21CF and the Destruction of Evidence**

According to the recent NY Times article, in April 2017, the U.S. Department of Justice (“DOJ”) issued requests to 21CF for information about the Company’s handling of sexual harassment complaints against Mr. O’Reilly. The article reported on an April 13, 2017 email sent by Gerson Zweifach, to Rupert Murdoch and his sons, James and Lachlan, that notified the Murdochs about a new document request from federal prosecutors investigating the network. Mr. Zweifach wrote, “We have had a critical development in the O’Reilly matter.” The email told the Murdochs about the government request for all documents related to sexual harassment allegations against Mr. O’Reilly that would,

**“clearly call for the production of the Wiehl materials.”**

In reference to the DOJ demands, Mr. Zweifach suggested however that 21CF could try to challenge the request by telling prosecutors that the case had not been settled by 21CF, so

shareholder money was not involved; he added, though, that there was “virtually no chance that they will back off.” The email stated:

- “The fact that it seems like a bogus theory of federal securities law disclosure will not stop them from exploring it,”
- “Their legal theory has been that we hid the fact that we had a problem with Roger, ... and now it will be applied to O’Reilly, and they will insist on full knowledge of all complaints about O’Reilly’s behavior in the workplace, regardless of who settled them.”

Ex. A. Moreover, according to the NY Times article, a term to the settlement involved the destruction of the alleged evidence supporting the reported allegations against Mr. O’Reilly. In addition, the NY Times article claims that 21CF was aware of the deal (other than the dollar figure). Given that, at the time of the settlement, the Company was under investigation by the DOJ, further litigation against Mr. O’Reilly was plausible, and that shareholder litigation was likely, in the event that 21CF was aware of the term requiring destruction of potential evidence, it is hard to imagine how 21CF would be able to justify this spoliation of potential evidence. Alternatively, if 21CF was unaware of the term requiring destruction of potential evidence, it is hard to see how it could justify turning a blind eye to even the non-monetary details of the settlement.

You may consider this email exchange and the spoliation of evidence relevant to your inquiry into whether 21CF meets the regulatory standards necessary for 21CF to own 100% of Sky. The recent revelations disclosed in the NY Times article suggest that 21CF be subjected to heightened scrutiny and more rigorous vetting into its transparency, as well as its ability to provide truthful information.

#### **IV. 21CF’s Refusal to Waive Non-Disclosure and Confidentiality Agreements**

On May 22, 2017, I submitted a letter to Ofcom about 21CF’s continued refusal to waive Non-Disclosure and Confidentiality Agreements executed between 21CF and female employees that had complained of sexual harassment and had reached private settlements with 21CF. This recent exposure of yet another secret deal entered into regarding sexual abuse of a female employee at the hands of 21CF’s “star” on air-talent, highlights the importance of 21CF waiving its rights to seek damages against former employees who have resolved claims privately. These women should be permitted to speak to the CMA, privately and truthfully, about their experiences at 21CF.

#### **V. New Lawsuit: *Scottie Nell Hughes v. Twenty-First Century Fox, Inc., et al.***

In addition to the above, on September 18, 2017, we commenced another civil action against 21CF, on behalf of our client, Scottie Nell Hughes. See *Hughes v. Twenty-First Century Fox, Inc., et al.*, Civil Action No. 17-07093 (United States District Court, Southern District of New York), attached

here as Exhibit D. You may find that the allegations in Ms. Hughes's complaint are relevant as to an assessment whether 21CF should be permitted to purchase Sky. The lawsuit is against 21CF, as well as Fox Executives Dianne Brandi, the (former) Executive Vice President, Business and Legal Affairs,<sup>4</sup> Irena Briganti, Executive Vice President of Corporate Communications, and Charles Payne, a Fox anchor and contributor, asserting claims for sexual harassment, discrimination, retaliation and defamation.

Ms. Hughes's allegations concern conduct by the Company, and its leaders, that you may find relates to issues about media plurality and commitment to the attainment of broadcast standards. In connection with these two public interest considerations, you may find that the allegations in this lawsuit provide insight on whether executives were forthcoming and transparent with Ofcom during its investigation, including about their knowledge of sexual harassment, gender bias and retaliation.

21CF claims that it has terminated the employees responsible for discriminatory wrongdoing and implemented internal governance changes, yet, as set forth in Ms. Hughes's complaint, executives at 21CF continue to victim-shame female employees who come forward with protected complaints and use its power within the media to generate bias against victims and in favor of 21CF. You may consider it relevant that the lawsuit alleges that executives retaliated against Ms. Hughes for complaining about her experiences at Fox by leaking her identity to a national tabloid, the National Enquirer, and delivering a misleading, self-serving narrative in an attempt to get out ahead of her story. As alleged in the complaint, 21CF engaged in such horrific acts knowing about Ms. Hughes's status as a victim of sexual assault and rape. Such media exploitation occurred in June and July 2017.

**A. Allegations in the Complaint Filed by Scottie Nell Hughes**

Scottie Nell Hughes is a political strategist and commentator. From 2013 through 2016, she appeared on numerous Fox programs. In the spring of 2013, when she appeared on the shows *Cavuto* and *Hannity*, she met Mr. Payne, a Fox Business Channel ("FBC") anchor, contributor and host of the show, *Making Money*. From the beginning, Mr. Payne expressed his interest in Ms. Hughes and suggested that he could help advance her career, including by helping her receive a contributor contract at Fox. As detailed in the lawsuit, in July 2013, while they were both in New York City to appear on a Fox program, Mr. Payne pressured his way into Ms. Hughes's hotel room for a "private discussion." Tragically, as set forth in the complaint, Mr. Payne sexually assaulted and raped Ms. Hughes. Moreover, as defined in the complaint, despite her clear refusal of his advances and telling him "no" and to "stop," Mr. Payne forced Ms. Hughes to engage in sexual intercourse against her will. Too shocked and ashamed to speak out at the time, Ms. Hughes told no one about what happened. After the rape, Mr. Payne's invitations to Ms. Hughes to appear on

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On October 6, 2017, 21CF announced that Ms. Brandi was taking "leave" from the Company.



Fox shows increased dramatically. At Mr. Payne's suggestion, producers also increased their requests for Ms. Hughes to appear on other Fox shows.

As alleged in the complaint, Mr. Payne coerced Ms. Hughes, his subordinate, into a sexual relationship in exchange for career opportunities and benefits. Mr. Payne made clear that such employment benefits would have been withheld had Ms. Hughes refused his sexual advances. On those occasions that Ms. Hughes did attempt to terminate the relationship, Mr. Payne became enraged and physically violent. Despite his temper, in June 2015, Ms. Hughes finally gathered the strength to cut off the relationship. Around the same time, as set forth in the complaint, Mr. Payne's wife complained directly to Bill Shine, former co-President of Fox, about Ms. Hughes and demanded that Mr. Shine prevent Ms. Hughes from further Fox appearances. Ms. Hughes went from appearing on Fox programs four or five times a week to only appearing five times in total over a ten-month period. Her last appearance on Fox was in March 2016. Thereafter, Mr. Shine blocked all future appearances by Ms. Hughes and she remains blacklisted through the present.

**VI. Fox's Claim that it Adopted New Protocols to Respond to Discrimination Reports  
after July 2016 is False**

After Gretchen Carlson filed a lawsuit against former Fox CEO Roger Ailes, in July 2016, the Company messaged that it hired the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul Weiss") to conduct an internal probe of allegations of sexual harassment by female employees. Shortly thereafter, Mr. Ailes departed Fox, along with \$40 million in funds. As part of Fox's self-reported message that it has "cleaned house," 21CF claims that after investigation, other employees were discharged following Mr. Ailes.

Notably, it appears from the reports issued by Ofcom in June 2017 that 21CF Executives told regulators that in response to the "recent" discrimination charges, it had revamped corporate governance policies and made internal changes designed to prevent any further similar conduct at the Company.

**A. Ofcom's Decision Based on Representations Made by Company Executives**

According to the reports issued by Ofcom in connection with the Sky takeover, senior 21CF Executives met with regulators on multiple occasions to discuss the Company's corporate governance standards and to counter allegations that it was not fit and proper to hold broadcast licenses. It is our understanding that Fox Executives met with Ofcom on at least four occasions, including March 27, 2017, April 11, 2017, May 11, 2017 and May 30, 2017, to discuss 21CF's ability to report the news in a nonpartisan manner.

On June 20, 2017, Ofcom published its decision (the “Decision”) as to whether Sky was “fit and proper to hold a broadcast licence.”<sup>5</sup> As part of the Decision, under the heading “Fox News’ compliance procedures,” paragraph 36 reads:

Fox has now supplied us with **details of new compliance arrangements introduced on 15 May 2017**. We consider that the improvements made by Fox to its compliance arrangements and procedures are sufficient to meet the requirements of its licence.

(emphasis added). The Decision set forth that 21CF Executives *testified* that “no executive director was aware of any allegations of sexual and racial harassment at Fox News prior to July 2016.”<sup>6</sup> According to the Decision, Ofcom considered this testimony important because it concluded that “[a]lmost all the alleged misconduct and settlements relate to the period before 2012.”<sup>7</sup> The Decision noted that Mr. Zweifach was hired in 2012 and that he purportedly instituted “revisions to corporate governance” at Fox shortly after his hire.<sup>8</sup> Ofcom reasoned that “[w]e **cannot, therefore, draw conclusions about Fox’s corporate conduct after 2012 from conduct which took place before 2012.**”<sup>9</sup>

On August 3, 2017, we wrote to Ofcom to provide information about another complaint we filed, on behalf of Fox contributor Rod Wheeler, against Fox.<sup>10</sup> We discussed the relevance between the timing of Fox’s conduct in connection with Mr. Wheeler, and the reported statements given by 21CF Executives to Ofcom during its investigation.<sup>11</sup> It may be relevant to your investigation whether 21CF Executives were testifying to Ofcom that new compliance procedures were in place

<sup>5</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0013/103621/decision-fit-proper.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0013/103621/decision-fit-proper.pdf).

<sup>6</sup> “*What management knew*. In answer to an information request (which by law must be answered truthfully, subject to financial penalty or imprisonment) Fox has said that no executive director was aware of any allegations of sexual and racial harassment at Fox News prior to July 2016. Fox also told us that Rupert Murdoch recalled being briefed by Roger Ailes about a case alleging misconduct relating to ‘star’ anchor Bill O’Reilly that took place in 2004 but he did not recall when he was briefed.” [https://www.ofcom.org.uk/data/assets/pdf\\_file/0013/103621/decision-fit-proper.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0013/103621/decision-fit-proper.pdf) at ¶ 52.

<sup>7</sup> “Almost all the alleged misconduct and settlements relate to the period before 2012. This is important, because Fox changed its corporate governance arrangements in 2012 in response to the phone hacking scandal at News Corporation. The detail of the new arrangements as set out by Fox is in the Annex. **We cannot, therefore, draw conclusions about Fox’s corporate conduct after 2012 from conduct which took place before 2012.**” *Id.* at ¶ 55.

<sup>8</sup> *Id.* at Annex, ¶¶ 1-7.

<sup>9</sup> *Id.* at ¶ 55.

<sup>10</sup> See Wheeler Action.

<sup>11</sup> We do not repeat the contents of that Letter herein. However, we note that the article at issue in Mr. Wheeler’s case was published by Fox **on May 16, 2017**. This fact suggests Fox breached its “new compliance” protocol just 24 hours after its alleged implementation.



to insure that Fox was “fit and proper” to wield 100% control of Sky at precisely the same time that Fox was, according to the allegations in the Wheeler Action, generating and publishing fake news intended to influence the political agenda.<sup>12</sup>

Similarly, Ms. Hughes’s lawsuit exposes conduct taken by Fox Executives, including Ms. Brandi and Ms. Briganti, as recently as **July 2017**. In sum, as alleged in her complaint, Fox opted to penalize Ms. Hughes in order to keep Mr. Payne’s reputation untarnished. To this day, Mr. Payne continues to host his show on Fox each weekday evening from 6:00 p.m. to 7:00 p.m. EST. 21CF has a documented history of protecting male perpetrators of sexual assault. When the Company parted ways with Mr. O’Reilly and Mr. Ailes, it voluntarily exited them with mega severance packages in the tens of millions of dollars. Like other female victims before her, Ms. Hughes is left to fight her battle in the court system, where 21CF can attempt to ridicule and intimidate Ms. Hughes by manipulating public opinion about the case.

## **B. Fox Does the Wrong Thing When Notified**

On June 22, 2017, Ms. Hughes informed Fox about the forcible rape by Mr. Payne and the constant threats she received that made her work as a commentator on Fox contingent on her continued sexual submission to Mr. Payne. On June 26, 2017, Ms. Brandi and Kevin Lord, the newly hired Executive Vice President of Human Resources, held a telephone call with Ms. Hughes’s manager about her claims. Hours later that same day, Ms. Hughes learned that Ms. Briganti had leaked Ms. Hughes’s identity and details about her relationship with Mr. Payne to a reporter at the National Enquirer. Ruthlessly, and with the intention to shame and silence Ms. Hughes, while simultaneously getting out ahead of the facts of her horrific ordeal, the Fox media machine disclosed Ms. Hughes’s private and statutorily protected complaints to the National Enquirer. Such a disclosure of a rape victim’s identity is a documented re-traumatization that leads to underreporting of rape.<sup>13</sup> Worse, Fox further retaliated by providing the National Enquirer with a contrived narrative about a “consensual” relationship between Ms. Hughes and Mr. Payne. To

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<sup>12</sup> Regardless of Fox’s desire to dispute Mr. Wheeler’s claims, it is an undisputed fact that Fox retracted the story containing Mr. Wheeler’s falsely attributed statements on May 23, 2017. It is also undisputed that the Company admitted to following subpar journalism standards. See <http://www.foxnews.com/politics/2017/05/23/statement-on-coverage-seth-rich-murder-investigation.html>.

<sup>13</sup> See Paul Marcus & Tara L. McMahon, *Limiting Disclosure on Rape Victims’ Identities*, 64 S. CAL. L. REV. 1020, 1030-36 (1991) (discussing the stigma attached to rape, and harm brought to victims by those who “seek routine disclosure of victims’ names.”); Ann Bartow, *A Feeling of Unease About Privacy Law*, 155 U. PA. L. REV. PENNUMBRA 52, 61 (2007) (victims are “harmed in a significant, cognizable way when their personal information is distributed against their will.”); Suzanne M. Leone, *Protecting Rape Victims’ Identities: Balance Between the Right to Privacy and the First Amendment*, 27 NEW ENG. L. REV. 883, 909-10 (1993) (quoting Laurence H. Tribe, *American Constitutional Law* § 12-14, at 650 (1st ed. 1978)) (a victim’s right to control information about him or herself “constitutes a central part of the right to shape the ‘self’ that any individual presents to the world. It is breached most seriously when intimate facts about one’s personal identity are made public against one’s will . . . in defiance of one’s most conscientious efforts to share those facts only with close relatives or friends.”).

support this false narrative, Ms. Briganti also leaked a prepared statement and “apology” by Mr. Payne.

Fox’s defenses were raised purely as a mechanism of victim-blaming and shaming Ms. Hughes for her purported “role” in the sexual assault against her. Rape is forcing someone to engage in sexual activity they do not agree to. Given the highly sensitive nature of her claims, and her status as a victim of sexual violence, Fox’s retaliatory conduct and disclosure of Ms. Hughes’s identity was malicious and indefensible. On July 6, 2017, multiple media outlets reported the falsified and contrived story that Fox wanted disseminated to the public. Because of Fox’s unlawful conduct, Ms. Hughes has suffered, and continues to suffer, immeasurable reputational harm, professionally and personally.

It should be stressed that the retaliatory events concerning Ms. Hughes occurred after the purported May 2017 “revamping” of compliance at Fox, as depicted by Fox Executives, and while Mr. Murdoch leads the New York based subsidiary.

## **VII. Has 21CF “Cleaned House?”**

It is difficult to understand how 21CF purports to have “cleaned house” and adopted proper internal governance when executives at the Company continue to allow employees to suffer discrimination and retaliation at the hands of Fox supervisors. In September 2017, James Murdoch was quoted in an article in the Guardian as saying:

“The first we heard about the Roger Ailes allegations was a New York Times story that a lawsuit was about to be filed and then it was filed,” he said. “We looked at it, we hired an independent outside law firm to investigate it, we looked at the allegations and in less than two weeks we made the decision and we had to move on from Roger Ailes. That was actually not a hard a decision – what he did was wrong and you just have to say it clear and say it loud, that is unacceptable behaviour in an organisation.”

<https://www.theguardian.com/media/2017/sep/14/fox-james-murdoch-warns-no-10-not-to-shun-sky-bid-in-brexid-run-up>.

Fox took action only after Ms. Carlson was forced to file a complaint through the legal system. In case after case, Fox employees have alleged that efforts were made to resolve issues of discrimination prior to commencing legal action but Fox refused – many times opting to prey on the advanced warning and generate Fox’s own spin to anticipated lawsuits, as well as bully victims into silence. In addition to what 21CF subjected Ms. Hughes to after she notified the Company about her horrific experiences, the recent revelations disclosed in the NY Times article suggests that 21CF provide more evidence that it has provided all relevant information about its conduct.

Based on the abundance of information involving specific cases that we have provided, Fox's representations about lack of knowledge combined with purported systemic changes should no longer be accepted at face value and further inquiries ought to be made. And, importantly, the CMA should request that 21CF lift all confidentiality orders entered into with former and/or current employees of both 21CF and Fox News so that those who sit in silence can be heard.

**VIII. Conclusion**

I hope that this information is helpful to you.

Regards,

Douglas H. Wigdor

Enc.