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**COMPETITION AND MARKETS AUTHORITY
21st CENTURY FOX/SKY MERGER INQUIRY**

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**Notes of a roundtable discussion with various organisations
held at Competition and Markets Authority, Southampton Row, London
on Monday 23 October 2017**

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PRESENT:

FOR THE COMPETITION AND MARKETS AUTHORITY

Anne Lambert - Inquiry Group Chair
John Krumins - Member
Tim Tutton - Member

FOR THE STAFF

Joel Bamford - Project Director
Alison Gold - Project Director
Chris Jenkins - Economic Director
Bill Roberts - Assistant Director, Finance and Business Adviser
David du Parc Braham - Assistant Project Director
Tim Capel - Legal Director
Steven Pantling - Finance and Business Adviser
Terry Ridout - Economic Adviser
James Jamieson - Economic Adviser
Sabrina Basran - Project Manager
Adnan Farook - Project Officer
Timothy Ker - Legal Adviser

FOR ORGANISATIONS

Suzanne Franks - Head of Journalism Department, City University
Stewart Purvis - Non-Executive Director, Channel 4 (speaking in a personal capacity)
Alice Enders - Head of Research, Enders Analysis (speaking in a personal capacity)
Julian Dickens - Founder, 3 More Reasons
David Levy - Director, Reuters Institute for the Study of Journalism
Mathew Horsman - Director, Mediatique
David Elstein - Chairman, openDemocracy
Alan Renwick - Chief Executive Officer, Urbs Media

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1 THE CHAIR: Welcome to you today, and thank you very much for coming in today.
2 Let me do the intros from our team. I will do the front row. You have before
3 you today three of us from the inquiry group that is overseeing this
4 investigation: myself, Anne Lambert ...

5 Q. (Mr Krumins) John Krumins.
6 Q. (Mr Tutton) Tim Tutton.

7 THE CHAIR: Then the rest of us are the staff team supporting experts.

8 Q. (Mr Bamford) I am Joel Bamford. I am the project director, managing the
9 staff team.

10 Q. (Mr du Parc Braham) I am David du Parc Braham. I am the assistant project
11 director.

12 Q. (Mr Roberts) Bill Roberts, a business adviser.
13 Q. (Mr Jenkins) Chris Jenkins, economist.
14 Q. (Ms Gold) I am Alison Gold. I am a project director but just in listening to this.
15 Q. (Mr Capel) Tim Capel, a legal director.

16 THE CHAIR: Behind are other members of the team. Do you want to introduce
17 yourselves?

18 A. (Ms Franks) I am Suzanne Franks. I am the head of the journalism school at
19 City University.

20 A. (Mr Purvis) I am Stewart Purvis. I am a non-executive director at Channel 4,
21 but I am not speaking for Channel 4; I am speaking in a personal capacity.

22 A. (Ms Enders) I am Alice Enders, head of research at Enders Analysis, but I
23 am also speaking in a personal capacity.

24 A. (Mr Dickens) I am Julian Dickens. I own and run a company called
25 3 Reasons, which specialises in producing a market model projecting the
26 rollout of the broadcasting and internet environment in the UK.

1 A. (Mr Levy) I am David Levy. I am director of the Reuters Institute for the
2 Study of Journalism at the University of Oxford.

3 A. (Mr Horsman) Mathew Horsman, managing director of Mediatique, which is a
4 small but perfectly formed advisory boutique operating out of London.

5 A. (Mr Renwick) I am Alan Renwick. I run a start-up news agency called Urbs
6 Media, and we are focused on the informed citizen and finding proven
7 sources for news.

8 Q. David, you have arrived at a perfect time; we are just doing the introductions!
9 If you would like to introduce yourself, that would be even better!

10 A. (Mr Elstein) My name is David Elstein, and I am the chair of the Broadcasting
11 Policy Group of the board of openDemocracy; and I otherwise have no
12 interest in anything!

13 Q. (CHAIR) As you all know, we are investigating the proposed acquisition by
14 Fox of 100 per cent of Sky, and our role is to assess whether this transaction
15 would be against the public interest in two respects: media plurality and
16 broadcasting standards. Today we are just focusing on media plurality. So, I
17 would be very grateful if you would keep your focus on that, because we do
18 have a separate roundtable next week on broadcasting standards. We are
19 going to get an awful lot of submissions, but the purpose of today is to give us
20 more informed and expert insight from a range of experts, and hence we have
21 convened this roundtable.

22 I do not know whether you have read our issues statement – you may not
23 have done; you may want to read it afterwards or whatever – but it sets out on
24 media plurality the three things that we are seeking to assess. The first is the
25 current level of media plurality in the UK today, the second is whether and to
26 what extent the transaction would change this, and the third is whether the

1 level of plurality that would remain after the transaction would be sufficient.
2 These are rather precise things, but they are what is required by the
3 legislation. Today we are very interested in hearing your view on some
4 themes, which are primarily how best we should assess media plurality,
5 obviously with reference to Ofcom's framework, which is what we are using as
6 our starting point, but the impact of online news on media plurality, the
7 influence of the media on viewers' public opinion and the political agenda and,
8 lastly, what is sufficient in what context.

9 We have sent you a number of topics to help address these. Here they are;
10 magically, they are up on the screen! I think what I am going to do is go
11 through each in turn, and Joel has a few questions that may help frame the
12 discussion. It is now 2.15 pm. My aim is to finish at 4.30 pm or 5.00 pm at
13 the latest. So, you probably have got to get away, but that is my timeframe for
14 doing it.

15 Now I have to read some formal stuff out to you. We previously sent you
16 information about the treatment of evidence. As you see, a transcript of this
17 roundtable will be taken as a record of what is said. The transcript will also
18 refer to any disclosures of interest you have made in agreeing to meet us
19 today. We will publish the transcript – and you can review it; we will send it –
20 but before we do so we will send it to you to review for accuracy and let us
21 know of anything you wish redacted, which we will then consider. If you wish
22 to add to or amend the evidence you give today, please do not do so by
23 amending the transcript but do so in a separate letter.

24 I also have to remind you, as we remind everyone, that it is a criminal offence
25 under section 117 of the Enterprise Act 2002 to provide false or misleading
26 information to the CMA at any time, including at this hearing.

1 Before we begin, do you have any questions? All clear? Great. I am going to
2 ask Joel to introduce the first theme or topic.

3 Q. (Mr Bamford) As you can see, there is a number up there, and hopefully you
4 had a chance to review them. We should have sent them to you last week.
5 The first topic really relates to a framework for measurement of media
6 plurality, recognising that media is not necessarily an industry that beautifully
7 crafted numbers are best applied to, but we would welcome your views on the
8 Ofcom measurement framework for media plurality, which was published in
9 November 2015 and had a number of consultation periods, and in particular
10 whether you think this captures what is needed to be measured in media
11 plurality – and if not what else should be considered – and how you think a
12 media plurality framework relates to the question of sufficiency; so, whether
13 actually the framework is applicable to sufficiency.

14 THE CHAIRMAN: We are not going to say in any particular order. So, whoever
15 wants to go first; and then I am sure you will all chip in. David, you are
16 looking as if you want to go first.

17 A. (Mr Elstein) Last in, first to speak! I am afraid I am not much of a fan of
18 Ofcom's track record on measuring media plurality. It has got plenty wrong in
19 the past, and it still has not got anything right. Part of the difficulty – and it is
20 almost central to your consideration – is that we have two different definitions
21 of plurality – one for newspapers and one for broadcasting – and the
22 Enterprise Act is very clear about that. They are looking for plurality of
23 viewpoints in newspapers, and a sufficiency of that, and in broadcasting of
24 plurality of persons and a sufficiency of that. There is a very obvious reason
25 why they have made that distinction: because viewpoints are debarred in
26 broadcasting in this country. You are not allowed to have explicit viewpoints.

1 So, they had to come up with two different definitions of sufficiency. Actually,
2 they came up with none, because of course we still do not know what is
3 sufficient. We know by default what is sufficient because of a number of
4 inquiries by your predecessors the Monopolies Commission, the CAT, Ofcom
5 et cetera, but nobody has yet said that any particular provision was
6 insufficient. So, we have a default in terms of in any transaction that is being
7 examined whether the previous or prevailing situation was deemed to be
8 sufficient. That is the only thing we have to go on at the moment.

9 The difficulty that further arises from having the two definitions is it makes it
10 really problematic coming up with what we call a measure of cross-media
11 plurality, because the only significant piece of cross-media plurality legislation
12 that we have, which is the 20/20/20 rule, applying, effectively, to Rupert
13 Murdoch, barring anyone with a 20 per cent share of the newspaper market
14 owning more than 20 per cent of ITV or indeed anyone with a 20 per cent
15 share of the newspaper market and owning more than 20 per cent of BSkyB,
16 rendering BSkyB therefore being barred from owning more than 20 per cent of
17 ITV.

18 There are lots of good reasons why that provision was legislated, and it is not
19 worth revisiting, but the real difficulty is that what we are looking at is a series
20 of proxies and they are all proxies for influence, because that is what we are
21 on about: undue influence. We have as a proxy for influence in newspapers
22 ownership, which begs lots of questions. How do you know what influence an
23 owner is having? How does he exercise that influence? If you are Rupert
24 Murdoch and you own The Times and The Sunday Times and The Times is
25 pretty passionately anti-Brexit and The Sunday Times is reasonably
26 passionately pro-Brexit, what is the influence you are exercising, how do you

1 measure it, and what is undue influence; whereas in broadcasting we think we
2 can measure influence but we are not really sure what difference it makes,
3 because if the broadcasting code prevails, and it applies to all broadcasters,
4 who are licensed by Ofcom, in the UK, there is certainly no room for overt
5 expression of views.

6 Obviously, lots of different broadcasters will have different news agendas,
7 which are a very vague substitute for views, but even then, if yesterday the
8 BBC put “Mugabe is made an honorary ambassador of WHO” at the top of its
9 news agenda for most of the morning, down to number two by midday, down
10 to number three by the evening, and most newspapers and other
11 broadcasters did not, is that telling us anything particularly useful? Is it telling
12 us that someone is exercising influence in the BBC newsroom? If so, is it
13 undue?

14 We have a really big problem defining what it is that we are worried about in
15 terms of plurality. We are going to come on to metrics next, which is an even
16 bigger problem, but ...

17 Q. I do not mind if you take metrics and the measurement together if that is
18 easier.

19 A. (Mr Elstein) Okay. You have copies of my paper on an approach to
20 measuring media plurality in terms of metrics. Overwhelmingly, consumption
21 is the obviously most important metric. What do people actually consume? A
22 second, fairly important metric is: what do they think of what they consume?
23 In other words, do they trust it? Do they rate it? Do they rely upon it? A third
24 metric, which Ofcom is very keen on, is reach. I regard reach as almost
25 worthless as a metric. It does not tell you anything useful.

26 Even when we measure consumption, what actually are we trying to measure,

1 and can we measure it? For instance, in television, the research organisation
2 BARB measures it very, very precisely, to the minute. It measures it by
3 channel, it measures it by genre, with very large sample sizes relied upon,
4 tried and trusted, used by all broadcasters and deemed to be pretty solid. It
5 differentiates, say, between news and current affairs. It gives you
6 demographic breakdowns. In radio we only have an overall measure of total
7 consumption. It is not broken down by genre at all; it is simply broken down
8 by broadcaster. It is a much less reliable metric, for, of course, it is not
9 metered; it is primarily based on recall and interviews. In newspapers we
10 have a shifting pattern, because the NRS is being moved to a different system
11 – we are in the middle of a movement – but the National Readership Survey
12 does tell you, based, again, on interviews, what people say they read and how
13 long they spent reading it, which is a much better metric than, say, circulation,
14 which tells you very little. Online, the metrics are really at an early stage of
15 reliability. One of the things I do in life is chair openDemocracy, which is a
16 web-based current-affairs magazine, and for our metrics we rely on Google
17 Analytics to tell us, in huge detail, page views, bounce rates, all kinds of stuff,
18 but what they also tell you is that most of the people who land on an
19 openDemocracy story get there through a search engine or social media and
20 they spend 1 minute 31 seconds reading it. That is the average, and some of
21 these articles run on for thousands of words. So, the reliability of online
22 readership is much lower in terms of measurement than virtually any of the
23 others.

24 Trying to combine all of those consumption metrics is immensely difficult. I
25 recommended to Ofcom three years ago when they did their last major
26 consultation that they establish a panel, probably three times the size of this

1 one but involving all the major measuring organisations plus academics, plus
2 good analysts, to come up with a framework that was usable. They declined
3 to take up that suggestion, and therefore what we have in the current situation
4 is a report that basically ignores consumption altogether.

5 Q. Okay. I think am going to have to move on now, if you would allow me.

6 A. (Mr Elstein) Sure.

7 Q. If anybody would like to come on this -- because this is what we have, the
8 Ofcom measurement framework. We only have 24 weeks to actually get to
9 the final -- so, the question is, is this the best way, not the best of both --

10 A. (Mr Horsman) Well, it is the worst of all possible systems except for all the
11 others!

12 Q. David first, and then Matthew.

13 A. (Mr Levy) I think it is the best available way there is, which does not mean it
14 is perfect – it is very far from perfect – but if you look at the range of things
15 that Ofcom look at, which is availability, consumption and impact, contextual
16 factors – I will come back to contextual factors in a minute – and then in terms
17 of their framework I think they capture most of the things. As David Elstein
18 says, there are imperfections when we come to the measurement of online
19 and so on, there are lots of things that are changing in this market, and Ofcom
20 give very little guidance of what is a sufficient amount of media plurality today.
21 That is a problem generally that policymakers are meant to establish, but in
22 terms of how you measure where we are at the moment I think it is the best
23 that we have.

24 The two areas where I would say that I think it is somewhat tested are impact
25 and then what they call contextual factors. Impact I think is a very hard one to
26 assess in the current climate, because we have a much more crowded media

1 environment, we have multiple ways of accessing media and multiple
2 channels through which you can access the same or similar content. So,
3 understanding the impact of that on individual users is difficult. For example,
4 what is the impact of – in a sense, we are going to come on to this –
5 somebody accessing a story through a third party or through a Facebook
6 news feed as opposed to landing straight on your site? What is the impact of
7 somebody accessing it through a news app on their mobile phone where they
8 may have a relatively limited range of favoured sources that are delivered to
9 them then? What is the impact of that compared to other, more conventional
10 ways of looking at media, whether it is on the television or whether it is on a
11 desktop computer?

12 I think impact needs some more thinking about as to how that works as a
13 proxy for measuring the influence on public opinion. In a sense it partly
14 captures the point about the intent of the owner. It also captures the point
15 about the perceived impact on the user, how much they trust it, how they
16 access it and how much they rely on it.

17 Ofcom introduces this other element, so-called contextual factors, and that is
18 the area where they throw up their hands, essentially, and say, “We have
19 done all we can with the quantitative stuff. Now we move on to qualitative
20 concerns”. These really matter, and the framework gives us a flavour of what
21 some of those may be – and that is something that we can talk about later on
22 – but I think in a sense, though I started this by saying I thought it was the
23 best available framework we have, the place where it gives the least firm
24 advice is how one thinks about those contextual factors, and I think those are
25 quite important in assessing this particular issue that we are here to discuss
26 today.

1 Q. We may come back to how we may do that; Mathew and then Alice, I think.

2 A. (Mr Horsman) I would concur with David. I think it is not perfect, but Ofcom
3 has done a lot of thinking and a lot of work on this. So, I think you have to be
4 careful to dismiss several years of development and thinking on this point.

5 Q. We do not have several years!

6 A. (Mr Horsman) I think there are problems, I am going to talk about some of the
7 problems that do come up, and I think in particular there are problems around
8 what they call the intermediary side of the market, because that is an issue
9 increasingly, of how people get their news, through search engines or through
10 an app on a mobile where there is a limited landscape for people to go to. I
11 think those things are very important, and I am not sure that so far we get
12 much light around this issue in the Ofcom work. Then again, I feel for them,
13 because it is quite a difficult one to work through, as David will know from the
14 work on the Reuters survey as well.

15 I started slightly joking by saying it is the worst possible measurement
16 framework for media plurality except for all the other ones because they have
17 done probably more in this market than anyone else have done, and I think
18 from that point of view it is the starting point for you, the starting point for us,
19 in the same way – something that David raised – BARB is not perfect. We
20 live and breathe by BARB in my business, advising broadcasters. It is not a
21 huge sample. There are all kinds of questions about BARB. Maybe people
22 do not believe all kinds of things about BARB, and yet we all trade it as a way
23 of looking at the value of audiences.

24 I think we have to give a little leeway to how we view Ofcom's framework. It is
25 not a perfect system, but it is beginning to address these issues about how
26 people consume -- coming on to the rest of the conversation, I will start with

1 this point. Consumption is massively important. It is not enough just to talk
2 about numbers of producers. We have to have some faith in the consumer as
3 well and what the consumer does with the choices that the consumer usually
4 has. It is not everyone, but people who are connected and who have a
5 certain level of media literacy have a huge number and range of sources they
6 can use and choose to do so. The difficulty, though, is that there are a lot of
7 people who do not exercise that choice, for all kinds of reasons, and therefore
8 working out how many people get their news solely in broadcast terms or
9 solely through a couple of newspapers is an issue, but it is as much a
10 consumption issue as the plethora of choice that we have for consumers as
11 well.

12 Q Alice, you wanted to ...

13 A. (Ms Enders) I just wanted to add to a few points that were made by other
14 people. I think the first thing for me is that the reliance on surveys is
15 problematic, in the sense that, as David mentioned, media consumption
16 metrics give you one answer, for example a 9 per cent reach of the Sky News
17 channel based on BARB; on the cross-media survey it pops up as 15 per
18 cent. If you look at the mix between responses and BARB data on individual
19 news sources you will see very substantial differences between what BARB is
20 telling us and what the survey is telling us. One of the problems with reliance
21 on a survey at a time of very rapid increase in online use is that there is a
22 phenomenon of brand notoriety that is coming out of the survey. That is
23 probably inescapable, because you have the Sky News channel and you have
24 a Sky News online website that is used by many people. I think that is one
25 point.

26 In my view, the contextual factors that are at the end of the framework really

1 actually belong at the beginning of the framework, in the sense that I
2 understood the central legal issue to be the number of persons in control of
3 media enterprises, thus begging the question of influence and exercise of
4 control over the editorial agenda and so on. I think properly editorial control is
5 a central question, not an ancillary one.

6 Finally, I would say relying on this media plurality measurement framework is
7 not sufficient for your analysis by any stretch of the imagination. Ofcom itself
8 describes itself as having wide discretion. That is not very helpful to analysts,
9 when the regulator says they have wide discretion and yet they use
10 evidence-based analysis. I think the question of discretion and the weighing
11 of these different reach metrics, which we will get into, are matters where
12 Ofcom has obviously used its discretion, and I think analysts could differ from
13 their perspective. There is an awful lot of judgement in the delivery of the
14 media plurality measurement framework, and I think it has already been
15 recognised that one should not necessarily lean on it too much.

16 Q. Stewart.

17 A. (Mr Purvis) Trying to be brief, on the measurement framework I think it is a
18 useful analytical tool, but in no way is it a calculator into which you drop the
19 metrics and out pops a super-metric. I had the impression certainly after I left
20 Ofcom in 2010 that Governments of the day, because of all that was going on
21 around Leveson and the public-interest thing would have liked to have
22 somehow come up with a super-metric for it, and there has been a kind of,
23 “After you”, “After you”, here between the Government and Ofcom, where the
24 Government has said, “Over to you”, and then Ofcom says, “Here is our
25 paper. It is over to you”. Some people are looking for a regulatory solution.
26 Others are looking for a political, parliamentary solution.

1 On the issue of the different outcomes from different methodologies, can I
2 give you one example why I think this is material to this decision in front of
3 you. It involves my old company, ITN. I have been interested in tracking ITN
4 through this process, and if you go back to 2010 in the Ofcom public-interest
5 test ITN had a share by a wholesale level – I think you probably understand
6 this concept – of 5.9 per cent, in the Ofcom news consumption report in 2016
7 ITN's reach was shown at 39 per cent, and in the most recent public-interest
8 test, which is also a share as opposed to a reach, it showed at 11 per cent.
9 So, the last few years there has not actually been that much fluctuation in
10 ITN's business. You could either say that ITN is a bit player, or you can say it
11 is the second-biggest news organisation in this country, which would be larger
12 than the transaction would create. Which of those is true?

13 Q. Sorry, 5.9 per cent, 29 per cent and 11 per cent, is that right?

14 A. (Mr Purvis) 5.9 per cent, 39 per cent and 11 per cent.

15 Q. 39 per cent? Sorry.

16 A. (Mr Elstein) Part of the problem there is reach, not share of reach; the reach
17 is 372 per cent when you add up everyone's reach, and reach has 20/30/40
18 definitions. It is to do with length of consumption within a timespan and
19 frequency. In the 2010 Ofcom survey the attributed reach to Channel 5 news
20 was based on three minutes, continuous, once a week. If they had moved
21 that to five minutes, continuous, once a week it would have halved the reach.
22 They equate daily reading of a newspaper with three minutes a week of radio
23 or TV. All these reach statistics are entirely dubious. I have traded in reach
24 as a broadcaster many times. You are just looking for any one definition of
25 reach that will make sense for the Sky marketing team to give your channel a
26 carriage fee, and it will be utterly abstruse, but so long as it is different to Sky

1 One's reach, your channel is valuable. But it is a piece of confabulation. It is
2 not something from which you would make public policy.

3 Q. Mathew.

4 A. (Mr Horsman) Just a quick point in reach: if you do not have reach, you do
5 not have engagement. It is a starting point, and, to be fair on Ofcom, they do
6 define it relatively carefully.

7 Q. You can be unfair if you like!

8 A. (Mr Horsman) Well, I will be fair in this case, because I have stated that this
9 version of the system is a decent one to retain. They do say at one point,
10 which is a rather shocking number, I believe I am right in saying, 70 per cent
11 reach for Sky and The Sun – I think that is what was said – and you look at
12 that and think, “Wow – oh no, wait, what is the metric? What is the
13 definition?” Anyone who ever uses them [these sources] in a self-reported
14 survey would look at The Sun and Sky, but that figure is not very useful if you
15 do not know for how long or how often; [or if the measurement is of] just “ever
16 looks”. Ofcom itself does make that clear, and then they repeat later on in
17 their share of references where they start trying to have a move towards an
18 objective, quantifiable basis for looking at relative engagement across these
19 different news sites that the BBC -- this is by memory; I should have written it
20 down in front of me. I think 44¹ per cent was the figure that BBC comes up at
21 as a share of total references, Sky is much lower, and ITN is a little higher
22 than Sky. That is a different world completely to seeing the bit of reach
23 measurement that says 70 per cent is just The Sun and Sky. I think we have
24 to give Ofcom its due that it does make that clear (reach and usage), but we

¹ Clarified by Mr Horsman 42% from the 2016 News Consumption Report

1 have to be so careful about these definitions when we are talking about reach
2 versus use versus engagement.

3 A. (Ms Enders) We are also dealing with a very large group of genres that fall
4 into the news basket. If you think of, say, the 70 per cent reach figure for The
5 Sun and Sky News cited by Ofcom, it is clearly not that people are going to
6 The Sun for political news. There is a wide range of genres. Sport is a very
7 big news genre that drives a lot of attention. When people are asked in a
8 news consumption survey, "Where do you go for news?" what pops in their
9 head is not necessarily where they go for political news; it might be more
10 about news on the weather, news about travel, news about sport and lots and
11 lots of different things, even food, music and other activities.

12 We also have to bear in mind that when we are looking at those reach metrics
13 for online websites we are looking at a very, very broad demand for news,
14 much more so than, say, a newspaper. Although even newspapers offer a
15 bundle of news genres.

16 Q. (Mr Bamford) To pick up on that point, thinking around that share of reference
17 and the idea that potentially the sources that are being put forward do not
18 necessarily cover news or the particular type of news, are there other factors
19 that may mean that the influence of a news provider is either greater or
20 weaker than the share of reference or other metrics would put forward?

21 A. (Mr Purvis) That issue of trust: The Sun is one of the most highly sold and
22 consumed newspapers in the country; it is also one of the least trusted.

23 A. (Mr Dickens) A wonderful distinction is between, in this context, a print
24 newspaper like the Daily Mail and Mail Online. I do not have at my fingertips
25 the trustworthiness of the Daily Mail versus Mail Online, but I could certainly
26 guarantee that Mail Online would be regarded as much more an

1 entertainment site than it would be a news site, and characterising the two as
2 the same makes that very difficult.

3 If I may make a slightly broader comment, I sympathise with your problem,
4 because you do not have very long and to my knowledge there is no better
5 yardstick to use than the Ofcom report, because they have thought carefully
6 about it and have thought about it over a number of years. It is full of holes
7 and difficulties. One of your guidelines may be to look at, notwithstanding that
8 the rulers maybe inadequate, if they are using the same ruler to measure all
9 of the different participants that come through the door then there is a
10 relativity between those measurements, which has more value, perhaps, than
11 the absolute number. That is worth bearing in mind. You might not like the
12 metric, but if the metric is being used in the same way and applied in the
13 same way to all of the providers I think you can arguably derive some value
14 from that. A is bigger than B; whether A is 600 feet tall or 2 feet tall, if they
15 are twice as tall as B, then they are twice as tall as B if you are using the
16 same ruler.

17 THE CHAIR: That is helpful, and, before we move on, anything from Suzanne or
18 Alan?

19 A. (Mr Renwick) If I could just pick up a couple of the plurality definitions, it
20 states, 'plurality contributes to a well-functioning democratic society through
21 informed citizens who are able to access and consume a wide range of
22 viewpoints', it just slightly troubles me that we are looking at a very
23 aggregated world there, where there are a whole number of media outlets and
24 there are a whole number of citizens and we measure. 'Is A big enough to
25 service B'? My concern would be that we're increasingly moving towards a
26 world where groups of citizens are informed by small numbers of media, a

1 small subset of the aggregated whole. Is there an opportunity in general or in
2 the framework and timeline of this inquiry to take a more consumer- or
3 citizen-centred point of view and say whether each citizen has access to a
4 range of viewpoints or whether they are effectively locked into a smaller
5 number. That would be my concern, that increasingly a large number of
6 citizens are locked into a smaller range of viewpoints. That is my first point.

7 The second one, I think, has been discussed quite a bit, the definition of
8 news. You largely through the documents you have sent us look at news as a
9 single definition. Does that mean what we may see from most broadcasters,
10 which is effectively an announcement of events that have happened and
11 discussion around those, or from other media outlets who are looking to
12 influence and have a much more specific point of view to prosecute? Those
13 are the main points that I had.

14 I think the other thing to question, perhaps, is, getting on to the metrics, if we
15 are saying effectively plurality is a proxy for the informed citizen, why do we
16 not measure if the citizen is informed? We saw post-Brexit there has been a
17 lot of analysis of key factors driving that debate, whether that is immigration,
18 trade or whatever, where the citizens' understanding of some of the very
19 objectively measurable and factual elements of those was actually highly out
20 of kilter with reality. If we can actually measure those objectively and say
21 whether the citizen is actually properly informed, that actually may be a
22 significant input to the information.

23 Q. Suzanne.

24 A. (Ms Franks) That point is something that I wanted to emphasise. How can
25 you get at the problematic echo chamber effect that we have more and more
26 now, just listening to and reinforcing the same views rather than enabling a

1 plurality of views to be accessed and to be experienced by the consumer?
2 Capturing that, I think, is absolutely important.

3 Q. Tim, you wanted to come in?

4 Q. (Mr Tutton) Just very quickly, it has been said in various ways several times
5 that consumption is very important; the consumption I think we are talking
6 about there is retail consumption in a sense.

7 A. (Ms Franks) No.

8 A. (Mr Purvis) No.

9 Q. (Mr Tutton) No? That is what I was trying to get at. When you said that
10 online has hugely increased the range of consumption, it is not obvious that it
11 has increased the range of wholesale production of news, even if it has
12 changed the variety of ways ...

13 A. (Mr Purvis) Very much so.

14 A. (Ms Franks) That is absolutely crucial, this idea that you are just aggregating
15 and aggregating the same sources in order to repackage them. Mail Online is
16 absolutely classic. There is little original journalism there. It is just
17 repackaging what other people are doing, topping and tailing it and pretending
18 it is yours.

19 A. (Mr Horsman) Part of the data problem, I think, with Ofcom is that it does not
20 really tell us much about what that intermediaries category looks like. It
21 basically maybe sending people to the same five or six sources that you
22 expect to see in broadcasting, newspapers ...

23 THE CHAIR: We have a section on intermediaries; we are bound to cross between
24 the two. If we put it this way, we certainly agree that intermediaries is a key
25 issue and want to explore this in a bit more depth.

26 Q. (Mr Bamford) To pick up that wholesale point, how would you see the metrics

1 currently considering wholesale? If you take ITN, for example, it produces
2 ITV, Channel 4, Channel 5, and it is a wholesaler as such, but what about if
3 the idea is put forward around, say, the Daily Mail where it is a wholesaler
4 both of its online and its print news ...

5 A. (Ms Enders) I do not agree that ITN falls into a very neat category of
6 wholesaler, because the licensee is the channel. The channel sets the
7 editorial policy. I know, David, you made these points at the time of the last
8 transaction, but I actually have taken them very much to heart. If you look at
9 what Ofcom has done for the TV platform in the Public Interest Report, their
10 argument is there are only three suppliers of TV news – the BBC, Sky News
11 and ITN – but of course if you say ITN actually supplies distinctive viewpoints
12 it is no longer a wholesaler supplying one viewpoint and one voice. Having
13 spoken to people at Channel 4 on their news strategy, their view is that it is
14 not a kind of extraneous creature that is produced for them by ITN; it is their
15 news service, and they are very clear that it has to have their values, for
16 example with respect to coverage of LGBT rights.

17 The view that ITN is just one single viewpoint is in my mind highly
18 questionable, and it is very critical, because TV is the most trusted form of
19 news and certainly the most consumed in the UK. It is very important for you
20 to get this ITN story right.

21 A. (Mr Purvis) As the man who created this multi-headed monster, can I just
22 speak to you about that!

23 THE CHAIR: Go on, Stewart, yes!

24 A. (Mr Purvis) Basically, I agree with you, Alice --

25 A. (Ms Enders) Okay; thanks!

26 A. (Mr Purvis) -- but as a result I find the word "wholesale" not appropriate, but I

1 do not find it appropriate for Facebook either. I think there is a terminology
2 issue around this. There are people who just push it out of the door, if you
3 like, and other people pick it up and pass it on.

4 A. (Ms Enders) Wires.

5 A. (Mr Purvis) Wires is a very good example. Wire services are not really
6 mentioned in here, and yet they can be very influential. In the case of ITN,
7 yes, it did start in that way, but actually it became more and more customised,
8 and contracts were retained and renewed on the basis of increased
9 customisation. I will not bore you with the details, but there has been
10 increased customisation of ITV News, of Channel 4 News and Channel 5
11 News. It is that wholesale model, but I think really “wholesale” understates -- I
12 think I am coming into perhaps your next territory, of online. I think we are
13 completely missing the significance of the Facebook algorithm in all this.

14 Q. Let us get to the online point, yes. Is there anything, Joel, you want to ask
15 more on metrics?

16 A. (Ms Enders) What about this difference between the reach metric and the
17 share-of-references metric? Are you going to look into that at all and the
18 views on metrics on media plurality?

19 Q. We are certainly doing an analysis of all of the different metrics, but if you
20 would like to add anything ...

21 A. (Ms Enders) I would, actually, because I personally think that one of the big
22 differences between the 2010 public-interest report and the 2017
23 public-interest report, bearing in mind the media plurality framework is actually
24 a bridge between these two, a codification of what was in the 2010 report, you
25 observe a much higher reliance in 2017 on this brute-force reach – number of
26 adults, share of adults – and because of the rise of online, you get much

1 higher reach figures than you ever had before. However, the
2 share-of-references metric is closer to what one might view as share of the
3 marketplace for viewpoints, if you want. What I have observed is in fact the
4 order has been reversed this time around. We have a very heavy emphasis
5 on reach as opposed to share of references. For example, we are told that
6 Sky News has a large share position in the news with a 6 per cent share of
7 references. To anybody who has worked in competition analysis, 6 per cent
8 would not be viewed as large. I think this question of what exactly we are
9 trying to get at and whether we should be leaning on reach or leaning on
10 share of references is a very critical question for you.

11 Q. (Mr Krumins) Could I expand on that a little bit, because it is a public-interest
12 test and we are trying to explain to the public what is important and what is
13 not important. We can talk about what these charts seem to try to do, but
14 they are already familiar. BBC is one massive bar here, then there are a
15 bunch of little bars between 4 per cent and 10 per cent, and then there are
16 these tailored bars. You are right, from a standard competition perspective,
17 you could lose anything at less than 10 per cent and it would not really matter.
18 What matters here from a plurality perspective when you talk about the
19 shares? Is it that there are some assets that are critical – they are crown
20 jewels of the plurality system – or is it simply a numbers game and we are to
21 add up the percentages, be it reach, consumption or anything else, and the
22 public interest is in that number as you add it up not being too big? How
23 would you steer us to think about that?

24 A. (Mr Dickens) Could I say that I think it is not a numbers game, and I think it is
25 not a numbers game particularly in the division between regulated and
26 unregulated media. By “regulated media” I would mean self-regulation of a

1 reputable standard or formal regulation like the Broadcasting Code as
2 opposed to internet outlets, which are broadly unregulated. That comes to
3 trust. It comes down to the ancillary factors that Ofcom tries to take into
4 account, but levels of trust in highly trusted, highly impactful media like
5 television are clearly higher than they are in internet collectors.

6 David makes the point of the one-and-a-half-minute average attendance
7 duration on openDemocracy. We can look at the number of deliveries of an
8 online news clip on something like Facebook. That metric is available to
9 people who wish to go in and pull their own metrics up. That should not be
10 taken at face value, because it may be the number of times that a stream or
11 video has been viewed. If you then cut that, which you can do on Facebook,
12 by whether the sound was on or the sound was off, something in the region of
13 – a finger in the air across all of the companies I work with, a broad spectrum
14 of entertainment, television and news companies et cetera – 25 per cent plus
15 – maybe 35 per cent to 40 per cent would not be unusual – of views on
16 Facebook have no sound on. How many of those Facebook views will be
17 click to play – “I want to watch it” – rather than auto-play – “It has come up on
18 my phone as I am scrolling through Facebook”? Rule of thumb, a finger in the
19 air: 80 per cent auto-play would not be unusual, some higher.

20 Would I therefore give the same weight to online delivery of a news story,
21 even if it were coming from the same originator as the television news? No,
22 of course I would not. It is not measured in the same way. It is not regulated
23 in the same way. It is not measurable in the same way. We have not even
24 touched on the issue of bots, which are used to drive up views in order to
25 drive up advertising revenues. We have not talked about the distortion that
26 comes from large media companies like Google or Facebook that monetise

1 the delivery of impacts and therefore have an interest in creating a large
2 number of apparent views rather than the utility of news provision.

3 The short answer to your question: no, I do not think you can rate particularly
4 online in the same way as measured and regulated media.

5 A. (Mr Horsman) The biggest issue of all in all of this is that the consumption
6 piece we talked about earlier may or may not be reliable. Maybe online is not
7 the revolution that we think it is in terms of the amount of time people spend
8 online getting their news, but the industry clearly works the way as if that is
9 the case, and you are having the wholesale destruction of funding models
10 through different kinds of content going on as a result of the rise of digital.
11 There is no doubt that newspapers are struggling in their funding, and
12 broadcasting too is struggling in terms of the amount of money that goes into
13 broadcasting news. We have seen through the last, what, ten years the
14 amount spent on Channel 5 and Channel 4 News has gone down, down and
15 down. Stewart will have a better sense of that than I.

16 A. (Mr Purvis) Basically, online is disrupting business models that lead to the
17 production of reliable news, but they are not producing news in its place; and
18 yet what people may be watching, listening to and engaging with online may
19 well be those same sources of news that you have in the legacy world, but we
20 are seeing the erosion of the ability of people to fund that content. It is a
21 pretty vicious circle that we are in. That is way more important, I think, than
22 the actual consumption figures and there is a bigger regulatory question about
23 different parts of the value chain and how the value chain is regulated.

24 A. (Mr Levy) Just to pick up a very quick point on metrics and picking up on
25 what Julian said, Julian is absolutely right. We need to view things differently
26 according to the way they are accessed. In the recent past a Facebook video

1 view is counted as three seconds. Three seconds is a pretty short time, and
2 after you accept all of that --

3 A. (Mr Dickens) Just for what it is worth, by the way, three seconds is the
4 measured amount of time it takes to scroll through a video on a screen from it
5 appearing on the bottom of your phone where it starts to flow to when it
6 disappears off the top when it automatically stops to spool. [✂]

7 A. (Mr Levy) But what is monetisable?

8 THE CHAIR That is how long I take to do that?

9 A. (Mr Dickens) From the moment it senses it is coming up to the screen and
10 triggers to the moment it disappears off the screen and stops tends to be
11 three seconds.

12 A. (Mr Levy) But monetising may not be the same as impact. Just a quick point
13 on metrics; we were talking about reach before. In the past, Ofcom used to
14 have the question about main source of news. I do not think I see it at the
15 moment. In the Reuters Institute interviews until this year we did a
16 main-source-of-news question².

17 Q. "Main" or "name"?

18 A. (Mr Levy) "Main"; we would ask you to name your main source of news,
19 which is a way of trying to pin down reach a little bit more. What we did in
20 2017 in our data at the Reuters Institute (that we have given your colleagues
21 here for the UK) is we ask a question about use of a given news brand once a
22 week versus three days a week – and we are assuming three days a week
23 seems a better way of trying to look at a regular user. Then there is the
24 question about, in answer to your question, when you are taking a view of

² Clarified subsequently by Mr Levy that Ofcom do currently have a question similar to main source of news, namely: "Looking at all the sources of news you have said you use, which one is most important to you personally?"

1 sufficiency of plurality how you are viewing all of this other stuff alongside the
2 big bar of the BBC. I assume, given the legislation you have in place, there is
3 a view that plurality needs to involve some plurality in the commercial market
4 as well in the BBC-provided market. If you are playing a numbers game, you
5 have to decide firstly how you treat the BBC, which maybe we will come to
6 later, but I think it is just relevant at the moment.

7 Q. (Mr Krumins) Whether you classify it as a numbers game or not, the
8 temptation, as I think David referred to, is that you say that Sky has a share of
9 reference of 6 per cent, News Corp has a share of reference of 3 per cent and
10 together they are 9 per cent or 10 per cent. Should the public think that one
11 Sky is worth two News Corps and they are additive? Because that is the
12 direction that this is headed in, that 6 per cent is twice 3 per cent so that one
13 is very important, yet the two together you get a number that is 9 per cent and
14 10 per cent and that may or may not be a big number, which may or may not
15 add and which may or may not be editorially aligned. Is that the way that we
16 should be thinking about this?

17 A. (Mr Purvis) The basic problem you have is that there is a search for a
18 common currency and there is not really a shared effective common currency.
19 So, this search for the super-metric of a common currency will continue, but if
20 you then add online, to give an example, the reach of Channel 4 News on
21 Facebook absolutely dwarfs the TV audience.

22 Q. (Mr Krumins) But one school of thought, as where I think Julian was heading,
23 is you just ringfence regulated; regulated broadcast has to be treated
24 separately, you have to preserve within that, and then you bucket up the rest
25 as being separate buckets, but the minute you add or go across then you start
26 to get meaningless insight or information.

1 A. (Mr Purvis) You have regulated and, shall we say, lesser regulated
2 broadcasting, you have unregulated online, and then you have semi-regulated
3 newspapers. The search goes on and on. I think the issue out of all this
4 comes to your next point, about political influence, because in a sense that is
5 really why you are here, is it not, if you think about it. We can talk forever
6 about the share of sport news or the share of weather news, but actually what
7 really matters is political influence.

8 THE CHAIR: Alice first.

9 A. (Ms Enders) I just wanted to make one point about the regulated and
10 unregulated media, notably online. It is certainly true that online has been
11 colonised from the very beginning by broadcasters and very effectively. You
12 have just mentioned Channel 4. That is a text-based website with clips that
13 they are serving there.

14 A. (Mr Purvis) No, it is a video --

15 A. (Ms Enders) Well, there is the online player version, and then there is the
16 online one with text and video.

17 A. (Mr Purvis) No, but, just to get this right, the take-off moment was when
18 somebody thought of putting text on top of video so they went through your
19 metric as just text but without being actual viewed, and suddenly it exploded
20 as a metric.

21 A. (Ms Enders) What I wanted to say was that Channel 4 produces its online
22 feed in a way that is compliant with the Broadcasting Code, and I think that is
23 true of all of the other broadcasters as well in relation to their websites,
24 because although they may not be regulated, they see themselves
25 reputationally as broadcasters.

26 A. (Mr Levy) I think that is a very big leap in logic, and I think we should come

1 back to it later, but it is one that I would dispute.

2 Q. David, do you want to make a quick point?

3 A. (Mr Elstein) Just one extra point about wholesale versus retail: if you go back
4 to the 2010 report and Ofcom's treatment of Sky News's radio news supply –
5 and it treated it as 100 per cent consumption as down to Sky News – if you
6 actually look more carefully, you discover that the amount of news supplied by
7 Sky is less than the amount of news broadcast. If you ask Independent Radio
8 News, who hold the contract for Sky to supply news, they will tell you that the
9 proportion of news broadcasts on commercial radio supplied by Sky News is
10 actually not very high at all, and if you go – you could do it right now – to the
11 Independent Radio News website and go to the Sky News website and see
12 what their news stories are there are a very different set of stories in a very
13 different order. Whereas ITN is quite clearly the wholesaler of news to ITV,
14 Channel 4 and Channel 5 and might be attributed some part of the ownership
15 of the content – I think the first monopolies commission report went for a
16 50/50 split between the broadcaster and the supplier – in the case of radio
17 news it clearly is not that, as the Sky News feed is more like Agence
18 France-Presse or PA. It is a news feed, and because it is exclusive to IRN
19 they get paid a few million pounds for it, but it is nowhere near in the same
20 category. Obviously, when we get to online there are even more variations of
21 the theme.

22 You have three separate things to look at. One is threshold. Is 10 per cent a
23 threshold that we have to pay attention to, when there is a 60 per cent player
24 in the market? In other words, do we even ever get to a further stage? Then
25 you get into viewpoints, because this is what Ofcom has introduced as the key
26 and yet we are not allowed viewpoints in broadcasting. How can you put a

1 transaction that involves a broadcaster in here at all in terms of viewpoints? It
2 should not be there. Thirdly, you have the issue of whether we are any good
3 at measuring it anyway. If you cannot seriously rely on the measurement, you
4 are being invited to put apples and oranges together and you may or may not
5 cross the threshold, you have quite a long journey to travel, and you may
6 actually come to the conclusion that we do not need to do any of the stuff on
7 Facebook, because we are just drifting into fascinating stuff but it does not
8 bear on the transaction; we are not there yet.

9 Q. I think that is probably the cue to move on to online news provision. We do
10 have a couple of questions to try to frame this discussion.

11 Q. (Mr Bamford) The questions relate to areas of online: one is around newer,
12 online-only news outlets, like the Huffington Post et cetera; and the other is
13 the role of intermediaries. I would pick up on a point that Stewart made and
14 maybe tie it back to David's, and we can see where that goes. One is around
15 the idea that you have very traditional media, broadcasters, newspapers, who
16 have expanded quite significantly into online – so, your example of Channel 4
17 and the viewership online dwarfing, essentially, the viewership through
18 broadcast means as standard – and whether that relates, and how it relates,
19 to the role of what in the Ofcom measurement are at the right-hand side of
20 any graph that is put there as intermediaries and how far they provide a
21 platform for traditional media to potentially increase any influence through the
22 distribution of their content.

23 A. (Mr Purvis) I think, first, as Alice said, broadcasters have been surprisingly
24 nimble in using online. They are slight brand extensions, some of them, but
25 they are mostly loyal to the home brand, shall we say. I think looking at it that
26 way, though, underplays the role, frankly, of Twitter in the world of journalism,

1 which falls probably in the world of impact. One cannot overstate how
2 influential Twitter is in influencing the news agenda.

3 If you go back to the Enterprise Act debate in the House of Commons, you will
4 see that the news agenda is mentioned I think just as often as viewpoints, and
5 yet it is rarely mentioned here; I think it appears in some of your paperwork.
6 The fact is the biggest player in the news agenda in the UK is the BBC,
7 because they proudly say that the Today programme actually influences the
8 UK's news agenda, and yet we seem completely relaxed about that, that one
9 organisation with a 50 per cent share of something or other is actually
10 dominating the news agenda but it does not really matter. I throw that back at
11 you as well as yet another complicating factor, because the BBC homepage, I
12 think when homepages meant more than they do now, perhaps, was the
13 default homepage of the majority of online users in the UK. That is an
14 extraordinary position to be in. If you think about it, your starting point on your
15 news agenda is all being controlled by one organisation, one you trust and
16 admire, and maybe it is because you trust and admire them that you allow
17 them to make that judgement, but that is where the market is heading.

18 I think Twitter falls into the impact problem you have. I am sorry that all we
19 are doing here is listing problems, but that is probably why you got us here! If
20 you look at Donald Trump's tweets, they do not fit into any of these
21 categories, but on the news agenda they are absolutely making news almost
22 every day of the week. There is no wholesaler involved. There is no third
23 party involved other than Twitter.

24 The online world is so fragmented. You have the big players with all of their
25 different outlets, and I will give you one final point. As somebody who used to
26 be, frankly, a gatekeeper who actually decided pretty well at one point what a

1 third of the British population watched on their TV at night, when I left
2 broadcasting I became a blogger, on one story – it happened to be the Savile
3 story at the BBC – I started a blog at City University when I was based with
4 City then, actually I made news quite often, and one day the news editor of
5 the Guardian rang me up and said, “How dare you keep breaking these
6 stories? That is what we do”. Sometimes they are called hobbyists, and I
7 think that is a fair phrase for them. There are hobbyists out there having an
8 impact on the news agenda who are not being measured by any scale but are
9 actually affecting judgements in newsrooms.

10 A. (Ms Franks) But also, following on from that, surely what you should also be
11 looking at is keeping the BBC honest and that it is absolutely vital that --

12 THE CHAIR: Our remit is fairly limited. We are not setting public policy for
13 broadcasters.

14 A. (Ms Franks) No, but in terms of the whole plurality message if we are talking
15 about there being only three real suppliers of TV news and the BBC has this
16 enormous, impact the more there is in order to keep the BBC on its toes and
17 to not completely dominate – you cannot then say that the national news
18 agenda is dictated by them – is surely a positive outcome.

19 A. (Mr Levy) Do you want to pick up about the BBC now or later?

20 A. (Ms Enders) Can you just tell us your question again? I think we have
21 strayed off the topic.

22 Q. (Mr Bamford) Sure. It is two sections of one question. One is around
23 traditional media sources, broadcast, print, and their expansion into online
24 and how that has enabled them to potentially widen or whether the measures
25 of share of reference that then pick up the different online sections actually
26 show the influence of a traditional brand but through its online offering. The

1 second is whether the intermediary – so, Facebook and Twitter as examples –
2 enables an amplification or whether they enable some other way of the news
3 being delivered to an individual that lessens the original traditional media.

4 Q. (Mr Tutton) Just to add the question you posed just before that was also what
5 if any, is the impact of the new online-only, the BuzzFeed, the Huff Posts --
6 have they changed anything, or ...?

7 A. (Ms Enders) If I could just answer a few of the questions, the fact is that it is
8 true that there are very few new, new online media enterprises in the UK
9 ranking in the top “all-news” sites.

10 A. (Mr Horsman) Any?

11 A. (Ms Enders) Well, no, Huff Post, BuzzFeed and Politico; weather channels
12 also show up in all news and so on.

13 A. (Mr Horsman) But they are not headquartered in the UK; they are
14 international, global brands.

15 A. (Ms Enders) These are the publishers serving UK editions, sorry. We are just
16 counting the ones with UK editions. They may not be the biggest editions
17 ever, but they are still UK editions. I think the point is that what we are going
18 to be seeing is entry in the long tail. Frankly, unfortunately, we are stuck
19 looking at the top 20 or the top 30, because for us what matters is significant
20 size and traffic. If you look at the all-news sites that have tremendous traffic,
21 first of all there are lots of them that have huge amounts of traffic and would
22 suggest that many people in the UK are actually consulting many different
23 online news sources, many more than just three or four news sources.

24 So, the most successful online media companies in the UK are definitely
25 traditional brands, give or take a few, but I think that we are not looking in the
26 long tail here and we are not looking at the issue of for example bloggers but

1 also politically-orientated publications. For example, The Canary is one that
2 my colleagues tell me about. I would say this gets us into this problem of the
3 politics genre versus all news, because you are not going to find them in the
4 top 20 of the all-news category; they are going to be swept away behind.

5 In terms of Facebook, there is no doubt that there are tremendous levels of
6 consumption of stories and videos, and to the extent that those stories and
7 videos are removed from their original position, for example on a website,
8 there is a certain disintermediation also of the brand. Some people may think
9 of this as being perhaps a negative thing for the BBC, for example, this
10 disintermediation of the news agenda, the order decided by the editor.

11 We did some research on what struck people's fancy during the General Election
12 and the Brexit referendum, and then clearly they were not the top stories from
13 the BBC that were acquiring the highest level of engagement on Facebook.
14 The highest level of amplification was actually more of the satire, tabloid type
15 of genre. Certainly, Facebook has an enormous role, in my view bigger than
16 Google, because Google does not actually amplify the way Facebook does.
17 The amplification is endogenous to Facebook. The whole point is to get you
18 to have loads of stuff in your feed so you can get more advertisements in
19 there and so on.

20 I think Facebook is by far the most important online phenomenon from an
21 amplification point of view. The broadcasters are active on Facebook and
22 certainly are getting very good information on usage from Facebook, but I am
23 not sure that that information is in the public domain. We certainly have not
24 been able to get the same level and quality of information as the broadcasters
25 get from Facebook.

26 A. (Mr Horsman) It is worth saying you can divide this market, basically, into

1 three plus a half. The half is fake [news]; so, let us put that aside for a
2 second. Three kinds of proper news: legacy, digital natives and a category
3 called intermediaries, which are aggregators, intermediaries strictly or
4 social-media generally.

5 A. (Mr Dickens) And search engines.

6 A. (Mr Horsman) Search engines; okay, but all of these are intermediaries, and
7 where all of the trouble lies is in that last category, because we can tell, again,
8 it would not catch the whole of the long tail. You can tell the digital natives are
9 not that big. There are big players globally: BuzzFeed, Huffington Post, Vice,
10 Vox. There are lots of names out there. But in terms of creators, really
11 proper creators of UK news, there are not that many, and the legacy players
12 are actually quite big. It was Stewart's point, I think; the broadcasters have
13 been pretty nimble. Up until now they have not had a revenue model to
14 protect. So, they put everything out for free online. They do not expect to
15 make any money online. Broadcasters have not had a policy of making
16 money from news online. Newspapers from the start wanted to have income
17 from online, because they felt it was their natural place, to go from the printed
18 word to the text world online and then make money out of it. It has been a
19 different set of incentives around what they did in the online space.
20 Broadcasters have been very open and free with their content, because they
21 did not have as much at risk as the newspaper brands did, but still the most
22 important chunk of the online news market are those legacy players.

23 Until we understand the aggregators/intermediaries/social-media engines
24 properly, then we cannot come up with an answer about the nature of
25 engagement or plurality.

26 A. (Mr Levy) I broadly agree with Mathew's categorisation there. It is a really

1 important one. In terms of the legacy players online, basically players with a
2 free model, of which broadcast is the most obvious example, have for obvious
3 reasons done better online and had larger audiences. Generally you see
4 broadcasters having done pretty well online. You see newspapers with a
5 paywall having had more trouble online to break through. Alongside the
6 legacy players – I will come back to them in a minute – you have the pure
7 players, the online-only players, people like the Huffington Post and
8 BuzzFeed. They are doing quite well in terms of the figures of use in the UK,
9 but we did a little thing this year in the Digital News Report saying, “How much
10 do you trust different brands for different things?”, we looked at BBC News,
11 the Guardian and BuzzFeed, and, interestingly, when you look at BuzzFeed,
12 they have spent a lot of money, they have done some really good
13 investigative reporting this year, but the single thing that BuzzFeed users
14 singled them out for was amusing and entertaining content. It is quite hard to
15 shift an assumption that we would have about what you are and what they go
16 there for, and essentially at the moment it seems as though people are going
17 to the pure players for a secondary source of news rather than a primary
18 source of news.

19 When it comes to the intermediaries, search, Facebook, and other
20 intermediaries, there are two different things going on here, and it is quite
21 important to recognise them. It plays back to the point about legacy players
22 online, which is relevant to what you are doing. One is these people are
23 essential to increasing and amplifying the reach of legacy players online.
24 They are really, really important to it. The second thing is the problem is with
25 that is that organisations are getting bigger reach, but they are obviously
26 finding it hard to make money and even more importantly, they are finding it

1 hard to get recognition for their brand online. There is some work we
2 published called I Saw the News on Facebook, which we published this
3 summer, which shows that the majority of people who do not go directly to the
4 site but come through an intermediary do not actually remember the
5 originating site they have looked at. We did that by tracking people's actual
6 behaviour against what they said they looked at when they looked at an article
7 so we could compare the two. You get reach, but you do not necessarily get
8 recognition, you do not get attribution for your brand, and there are questions
9 about money.

10 How does all of this relate to what you are looking at today? I would argue
11 that this is an environment where people are trying to break through and get
12 recognition for their brand online and it is a space where the bigger your
13 brand and the more you can leverage your assets across multiple different
14 activities the better chance you have, in two different ways: one, of building a
15 brand that people remember and recognise – Alice's point before that maybe
16 broadcasters are over-represented in this world - but I think there is also a
17 point that people know big brands and they remember them and go back to
18 them – and the other thing that is relevant is in terms of if you get an app onto
19 a mobile phone, where real estate is very, very limited, big brands are doing
20 quite well at that, and the bigger your brand the more likely you are going to
21 have an app that is downloaded and stays on the home screen on the mobile
22 phone rather than getting deleted three months or six months later.

23 The intermediaries amplify your message, but also I think – and I suppose I
24 would take issue with Stewart here – of course opinion-formers on Twitter are
25 really important for other opinion-formers but in terms of your overall reach the
26 bigger your brand the bigger your impact will be online, and the more people

1 remember what they have looked at what who they found it from.

2 A. (Mr Purvis) I think my point, David, was about impact on agenda.

3 A. (Mr Levy) I know. I appreciate that.

4 Q. John, Alan, then Alison.

5 Q. (Mr Krumins) To be the devil's advocate, Mathew and David, about
6 positioning, you say it is difficult, but what is wrong in stepping back and
7 saying, versus 2003, when the Act was published, and certainly 2010, 2012
8 when the last detailed debate on all of this took place, today we do have
9 digital natives, we do have hobbyists and we have a tail? It is a long tail. It
10 clearly exists. You can access that. There are more viewpoints out there.
11 They have clearly increased, and if there is evidence sufficient in the past it
12 must be sufficient now?

13 A. (Mr Levy) It may have increased, but if you look at consumption most
14 consumption comes from the legacy news brands. People may not remember
15 them when you do a survey, but in the Ofcom report and borne out by most of
16 the other things we look at, most consumption comes from established news
17 providers. You are right, on a theoretical level there is hugely increased
18 plurality; on a practical level, in terms of what people use, not as much as you
19 may suggest.

20 A. (Mr Horsman) But the direction of travel is clear. If you go from 2003 to 2010
21 and then 2017, there is a direction of travel. There are more ways of getting
22 your news. I suspect I am not allowed to do this, asking people to put their
23 hands up, but almost everyone in this room has a BBC News app on their
24 mobile device – I am not going to ask for hands – because everyone will.
25 That is how strong that particular brand is. That tells us – and then there will
26 two or three others normally, if you are typical, on your home screen in terms

1 of news – that reinforces these brands. We know that there is an access to
2 the long tail, we know that there is more cacophony, there is more
3 competition, and that is absolutely true, but you are trying to get at the issue
4 of the two-pronged question: is there sufficient plurality today? The answer
5 has always been for me, well, whatever we have now, we do not seem to be
6 intervening; so, it must be right. It is sufficient today. What about tomorrow,
7 after this transaction is posited and allowed through? Will it change? The
8 direction of travel is one thing. Does the transaction amplify, detract from or
9 change the dynamics of that direction of travel? That is really the question.

10 THE CHAIR: That is the question. I was just going to say Alan has got a question to
11 ask.

12 A. (Mr Renwick) Just two quick questions. The first one really just a different
13 dimension to that last point is that, I do not believe that digital native if you
14 want to call them – Facebook consumers in the main – look at any of these
15 brands as being broadcast or print or digital native. There is a real challenge
16 there that those are news brands, content brands, but they are coming from
17 different regulatory environments and so how do you square that circle. The
18 second is a more specific point which is this is long tail is not operating in a
19 stable environment; so, the number of digital native participants may be very,
20 very small in terms of their reach on an aggravated average, but at critical
21 moments, for example, at an election they will pile in and dominate,
22 particularly Facebook. In terms of political influence that is a massive factor
23 and it is not something that you are going to understand by having aggregated
24 national surveys across most of the year.

25 That is a very, very particular point which is, in the three days leading up to a
26 general election or a referendum or local elections, whatever, how does that

1 environment operate and how do the different bodies that are targeting it
2 provide political influence or both? How do they operate and is there any way
3 of being able to measure and understand that?

4 Q. Alice, you wanted to say ...

5 A. (Ms Enders) Before we leave the subject, I should mention this point about
6 Instant Articles on Facebook, because we have talked about lots of things, but
7 we have not talked about that. The fact is that, again, this comes down to
8 different publisher strategies. Some publishers, and the broadcasters in
9 particular, have a free-to-access model and will load up Instant Articles. That
10 is the supply side of Facebook. The fact they are loaded up as IA does not
11 tell you how much those articles are being consumed on Facebook. It just
12 tells you the publisher wants to give the user a seamless mobile experience. I
13 think one has to be careful about measuring consumption from the supply of
14 Instant Articles. The way in which individual publishers use Facebook is very,
15 very much driven by their incentives around monetisation.

16 The other point I wanted to make was that my understanding is that for the
17 broadcasters – and I just want to speak a little bit about Channel 4, because I
18 had an interaction with them around this. I said to them, "Well, you know, you
19 are putting all this effort into online and your Facebook presence" and
20 apparently Channel 4 is the top UK brand on Facebook. I have not seen
21 those numbers, but apparently that is true.

22 Basically, the idea is that their news service is inherently loss-making, but
23 they are not concerned with making money from their news service. They are
24 very interested in attaining their remit, which is of course consumption by
25 younger people, and diverse groups in society. When you have PSB news
26 obligations on broadcasters, you are going to see that their Facebook

1 strategies to some extent are also going to be influenced by the remit and
2 what they have to attain in terms of Ofcom licence conditions.

3 A. (Mr Elstein) There is an issue you have not mentioned which Ofcom raised in
4 the past and has raised again, which is internal plurality. In amidst this big
5 bang that we think is happening, there has been a contrary trend which is
6 worth mentioning. TV news is still the most consumed and most relied upon
7 source of news. In the last 12 years there has been a huge shift in the share
8 of TV news to the BBC and it has nearly all come at the expense of ITV. It is
9 about an 18 point shift. The BBC has gone from 56 per cent to 74 per cent
10 share of TV news consumption.

11 The reason why that is important – not just because the BBC is so huge – but
12 broadly speaking the BBC has a unified editorial policy. It has got a single
13 point of reference and although obviously, in Scotland or Wales there will be
14 other news agendas applied, television news and radio news are one
15 organisation. Indeed, current affairs is also part of the same organisation.
16 Often correspondents will do the same story for TV and for radio; so, you
17 have got quite limited internal plurality.

18 Indeed, Ofcom at its last go around on media plurality raised the question,
19 "What will the BBC Trust do to demonstrate that it is delivering internal
20 plurality in terms of viewpoints?" We have not heard an answer and Ofcom
21 now has direct responsibility so they can ask the question themselves.
22 Paradoxically, of course, ITN, the main supplier to the commercial sector, has
23 a lot of internal plurality. The editors of Channel 4 news, Channel 5 news and
24 ITV news are independent people. They have different agendas, different
25 viewpoints. Material is commissioned for one which is not used by the others
26 and as a broadcaster who has commissioned news from ITN and indeed from

1 Sky, I can tell you that it is a requirement. What Stewart did when he was at
2 ITN in terms of customising was very important. They would not have got the
3 contract for Channel 5 if they had not been able to demonstrate that it would
4 be a bespoke product.

5 In that very important area of plurality, the trend has been the other way.
6 Even though I have already said viewpoints do not count, because it is
7 broadcasting and you are not allowed to have viewpoints, what we are looking
8 at is plurality of something. Is it plurality of agendas? How would you look at
9 this issue, as Ofcom has done in its own paper here, as an issue or is there a
10 sufficient plurality of viewpoints? Of course if you have got a 600-pound
11 gorilla in the room what difference does it make if two 5-pound chaps happen
12 to get together? Why are we looking at it? It just does not register on the
13 scale of significance and bizarrely, you are doing six months work on a
14 transaction where there is a huge issue of internal plurality which you are not
15 even going to examine.

16 Q. Julian, and then we are going to move on.

17 A. (Mr Dickens) Two very basic points about the impact of online on plurality as
18 a whole. One, it is very easy to look at the marketplace and make a general
19 assumption that online will grow and grow and grow and massive numbers of
20 suppliers will emerge and plurality issues will dissipate. Bear in mind two
21 things: one, 85 per cent to 86 per cent of homes in the UK now have fixed line
22 broadband; two, about 85 per cent of handsets are already smartphones;
23 three, 56 per cent of people have got tablets and it is not growing; and 4,
24 about 75 per cent of televisions are already connected to the internet.

25 You are not going to see online grow because of a change in infrastructure.
26 The infrastructure is largely done. Nearly everybody who would want a

1 smartphone has got one. Nearly everybody who wants a tablet has got one.
2 We are not seeing sales go up. Whereas sales of tablets have declined. You
3 cannot rely on and you cannot look forward to a sudden change in connected
4 infrastructure. The people who have not got connectivity are overwhelmingly
5 old and/or poor. Those people are not able to afford necessarily fixed line; so,
6 do not look at that.

7 Secondly, we have been looking at the internet since the early 1990s, if you
8 want to go back, certainly the web since 2000. We are 20 years, 30 years in
9 and the digital native players are still overwhelmingly losing money and have,
10 tiny, tiny, tiny share reports. However you choose to measure it – and we
11 can, yes, say that measurement is impossible, but unfortunately, you have to
12 measure. I would say that the Ofcom measurement methodology is the best
13 candidate you have to look at and by reference to that yardstick, you can
14 aggregate all your little long tail players and they do not add up to a hill of
15 beans.

16 On Plurality, your question, is “will it be changed by this transaction” rather
17 than in absolute terms “do we have enough plurality in the marketplace”? On
18 that basis, I do not think you can – with respect to David – say if you have got
19 a 600 pound gorilla nothing else matters, because it does. It must matter. If
20 you have got a 600 pound gorilla and you have got five 50 pound players and
21 that goes down to one other 50 pound player, well, yes, then there is a
22 reduction in plurality in my common understanding of what that means.

23 A. (Mr Horsman) A note of caution, sorry Julian, because normally we agree on
24 everything. I agree completely in the aggregate with everything you have
25 said, but there is a demographically interesting development still over the next
26 five to ten years. People's activities who are in the cohort of the

1 15 to 24 year olds today, as they get older are not going to become their
2 parents. They are going to take some of those digital behaviours with them
3 into future life stages. Even though it is not about technology – I agree that
4 game is sort of for now over, we will see what new – maybe it is wristwatches
5 or something else – but right now the things we know about technologically,
6 we are seeing a maturing of those access points. We will see consumption in
7 the aggregate shift because of the demographic shifts in behaviour. It is just
8 that it will not be that radical. It is reasonably easy to predict that bit.

9 A. (Mr Dickens) That is absolutely true.

10 A. (Mr Horsman) You can say, if you all would like to know, this panel could give
11 you a five to ten-year outlook on current expectations as to what the patterns
12 of consumption look like. So Julian is right in the aggregate, but just keep in
13 mind there is a little bit more direction of travel growth to come, based on what
14 younger people are doing currently in news consumption. They are watching
15 less TV. They are listening to way less radio and they are reading
16 newspapers in much smaller numbers, much smaller numbers. Those things
17 are true. The question is do they suddenly get habituated to newspapers
18 when they get a bit older? I doubt it, right. They are going to stay online.

19 A. (Mr Dickens) The worry is that because there is no revenue from online that
20 would be generating the income to invest back into journalism and high quality
21 news production, then what we see – and you said this earlier – is a
22 replacement of a working commercial model for generating money out of
23 news provision, by a non-revenue generating model for disseminating things
24 that look like news. They are not regulated in the same way. They are not as
25 reliable. They are not as trusted and they do not make the money to reinvest
26 back into journalism.

1 A. (Mr Horsman) Then you are going to be glad you have got the BBC.

2 Q. This is a vicious circle.

3 Q. (Mr Krumins) Can I just talk to a definitional point of view, because this whole
4 aspect of broadcasters' opinions and plurality, clearly, is quite confused in the
5 broader sphere. Many politicians seem to be concerned that you can control
6 a broadcaster and change the editorial policies, or I can get my opinion out
7 through a broadcaster. Should, from a public interest perspective, we be
8 confident that Ofcom and regulation is strong enough to keep opinions off
9 broadcast news, i.e. the mechanisms work to stop that; so, in a way it does
10 not matter who controls them, because they cannot be editorialised. That is
11 the way the system works in the UK. Or does it matter who owns the
12 broadcaster, because they can do things with it, they can influence it?

13 A. (Mr Dickens) The short answer is they can, because the Broadcasting Code
14 does not control the priority given to news stories. It does not control the
15 selection of what stories will be run. That is a critical issue in my view,
16 because it is up to a publisher – by the way, a definition that is never going to
17 include Google and Facebook because their entire business models require
18 them not to be publishers. But a publisher, to David's point is right, can
19 decide what they want to lead with and what they will cover and that is not
20 governed by the Broadcasting Code at all. What is governed by the
21 Broadcasting Code is whether or not there is a balance of opinion, whether or
22 not it can be done, but ...

23 THE CHAIR: Accuracy and impartiality.

24 A. (Mr Elstein) The truth is it does not matter, because if it mattered Ofcom
25 could intervene and if it does not matter Ofcom will not intervene. No, I am
26 sorry it applies to agendas as well. If one of the broadcasters with an Ofcom

1 licence ran an agenda – I am talking about domestic broadcasters, because
2 the 14 international 24 hour news services are given a latitude because they
3 are emanating from a different context – but if say, Channel 4 news
4 consistently, only covered – well as it does, Trump and forever and only ever
5 did Trump, eventually Ofcom would intervene and say, "You are not doing a
6 proper agenda of international and national news".

7 The fact that one story is in front of another happens every day. The BBC has
8 a news agenda. Nobody says, "That is wrong". You would expect them to
9 have a news agenda. That is what we want them to have. They are there to
10 have a news agenda. The question therefore is, is any news agenda abusive,
11 a breach and if you can demonstrate that is it then you will lose your licence
12 and if you cannot then there is not an issue. There are two things here.

13 Q. The issues we are after is actually, is there somewhere short of a breach of
14 the code that is problematic?

15 A. (Mr Horsman) There is. The plurality issue as opposed to the broadcast
16 standards issue for me is quite straightforward. On the standards issue, if you
17 break the rules, they will take your licence away; so, that seems pretty clear to
18 me. I know I am not supposed to say that, because you are spending all this
19 time thinking about it, but that is the answer. In the first part though, there is a
20 plurality issue. There is definitely a plurality issue.

21 A. (Mr Purvis) Can I just say that changing hats now from a former broadcaster
22 to a former regulator, this whole area of due impartiality is very troubled inside
23 Ofcom. It is not something they would ever say publicly, but it is one they do
24 struggle with and it goes to what they call the international challenge. The
25 fact is that since RT, Russia Today, started being more targeted in trying to
26 reach national audiences as well as international audiences, Ofcom has had

1 to take these channels more seriously in terms of their potential impact on
2 domestic audiences.

3 I looked up this morning pretty much a test case involving Fox News from the
4 three programmes transmitted last August and there was an Ofcom
5 adjudication in November. This basically is a case of the Hannity programme.
6 I do not know if you are aware of this programme?

7 Q. We are.

8 A. (Mr Purvis) You are? I am sure you are and I can say a bit more about that
9 later, but on the particular point I would like to make now, this is a quote from
10 the adjudication, "Fox disputed Ofcom's description of Fox News as a US
11 channel well known for its broad support of the Republican party in the USA".
12 That is Ofcom saying that Fox News is a US channel well known for its broad
13 support of the Republican Party in the USA. Fox news said they take no
14 position with respect to the Republican Party. You can take that for what it is
15 worth.

16 For a regulator to say that a news channel broadly supports a political party, I
17 do not think I have ever seen that in print before and that of course is the
18 reality that these channels are coming in with partisan broadcasts. There is a
19 problem inside the Broadcasting Code about the difference between news
20 programmes and commentary programmes. In this same adjudication Fox
21 are saying that one of the programmes was not news, but was a commentary
22 show. Combine those two issues, Mr Krumins, and yes, there is a problem
23 about impartiality. I am slightly surprised that somebody has not started a
24 channel saying this channel is broadly in support of the Conservative Party, or
25 broadly in support of the Labour Party, because is that ever went to court I
26 should say, "Well, actually, you have allowed Fox News to say that they are

1 supporters of the Republican Party, why cannot a British organisation say that
2 they are broadly support?"

3 Whether this has anything to do with the fact that Fox News is no longer on
4 the Sky platform, I do not know. Certainly, there is a problem here. It is a
5 problem that has probably been around since the start of Fox News and it is
6 not easily solved.

7 A. (Ms Franks) In the previous merger discussions in 2010 Ofcom said that the
8 Impartiality Code was not sufficient to stop an editor putting views.

9 Q. They have also, in this context though, letters back from the Secretary of
10 State, however, that said that it is not, I think – I do not want to put words in
11 her mouth, but you can read them as well as I do – but it basically said that
12 they accept that it is not rightful protection against impartiality.

13 A. (Ms Franks) Exactly, which leads to what we just heard, yes.

14 A. (Mr Levy) I would agree with that.

15 Q. I think we would be interested in your views as -- I mean, you agree, but
16 where on this spectrum is it?

17 A. (Mr Levy) Where is what?

18 Q. The limit of the protection that is offered by the Broadcasting Code?

19 A. (Mr Levy) I think it is imperfect. It is not copper-bottomed. It is partial and
20 imperfect in terms of – the requirement is due impartiality, it is not absolute
21 impartiality in everything. The requirement is -- it does not particularly affect
22 the news agenda that you may choose, but more importantly, I think -- sorry?

23 A. (Mr Purvis) How can you say that?

24 A. (Mr Levy) Well, you can have a different agenda.

25 A. (Mr Purvis) Oh, yes.

26 A. (Mr Levy) Channel 4 has a very different agenda and stories from ITN. You

1 can have a different flavour of news. Is that not true?

2 A. (Mr Purvis) Oh, absolutely, yes.

3 A. (Mr Levy) Yes; so, you can have a very different flavour of news and choose
4 to focus on different things. More importantly, I think, is the point that what we
5 are looking at here is we are looking at entities which have a broadcast
6 platform, where this question arises about the degree to which regulation of
7 that broadcast platform is sufficient. But all of these entities also operate
8 across many, many different platforms. All the discussion you just had about
9 online news, what one is seeing is for every broadcaster now they are
10 leveraging their brand from broadcast into online and the same happens with
11 newspapers at the moment.

12 If one is looking at what does this entity look like if this merger goes ahead,
13 you cannot say, I think, that the only thing that matters is that Sky News is
14 regulated by Ofcom. You can test how much that regulation matters, but the
15 only thing that is regulated is the broadcast output of Sky News. Just
16 returning to what I said before, firstly the way people leverage their brand
17 across platforms matters much more; and secondly, in the online world there
18 is a reward for being a big brand. Moving from the regulated broadcast entity
19 to saying this matters – that broadcast regulation is a guarantee in terms of
20 some multimedia entity that emerges at the end of the day, strikes me as a
21 rather large leap.

22 Q. (Mr Tutton) I may be putting words into whoever said this, but just as
23 newspapers which have gone online have often reinvented themselves and
24 targeted a completely different audience, I think someone said that up to now
25 at least, for the major broadcasters online is more or less a straightforward
26 extension of their regulated broadcasting brand?

- 1 A. (Mr Levy) I think Alice said that and I took issue with that as a basis for
2 policymaking. I am not taking issue with the fact that that is largely what
3 happens at the moment.
- 4 A. (Ms Enders) What I said was that broadcasters were conscious of the
5 Broadcasting Code in delivering their online news, which after all is developed
6 by ITN for them anyway.
- 7 A. (Mr Levy) But there is no requirement.
- 8 A. (Ms Enders) No, there is no requirement.
- 9 Q. (Mr Tutton) No, no, I would not say there was a requirement.
- 10 A. (Mr Levy) There is no requirement and insofar as one is talking about
11 anything here one is talking about customer practice to date. One is not
12 talking about what the requirement is going forwards and one cannot predict
13 which way it could be used to maximise the impact of an integrated brand
14 across platforms post the merger. I think that is a really important point.
- 15 A. (Mr Elstein) This is real Aquinas time. The reason why Ofcom does not
16 regulate the online versions of its licensed broadcasters in case they abuse
17 services is it does not want to regulate the internet. But all its licence
18 broadcasters who enjoy any degree of audience and respectability absolutely
19 insist that they treat their online service as if it were a broadcast service. The
20 BBC does so very explicitly and so do all those serviced by ITN.
- 21 A. (Mr Levy) The BBC Charter covers all BBC activity.
- 22 A. (Mr Elstein) ITV News, Channel 4 News, Channel 5 News, Sky News all treat
23 their online service as if they were broadcasting it.
- 24 THE CHAIR: Why do you think they do this?
- 25 A. (Mr Elstein) They do that for two reasons: one, that is their brand. That is
26 why, for instance, Sky opposes the abolition of the due impartiality rule,

1 paradoxically even after James Murdoch had suggested its abolition and Mark
2 Thompson had supported him; they do it secondly, because they prudently
3 assume that at some point Ofcom may make it a requirement of your
4 broadcast license that your online presence reflects the same terms and
5 conditions.

6 You have also got to allow for the fact that online all your stories – there is not
7 a linear running order, except on your front page -all your stories are out there
8 in parallel with each other; so, it is a slightly different context for your news
9 reporting, but every story has to, in the view of those broadcast licence
10 holders online or on-air, observe the rules of due impartiality.

11 Ofcom got itself into a bit of a pickle over the international news services and
12 it finessed it by saying, "Well, they are coming out of a different context and
13 primarily conditioned by a different audience". I do not think Stewart is right in
14 saying somehow a pro-Conservative broadcaster could set up in this country
15 any more than – or could get a licence in this country – any other than a
16 pro-Labour one. It just could not happen. You would not get an Ofcom
17 Broadcasting Licence for such a service. They have to deal with these
18 international services because they exist. If they overstep the mark, as has
19 repeatedly happened with RT, with Iranian Television, et cetera, they get
20 reprimanded and every so often one of them gets kicked off and loses its
21 Ofcom licence.

22 In the case of the key broadcast services that are domestically delivered,
23 unless you are going to take the view that Ofcom is incapable of doing the job
24 it was given by the 2003 Communications Act, you have to take the opposite
25 view, which is it can and should. It may not do it very well, but it certainly has
26 the power to do it and whatever the limitations of the Broadcasting Code may

1 be, Ofcom can take people's licences away if they are abusing their position.

2 It is a binary thing. Either you believe Ofcom can do its job, or you do not.

3 Q. I want to move on, if possible, to how we assess influence of various – on the
4 political agenda. As somebody earlier said, this is one of the key things we
5 are looking at and I really would be interested in views on how we can
6 measure it and whether it – in qualitative terms whether it is different as
7 opposed to for broadcasters, for newspapers and for online, given as you say
8 they are leveraging their brand across all platforms. Alice?

9 A. (Ms Enders) I think the answer to that question will be dependent upon time,
10 partly because online is relatively nascent and our measurement systems are
11 advancing. In recent political events, we have studied three – not
12 exhaustively, but sufficiently – the general election 2015, the Brexit
13 referendum in June 2016 and then the election this year.

14 Q. There is not a lot on this election.

15 A. (Ms Enders) You see very different patterns on Facebook in terms of
16 engagement with individual publishers, very, very, very different. What
17 worked in the general election 2015 was not the same thing that worked in the
18 Brexit referendum, and was not the same pattern that you saw in general
19 election 2017. I think the point is this exercise of influence is event specific,
20 because after all the whole point is to influence an election, you know, "It is
21 the Sun that won it"--.

22 Q. It is not just the elections we are looking at.

23 A. (Ms Enders) Oh, okay.

24 Q. It is not just the elections we are looking at. It could be elections, but it could
25 be other political issues on an ongoing basis.

26 A. (Ms Enders) I think, again, you are going to see that the insight that you get

1 from, say, the top political event in the UK, which is a general election, will
2 vary significantly in terms of the influence of newspapers, broadcasters and
3 other suppliers. I just think that is very, very clear here.

4 A. (Mr Purvis) Could I come to it by picking up one of the questions in your
5 issues paper?

6 Q. Yes.

7 A. (Mr Purvis) Which goes specifically to the role of Sky News.

8 Q. Which page are you on, or paragraph?

9 A. (Mr Purvis) It is the first bullet point on page 2 as it printed off on my printer.
10 It begins, "Whether and the how the ability of the Murdoch Family Trust ...

11 Q. Yes.

12 A. (Mr Purvis) ... to control a decision that Sky News will change as a result of
13 Fox's share ownership of Sky increasing and when that change is material in
14 nature". As a long term student of these issues I have observed that in
15 Murdoch Family Trust companies, in their three biggest English language
16 markets which is the United States, the UK and Australia they have the same
17 model. They run a TV news channel. Even though in Australia, surprisingly,
18 their broadcast interests are quite limited at the moment, they do fully control
19 a TV news channel called Sky News Australia. They run a broadsheet
20 newspaper or newspapers and they run a tabloid newspaper or newspapers
21 and they all have their own online presence.

22 None of their competitors has ever chosen that model and it is intriguing to
23 wonder what is it about that model that is so attractive that they have repeated
24 it in these three big markets. One interpretation strategy – and I think it first
25 came from Alan Rusbridger of the Guardian, clearly no friend of the Murdoch
26 Family Trust – was that it is about influence. It is about political influence and

1 about control, because if you operate a TV news operation you have
2 effectively got some control of the debate airtime, about which politicians
3 appear, how often they appear and in what kind of programme.

4 I will give you one example in Sky News Australia, where they have adopted
5 the Fox model of the primetime commentary programme, as opposed to the
6 news programme, where their version of Mr Hannity, Mr Paul Murray said of
7 the Defence Minister, Mr Pyne, on 26 June, "This is the type of bloke who, to
8 use the Aussie-ism, if you were on fire he wouldn't piss on you. This is the
9 bloke who, if he was at a social function and met you he'd be looking for
10 someone more important than you. That's the measure of this wanker".

11 Q. I have read this, yes.

12 A. (Mr Purvis) He also called Mr Pine an arsehole.

13 Q. Yes, I have read this. I have not watched it.

14 A. (Mr Purvis) You have watched it? It is a good clip, is it not?

15 Q. No, I have not watched it.

16 A. (Mr Purvis) You have not watched it?

17 Q. I have read somebody else's report of it.

18 A. (Mr Purvis) Please do. If you have got a TV news operation run in that style
19 and you have got a broadsheet where you can potentially control the editorial
20 space given to political debate and commentary and you have got a tabloid,
21 which gives you both the power to attack politicians and their policies and
22 potentially over their private lives, you have a powerful line up. No regulatory
23 scheme is going to pick that up as being an abuse. No regulatory scheme is
24 going to pick that up as being undue influence. It just happens to be quite a
25 powerful way of running a media empire in a new foreign country.

26 Because of these points we have made about how impartiality is and is not

1 implemented – and I have to completely disagree with David, there is no
2 evidence of Ofcom ever finding a broadcaster in breach of the Broadcasting
3 Code over stories they did not cover. They might have found them in breach
4 over what they did cover, but there is no regulation of agendas. In that
5 situation I think it is not impossible that if Sky News under 100 per cent control
6 from Murdoch Family Trust families were to adopt the same model --

7 Q. I need to correct you there. Sky News would be under 100 per cent control of
8 Fox.

9 A. (Mr Purvis) Yes.

10 Q. MFT have 39 per cent of Fox.

11 A. (Mr Purvis) Understood. What I am saying is if the transaction were to
12 happen, potentially, that model could play out, subject to how the impartiality
13 rules were interpreted. Whether that would happen or not, I do not know, but I
14 think there is some evidence based on what happened with Sky News
15 Australia when they moved from a shared ownership model to a complete
16 control model, that that might happen. I think the question you probably have
17 to answer though is, if that were to happen, is that the material impact on
18 media plurality in the UK?

19 A. (Mr Horsman) Can I just say that I think there is a generational issue here. I
20 think Rupert does think that way. I am not sure that the next generation feels
21 precisely the same way about the connection of those particular assets in
22 particular markets. I think in time that the younger members of the Murdoch
23 Family Trust would be quite willing to consider a model that did not include a
24 broadcast outlet, a tabloid newspaper and a mainstream newspaper. It is
25 certainly the view of Rupert, borne out of his experiences in the UK since the
26 1960s that he learned that lesson in the last decades here.

1 The second thing I would say about this plurality, whether Sky News is an
2 issue, if we can agree – this may be slightly cutting to the chase – but if we
3 can agree that there is sufficient plurality, because we have it and we have
4 not done anything. Then you say that we have had that delivered partly
5 because Sky News is not owned 100 per cent by Fox, but it is owned
6 39 per cent by Fox and that, therefore, the current situation with the fact that
7 there is a majority holding that is not theirs, in shareholding terms, that that
8 has led to a situation of sufficient plurality. Then you might argue therefore,
9 that even with the direction of travel and all the things we have talked about
10 today, that there is a danger that allowing Fox to go to 100 per cent would
11 open the door.

12 Which is why, it seems to me, there were even discussions of these sorts of
13 safeguards and undertakings the last time. If that is the right sort of – and I
14 am not sure that they were even going that far, but if there is a danger of there
15 being a material change in the ways in which the Trust can influence and
16 have influence over the company, then you would want to have a situation
17 that, if you were to allow the transaction that the Sky News bit of it, was
18 somehow protected.

19 A. (Ms Franks) Absolutely, I would concur with that, because you need to look at
20 the track record of when other transactions have come to other parts of the
21 forest with Murdoch and to what extent the guarantees that have been given
22 have been held to. The Wall Street Journal has materially changed since
23 Murdoch took over. The Times, if we consider the degree of independence of
24 how The Times is now run it is not really what I think would have been
25 envisaged when those guarantees were originally set out. I think if you are
26 going to go that route and there are then going to be some sorts of

1 guarantees, you absolutely need to nail that down much better than it has
2 ever been done before.

3 Q. (Mr Krumins) Just on this point, you can all be summoned as independent
4 media expert witnesses in one scenario or another, the implication there is
5 that MFT, Rupert Murdoch, does not control Sky today.

6 A. (Ms Franks) He is on the record as saying that.

7 Q. (Mr Krumins) No, but then in practice as given the perspective you have
8 working very closely to the media industry, would you say that he is not in
9 control today? There are things that he cannot do in terms of --

10 A. (Mr Horsman) He can put his son in charge.

11 A. (Ms Franks) No, can I quote, when the House of Lords Select Committee
12 asked him for evidence in, I think, 2007 and he is on record as saying in that
13 evidence, "I would like Sky to be more like Fox" and the question was, "Well,
14 why do you not you do that?" and he said, "Because nobody listens to me at
15 Sky News".

16 A. (Mr Elstein) Yes, I think that was what he told Steven Barnett who was the
17 researcher for the House of Lords.

18 A. (Ms Franks) His responses are set out in the evidence.

19 A. (Mr Elstein) I think Steve has just had a sense-of-humour failure. Having
20 worked at Sky for four years and having observed it for 28 years, I can
21 absolutely guarantee you that if there was anyone at Sky who refused to do
22 what Rupert Murdoch wanted, they would be out on their ear the next day.
23 Sam Chisholm was no pussycat, he would not lift a finger without Rupert's
24 approval. It is just not realistic. No editor of Sky News has ever been
25 appointed without Rupert Murdoch's approval. I was not appointed as Head
26 of Programming at Sky until I had flown out to Los Angeles and had an

1 audience with the Emperor. As it happens, the only thing he asked me about
2 was The David Letterman Show, but the format was still the same. Rupert or
3 News Corp owned Sky News for four years 100 per cent. He did not Foxify
4 then. He could have done, because he has no interest in doing it.

5 THE CHAIR: Do you have any insight as to why he has not?

6 A. (Mr Elstein) Yes, because it would make no sense. The version of Fox News
7 in this country at an audience of 0.02 per cent was a consistent loss-maker
8 and an embarrassment and he never did what CNN and CNBC did, which
9 was properly Europeanise, let alone UK-ise, the service. Most of the
10 problems that Fox News had with Ofcom were because it was just carrying
11 the US feed and kept showing stuff that was in breach of the Broadcasting
12 Code, even though it was not in breach of anything in the US.

13 Q. But that is Fox --

14 A. (Mr Elstein) In terms of Sky News, I cannot think how much the Murdochs
15 and their organisations have spent on Sky News so far. It is probably about
16 £500 million. They are rather proud of it. It is, by most people's standards,
17 the best thing they have done in this country; so, their interest in turning it into
18 who knows what? The Times, The Sunday Times, The Sun on Sunday?
19 Which of their newspapers is it going to turn into, because they all take very
20 different viewpoints. It just defeats me and the idea that they could do
21 something they show no interest in doing and do it with impunity without fear
22 of losing the licence, just strikes me as fanciful.

23 Q. Has Stewart an analysis?

24 A. (Mr Elstein) I know you do not, on the whole, the CMA or its process does
25 not go in for behavioural remedies and preferring structural ones and of
26 course the simplest structural one is to close Sky News and that ends the

1 concerns of everybody. Then it cannot be Fox-ified. It can be gently put to
2 bed and they can save a lot of money and --

3 A. Horsman) It is slightly ironic, though, in plurality

4 A. (Mr Elstein) It would be an ironic outcome, but that would be a good structural
5 solution which would make a lot more money for the Sky shareholders,
6 because he would have to put the price up for the bid. If you were to go for a
7 behavioural, solution I would be perfectly supportive of that. There is nothing
8 wrong with forcing the Murdochs to sign on for what they say anyway. If you
9 read the Sky News Code of Practice and Internal Controls and papers and so
10 forth --

11 Q. Yes, we have.

12 A. (Mr Elstein) -- make it a licence condition. If you do not comply with that, you
13 lose your licence. I have got no resistance to that at all. I have been on the
14 receiving end of Murdoch newspaper lies and malice and it is not at all
15 pleasant and if they were ever to do that with Sky News, I would be as
16 appalled as anyone else in this room. I think it is deeply, deeply unlikely,
17 because there is just 28 years of evidence that they do not. I agree with what
18 Matthew was saying, the evidence that they control Sky News is very strong.

19 Q. Right, come back to Stewart and then ...

20 A. (Mr Purvis) Thank you, Chairman. Firstly, two points: I have the highest
21 regard for the staff at Sky News, because many of them used to work for me.
22 I know them well and as result of that I am aware of conversations in the past
23 where they have been asked why the service is not more like Fox. If no one
24 has ever gone public on that, you can trust me to report accurately what I
25 have been told, that debate has been held.

26 The fact is, under the present impartiality rules there is nothing to stop the

1 Hannity-style programme in which the commentator takes a clear political
2 position as long as the programme itself is deemed to be balanced. It is
3 possible to see a situation where there could be a line that is taken in a tabloid
4 newspaper, in a broadsheet newspaper and on the commentary-style
5 programme on Sky News.

6 A. (Mr Horsman) Why does it not happen now? Is it because there is a minority
7 stake?

8 A. (Mr Purvis) I think there is internal resistance. I think if you look at the
9 programme called The Pledge, which --

10 A. (Mr Horsman) Sorry, Stewart, just to make clear that there are enough other
11 shareholders that that --

12 A. (Mr Purvis) I cannot say that and I do not know that to be the case and I have
13 to say in fairness, there is not any evidence I am aware of where other
14 shareholders have pushed back about editorial issues on the Sky platform.

15 A. (Mr Horsman) I guess my only point is if we have got a situation today --

16 A. (Mr Purvis) But I am identifying under the present circumstances without any
17 regulatory changes, under this transaction a line could be taken in a
18 newspaper editorial in The Sun, The Sunday Time and by a commentator on
19 Sky News.

20 A. (Mr Horsman) Would the solution therefore be – I know again the issue about
21 the behavioural remedies – but if we have got a situation now that it does not
22 happen, that there is no Hannity on Sky News in the evening, today – again
23 there has not been for the last 30 years anything like that in the UK and Sky
24 News is a very well-respected channel and staffed by many of your former
25 people you skilled up, then therefore we need to protect that situation. One
26 way of doing that is even for those who disagree with David Elstein about

1 allowing this transaction to occur, would be to accept that there are ways of
2 turning Sky News into something in perpetuity of Murdoch ownership that
3 looks like this and never can look like that.

4 Q. We are slightly getting ahead of the CMA process in this respect. Alice, yes?

5 A. (Ms Enders) Sorry, I have not worked at Sky News and I have not been privy
6 to any conversations or whatever, but the fact is Sky is an incredibly
7 successful pay TV household business. Its central market is families and in
8 particular that includes father and mother, children – which is very different
9 from Fox News in the US. The core business of Sky is selling pay TV
10 subscriptions, not getting people to watch Sky News. It would make no sense
11 for it to produce a Sky News programme that was orthogonal to the aims of
12 supplying family-friendly entertainment on a regular basis for everyone in the
13 home to enjoy. That is its brand image in the UK. Why would it Fox-ify Sky
14 News?

15 A. (Mr Purvis) Sure, but if an opportunity arose and an editorial will arose, why
16 would they not do it if they had the opportunity to do it?

17 Q. Let Suzanne ...

18 A. (Ms Enders) But what is the commercial logic?

19 A. (Ms Franks) No, I think that is the point. I certainly was not arguing that there
20 is a danger of Fox-ification, because we have seen where that led it and that
21 was just ridiculously small audiences. However, these things do not happen
22 in that kind of way in this country. There could be a much, much more
23 gradual process, I would argue, where a programme here, or a programme
24 there, a news agenda there, an editorial line there. What we could see is a
25 much more gradual process and as Stewart says we do not have the
26 mechanisms in place at the moment to do anything about it.

1 A. (Mr Elstein) The question arises, is that your problem? Either Ofcom is
2 empowered to do a job and will do it, or it will not or is not. You cannot
3 second-guess its ability to employ the Broadcasting Code, or the
4 Broadcasting Code's ability to stop Murdoch doing things he might want to do
5 that the rest of us do not want him to do. That is not, I would have thought,
6 the issue here. It is too speculative.

7 Q. Do not worry I have plenty of lawyers who will tell me what I can say and what
8 I cannot say.

9 A. (Mr Elstein) Good.

10 Q. I want to come back to what I proposed about 20 minutes ago, is looking at
11 the influence of the media on the political agenda. Because it is very, very
12 difficult to measure, but I am interested in your views on whether it can be
13 measured and to what extent can the media shape public opinion, or change
14 public opinion. Alice has focused on elections, or on referenda or
15 referendum, whatever it is, but is there a difference between different types of
16 media? Does TV have more influence on the political agenda, or is it the
17 headlines first thing in the morning and how does the internet impact on
18 political opinion, personal agenda and public opinion? Those are the really –
19 some of the questions we are grappling with and we are interested in your
20 views on this. Julian?

21 A. (Mr Dickens) Two or three points: big takeaway from the last US election –
22 endorsed by Hillary Clinton on the television last week – was that they wholly
23 misunderstood what was happening within people's Facebook feeds and the
24 echo chamber impact, which I think you referred to as well, in terms of the
25 way Facebook worked. That indicates that again a distinction, which I fear I
26 keep coming back to, between the internet as a deliverer of news, particularly

1 through the intermediaries as Mathew defines them where the presentation of
2 a variety of and arguably – insofar as it is possible to have the word –
3 impartial arrangement of news stories, is simply not present.

4 Traditional media by comparison are: (a) more regulated; (b) have much
5 longer traditions of editorial process. As such, I think it is more than arguable
6 to say that traditional media are less partial. Whether or not that impartiality is
7 capable of being corrupted, clearly it has been in certain circumstances in
8 terms of news, because we have an endless sequence of politicians who step
9 in front of our listener and said they were currying favour.

10 I suspect that is not anywhere near so much the case with television. We see
11 very little evidence of that historically, because of the checks and balances
12 that are in place. But I think if we are going to look at distinctions going
13 forward it is in terms of the arrangement and selection of news, that which is
14 chosen and given prominence, versus that which is ignored; the fact that
15 stories are not run, to Stewart's point, being as important to stories which are
16 run. On that basis, I think there is clear evidence that the traditional news
17 agencies have a greater burden of providing a diversity of news outputs, both
18 within their own output through internal editorial processes and between rival
19 news organisations. The plurality of news organisations itself supports a
20 diversity of news stories being made available to read. As such, yes, I think
21 there is a big distinction between old and new media in terms of plurality of
22 supply.

23 Q. Because of the – are we getting into the more trusted area here?

24 A. (Mr Dickens) I think there are a number of factors. There is, however one
25 measures it, the number of people who use them, versus the number of
26 people who look at the long tail of internet sites, in terms of trust, in terms of

1 impact. In terms of quality of news origination, amount of resources invested
2 in journalism and the legacy and pretty vibrant culture of the quality of news
3 delivery on which people like Stewart and Professor Franks will be far more of
4 an expert than I am. There is a distinction between the two.

5 Q. We are trying to get to this issue of impact --

6 A. (Mr Purvis) I think that a headline answer as Julian put it, traditional TV news
7 has always thought it has an impact.

8 Q. Politicians think it has an impact.

9 A. (Mr Purvis) Politicians think it has, which is why they spend so much time
10 lobbying -- when I started in this business the party offices would call after the
11 programme to complain that one had had 35 seconds and the other had had
12 45 seconds. It was that specific. Those days have changed because of the
13 multiplicity of outlets, but the biggest change that happened as Julian said
14 was Facebook. Broadcasters can still not quite work out what happened in
15 the last election. They are still a bit bemused by it. Some of them had
16 guessed that it is to do with the Facebook impact, but certainly their failure, if
17 you like, to understand the support that appeared to be gathering amongst
18 young people for Jeremy Corbyn was not very well picked up by
19 broadcasters, considering the enormous number of reporters that they had in
20 the field. They still do not quite understand why they missed that.

21 Q. I know that the election is absolutely pivotal, but the news agenda is not just
22 an election. It is all the stories run all the time.

23 A. (Mr Purvis) That is another point, Chair. All the traditional research showed
24 that people made their voting decisions quite a long way beforehand.
25 Obviously, some people are influenced by the campaign which explains some
26 last minute changes, but all the traditional viewing was you go into the

1 campaign and most people have already made their minds up. I think people
2 are now questioning that, as a result of the impact of this flood of videos
3 coming from political sources. Either from the parties themselves with
4 supporters, whom using the skills that some of them developed working for
5 broadcasters or in other parts of the media. These are very well-made
6 videos. They have clearly had an impact.

7 What is the share of their impact against broadcasters' traditional impacts? I
8 do not think anyone knows. But what I convey to you is an unsettled position
9 inside broadcasters, because they thought they knew what they doing and the
10 impact they were having and they are not sure they think they do know any
11 more.

12 A. (Mr Elstein) There is an important point here which is just scale of activity. A
13 typical TV news bulletin contains between eight and twelve stories. The entire
14 text will barely fill the front page of The Daily Telegraph. A typical broadsheet
15 newspaper will have between 50 and 100 stories and if you look at the TV
16 news bulletins there is a substantial overlap, but certainly not unanimity, in
17 terms of the actual stories and the order in which they are broadcast. You will
18 probably find about 50 per cent to 60 per cent overlap between them.

19 Essentially, what the broadcasters are doing is creaming the top of the news
20 agenda, Catalans, CBI, Trump, whatever it might be – Steve Bannon burped
21 this morning – and that is their version of the news. But especially in the
22 internet era our ability to access hundreds of other stories that were never in
23 the television news or radio news bulletins, means that it is almost impossible
24 to detect a one-to-one influence between what is said and what is believed.

25 Bear in mind, there is a wealth of sociological studies that tell you that people
26 are not directly influenced by news reports anyway. Because they talk to their

1 friends, they talk to their family, they go to church, they go to work, they go
2 online, they look at cats and dogs on Instagram. They forget about whatever
3 it was that was being said anyway. There is even a certain amount of
4 research – I think, Deacon and Wring did a paper in British politics after the
5 2010 election – just trying to measure the influence of newspapers on their
6 readers. One of the paradoxical things they discovered was that when the
7 Guardian shifted its recommendation from 2005, which was vote Lib Dem or
8 Labour whichever has the better candidate to Lib Dem in 2010, the proportion
9 of its readers who voted Lib Dem went down 4 per cent. It is very hard even
10 with newspapers that are advocating an outcome, to say that the way they tell
11 you to vote is the way you vote. Quite often it is the other around. The way
12 you tend to vote is why you buy the newspaper in the first place. To say it or
13 broadcast it is even harder. To try to package up use consumption across a
14 myriad of outlets with viewpoints is virtually impossible.

15 When the Ofcom paper talks about undue influence that might result – that
16 the MFT might have undue influence over the political agenda, it is just a
17 thesis. Even if it were true it would be very, very hard to measure.

18 Q. David?

19 A. (Mr Levy) As everybody has said this is an incredibly complex area and it has
20 always been complex and now it is clear that things are tremendously in flux
21 and so we add technology to an existing complexity. I think there are a
22 couple of things that one can still hang onto in spite of all the confusion and
23 complexity. One is, politicians still care about what is in the media. They do
24 not ring the team at the end of the programme, but they are busy firing off text
25 messages all the time and trying to exert influence on people working in
26 mainstream media about what they report and how they report it.

1 The other thing is we did some work around the Brexit referendum and the
2 press. Where you have a cross-cutting issue that cuts across traditional party
3 loyalties like the referendum it seems to raise new issues. I think when you
4 have an election broadcasters coming back to due impartiality and how they
5 deal with that, they have a rough idea of how to do that. They have got lots of
6 experience. When you have a cross-cutting issue like Europe where there
7 are no party headquarters— there is not the standard political alignment, I think
8 there is a temptation in those environments to orientate yourself in relation to
9 what appears in the press. The press is often in terms of readership, it is not
10 very important. In terms of influence and agenda-setting, it is pretty important
11 for broadcasters and I think there is some evidence that when you have
12 cross-cutting issues like the referendum, the broadcasters try to steer a
13 middle path, more by reference to the press than they would be in a standard
14 election. This is complex and inconclusive territory.

15 A. (Mr Horsman) Almost to confirm that point in a way is that you have got --
16 that you have anti-European stories in the certain part of his press which
17 clearly had an effect over what you described around the cross-party issues.
18 Yet, those same newspapers could not demonise Jeremy Corbyn enough --

19 A. (Mr Levy) That is also true.

20 A. (Mr Horsman) -- and Theresa May lost her majority. That, I think, is
21 instructive of outcomes and most people would see in those ways.

22 Q. We are coming to the end and we have covered a huge amount of ground; so,
23 I was just going to see whether anybody else -- I would like to wrap up in ten
24 minutes, but has anybody got burning points you would want to raise before I
25 pass to Joel who has probably got a few more questions he wants to ask?

26 A. (Mr Horsman) I wonder if I said strongly enough -- because David and I do

1 not always agree – but this company is already controlled. Sky is already
2 controlled by News Corp, as was Fox. It has been true since the time when I
3 was writing my book about Sky in the 1990s. It is true all the way through the
4 2000s and it is true today. One of the things that I am not, is a competition
5 economist, I am not able to opine about some of these definitional issues; so,
6 when you say, "Does the Murdoch family interest have a material influence on
7 (a) the company they control" – which is to say Fox – "and on this other
8 company which they control, Sky?" My answer is I do not know and you can
9 define this as you wish, but they do have an influence. The big question for
10 me is whether there is an incremental material influence going from
11 39 per cent to 100 per cent for Fox It is so clear --

12 Q. That is for us the issue too.

13 A. (Mr Horsman) -- but it is so clear that they do control it. He put his own son in
14 to run it. I used to say when I was in the City as an analyst, I used to say to
15 people who were very concerned about Murdoch, I would say, "Do not invest
16 in Sky if you do not want to co-invest with Rupert Murdoch, because, believe
17 me, he is calling the shots. If you think there is going to be a disagreement
18 about the strategic direction of Sky, do not back anyone other than Rupert".

19 A. (Mr Dickens) Mathew, do you think that if the transaction goes ahead without
20 protections around Sky News it will make any difference at all?

21 A. (Mr Horsman) I have to say that I am persuaded that because we have this
22 quite understandable view that it works sort of okay now – we kind of trust Sky
23 News now and it is sort of consistent, therefore we want to propagate that
24 outcome, then I am persuadable around this need for behavioural remedies--
25 that are critically nailed down about the future for so long as the Murdochs are
26 in that position of control, that they would not do certain things. Sky News

1 would have independence. If you are asking me fundamentally do I think
2 you need that? I do not see the reasons why there is even a business interest
3 in turning Sky News into something other than it currently is. I think they are
4 hugely proud of Sky News as an important part of the UK broadcast TV
5 tradition. The short answer is I am somewhat non-plussed, particularly given
6 the direction of travel since 2011/12 that we are in this room.

7 A. (Mr Elstein) It is quite important just to add to what Mathew has just said. As
8 you know in 2010 Ofcom and the OFT recommended a structural remedy and
9 this time around they recommended or said there would be mitigation with
10 behavioural remedy. The reason they have shifted away from the structural
11 remedy is why I criticised it last time around: that there was a real danger that
12 Sky News would atrophy if it were carved out of the main business. In other
13 words, one of the things that Sky News enjoys at the moment as part of the
14 Sky package is, unlimited access to Sky Sports. Once it became a
15 completely separate ring-fenced company with separate shareholders,
16 separate from Sky Plc that could not happen any more. At least, it could be
17 easily withdrawn or they could be made to pay for it or whatever. You would
18 not get a £20 million investment in new studios. Nobody would be able to
19 afford it. If you look at the Sky studios at Westminster and compare them with
20 the BBC or sadly even ITN --

21 A. (Mr Purvis) Or both joined together.

22 A. (Mr Elstein) Or both joined together. When I go to appear on BBC News 24
23 they say, "Well, we hope you're going to Sky News first, because they will
24 make you up properly, because we cannot afford a make-up artist". I respect
25 what Ofcom concluded, but if the only barrier to approving the transaction
26 were the nature of a remedy, then it should be behavioural, rather than

1 structural even though that is not normal for a CMA or Competition
2 Commission investigation.

3 To be perfectly honest, although I share Mathew's view that I cannot read why
4 you would need it, my view is they have already offered it. If you were --

5 A. (Mr Horsman) Make it longer.

6 A. (Mr Elstein) Make it longer and make it several languages, make – who
7 knows. There are plenty of ways of tightening the undertakings they have
8 already offered which I think Ofcom were inclined to accept and there is
9 obviously room to do so. My biggest concern has always been that eventually
10 the Murdochs would just lose patience with everybody and say, "Sod it!
11 Enough of all of this. The business is worth more without Sky News and we
12 have spent enough on it and if we cannot do the transaction and keep Sky
13 News going, we will do the transaction and not keep Sky News going". That
14 is in their power.

15 Q. Yes. Any other views?

16 A. (Ms Franks) I do accept an integral part of what David said. I think there are
17 two dangers. There is the one that you get this slight creep towards a much
18 more partisan service, which will not be Fox-ified, but it will be not what we
19 see at the moment. The other danger is the one of atrophying and decline
20 whereby the service will be allowed to wither. I have also worked with Sky
21 News. I have written about Sky News. I think it is absolutely fantastic. It has
22 always been, a real injection of a challenge, something new, dynamic. It
23 continues to keep the others on their toes and I think it genuinely is
24 something that we should celebrate and cherish. Not just because lots of my
25 former students are employed there.

26 No, just generally it really does bring something to the news agenda and

1 production in this country. You just see that even through things like the
2 Royal Television Society annual Journalism awards and that kind of thing.
3 Sky is really taken seriously as prime news provider with a proper role. I think
4 there is a great danger that if things are not put in place then that would
5 change for the worse-- and I think also that is potentially a generational thing.
6 I wonder whether there is an ongoing generational interest in keeping Sky
7 News as the beast that it is today.

8 Q. Any other thoughts? Yes, let us go along and then I can wrap it then and
9 when ...

10 A. (Mr Purvis) My final thought perhaps on this issue is I used to think these
11 things and then I got into the detail of what happened in Sky News Australia
12 and that is what changed my mind.

13 Q. Okay, Alice?

14 A. (Ms Enders) The last point on your list here was the question of sufficiency
15 and I think that is quite an important point. Because it struck me when I read
16 Ofcom's public-interest report that the word sufficiency appears in
17 paragraph 1.1 and that is the last one hears of it. But yet, I am told that the
18 public-interest report inherently contains a sufficiency determination under
19 there somewhere, because they concluded that the transaction would be,
20 without undertakings in lieu, against the public interest, given the threshold
21 required for them to adopt. Ofcom must have espoused an underlying view of
22 sufficiency. However, if we look at what they said in the media framework,
23 they set out that sufficiency is a matter for Parliament to decide.

24 I do not know how to reconcile these two things. They say it is for Parliament.
25 Obviously, now it is your problem and then at the same time Ofcom appears
26 implicitly to have made some finding of sufficiency or insufficiency in the

1 public-interest report. None of that quite makes sense to me right now.

2 Q. Julian?

3 A. (Mr Dickens) I think television carries on being disproportionately important
4 because of its impact; because of the scale of its ongoing and enduring
5 view-ability by large percentages of the population; because it carries on
6 being a disproportionately important medium of delivery for a very large
7 proportion of an aging population and will be for a very long period of time.
8 Mathew's point about aging cohorts is important, but the world is not solely
9 determined by 18 to 24 year olds.

10 Does this change in a hurry? No. The internet is undermining existing
11 revenues and investments in journalism and not augmenting. Is the internet
12 increasing the average number of new sources individuals turn to? It would
13 appear not, particularly. Notwithstanding, many more sources are available,
14 again, the Ofcom research tends to suggest that most people still turn to one
15 or two sources for most of their news on a regular basis. We are not seeing it
16 suddenly turn into 20 or 30 people.

17 On that basis, from a personal perspective – because I cannot talk in any
18 other way – then I would look at what has happened to Australia and I would
19 share your concern. I look at the undertakings that are already on the table,
20 behaviour and I would agree with David's position that structural remedies are
21 not, in this particular case, particularly desirable and therefore a tightening of
22 the behavioural undertakings to give a longer period of protection to Sky
23 News. I would argue for it to remain so long as it is owned by the Murdochs,
24 effectively under the control of Fox with a level of investment to, in
25 proportionate terms, remain the same as a level of investment in the other
26 news services which are out there, relative. If Sky is investing 100 to the

1 BBC's 300, if the BBC investment goes down, then Sky's investment must
2 also diminish, because we would not want to keep them funding at a same
3 level. The degree of investment needs to remain proportionate to preserve an
4 independent news organisation. Protections of the editorial side of that
5 business, I think, are important.

6 Q. David L, because David E is ...

7 A. (Mr Levy) Yes, sure, David L. I think that clearly if this goes ahead from my
8 perspective it changes the degree of plurality that there is in the commercially
9 funded news sector and therefore it is something that should be looked at
10 quite closely. I take Stewart's point about Australia as a model. I spent last
11 Autumn in Australia and it is not a model I would want to follow. I think I
12 endorse the points about the guarantees about the independence of Sky
13 News, but I think it is a bit regrettable that we have not talked at all about what
14 a merged entity may look like, in terms of news provision across the piece.
15 Because we have focused very much on Sky News and I think one of the
16 interesting issues here is how a merged entity may play news across the
17 piece.

18 As David Elstein says, there would be some choices to make about whether it
19 is Sky and The Times or whether it is Sky and The Sun, who knows, but in a
20 time when news provision is under pressure everywhere and investment in
21 news is under pressure everywhere, there will be clear incentives to try to
22 achieve some efficiencies and integration across some elements that merge
23 in the Murdoch news operation. I will leave it there.

24 Q. As I said, we have not had time for everything, but if you feel that you would
25 like to put something in, by all means do. I am assuming that you -- I think
26 Mathew and David you have sort of done it and now I really would --

1 A. (Mr Elstein) Can I just add one thing in terms of what Julian was saying. I
2 have no problem with all kinds of editorial undertakings. I do think it is a bit
3 rich to ask a business to make financial undertakings as well. The voluntary
4 investment in Sky News as part of Sky has been a business decision for
5 28 years without regulatory oversight. To say to any business, "You must
6 spend X on this bit of your business" I do not think should be any part of your
7 considerations. If you have got a problem with broadcasting standards,
8 protect them. In terms of medial plurality, I just do not get it at all and I do not
9 even understand why viewpoints within media enterprises is a phrase that
10 turns up in your paperwork. There should not be viewpoints within media
11 enterprises, let alone a sufficiency.

12 A. (Mr Dickens) Although, you did just say that the logical thing would be for
13 them to close it down, which is why I suspect the level of investment is a
14 necessary part of the remedy.

15 Q. Alan, do you want to ...?

16 A. (Mr Renwick) Back to the plurality framework, if we are trying to inform
17 citizens I think that implies the status quo is doing so and I do not think it is,
18 and in this instance I do not think this is relevant to the issue. I think the
19 whole media structure at the moment is not producing a news ecosystem that
20 is keeping citizens informed. I think there is quite a lot of mounting evidence
21 for that. In terms of influence over the political process, I understand how this
22 model of bundling TV and broadsheets and tabloid press could create a
23 political influence in difference markets. Just thinking that through and
24 hypothesising it, it just seems to me there are much easier ways to do that if
25 the Trust wanted to have that political influence and grow it over time, then
26 there are all sorts of digital new channels they could have done this through

1 which would be much more direct and politically influential. I do not see how
2 that quite stands up.

3 Q. I am minded to say we will leave it there, because it has been fantastically
4 helpful and I am conscious we have impinged on your time. If there is
5 anything else you want to add, I would suggest putting it in a note to us
6 afterwards. I am looking at my team, and I think we will keep the written notes
7 written to me; so, that is fine. I will say, thank you once more. Thank you
8 very, very much indeed for coming in. As you understand we have quite a
9 difficult task ahead of us; so, it is very helpful to get your views.

Key to punctuation used in transcript

--	Double dashes are used at the end of a line to indicate that the person's speech was cut off by someone else speaking
...	Ellipsis is used at the end of a line to indicate that the person tailed off their speech and didn't finish the sentence.
- xx xx xx -	A pair of single dashes are used to separate strong interruptions from the rest of the sentence e.g. An honest politician – if such a creature exists – would never agree to such a plan. These are unlike commas, which only separate off a weak interruption.
-	Single dashes are used when the strong interruption comes at the end of the sentence, e.g. There was no other way – or was there?