

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

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

**Notes of a hearing with 38 Degrees, Avaaz, Campaign for Press and
Broadcasting Freedom, Hacked Off, Media Matters for America and Media
Reform Coalition
held at Competition and Markets Authority, Southampton Row, London
on Friday, 27 October 2017**

PRESENT:

FOR THE COMPETITION AND MARKETS AUTHORITY

Anne Lambert - Chair
Sarah Chambers - Panel Member
John Krumins - Panel Member
Tim Tutton - Panel Member

FOR THE STAFF

Mary Ayinde - Project Officer
Joel Bamford - Project Director
Sabrina Basran - Project Manager
Tim Capel - Legal Director
David du Parc Braham - Assistant Project Director
Chris Jenkins - Director of Economics
Timothy Ker - Legal Adviser
Steven Pantling - Remedies, Business and Financial Adviser
Senthuran Rudran - Business and Financial Adviser

FOR 38 DEGREES

David Babbs - Executive Director
Maggie Chao - Campaigner
Emily Evans - Campaigns Intern

FOR AVAAZ

Nick Flynn - Legal Director
George Peretz QC - Monckton Chambers
Alex Wilks - Campaign Director
Alaphia Zoyab - Senior Campaigner

FOR CAMPAIGN FOR PRESS AND BROADCASTING FREEDOM

Josef Davies-Coates - National Organiser
Ann Field - Chair
Tim Gopsill - Editor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

FOR HACKED OFF

Dr Evan Harris - Joint Executive Director
Nathan Sparkes - Policy and Parliamentary Manager

FOR MEDIA MATTERS FOR AMERICA

Angelo Carusone - President
Rebecca Lenn - Director of External Affairs

FOR MEDIA REFORM COALITION

Dr Justin Schlosberg - Chair

Digital Transcription by WordWave International Ltd trading as DTI
8th Floor 165 Fleet Street London EC4A 2DY
Tel No: 0207 404 1400 4043 Fax No: 0207 404 1424
Email: ukclient@dtiglobal.eu

1 THE CHAIR: Firstly, welcome to the CMA. Thank you all for making yourselves
2 available today.

3 What we will do is start with the introductions so everybody knows who
4 everybody is. I am Anne Lambert and I am the Chair of the inquiry group. With
5 us today are two other members of the inquiry group. I will let them introduce
6 themselves.

7 Q. (Mr Krumins) John Krumins.

8 Q. (Mr Tutton) Tim Tutton.

9 THE CHAIR: Everybody else is our expert staff team and I will let them introduce
10 themselves, starting with Joel.

11 Q. (Mr Bamford) I am Joel Bamford. I am the Project Director managing the staff
12 team in this investigation.

13 Q. (Mr Jenkins) Chris Jenkins, Economics Director.

14 Q. (Mr du Parc Braham) David du Parc Braham. I am the Assistant Director.

15 Q. (Mr Capel) Tim Capel. I am a legal director.

16 Q. (Mr Ker) Tim Ker. I am a lawyer.

17 THE CHAIR: We have both got back rows. At the back row is Steve.

18 Q. (Mr Pantling) Steve Pantling. I am a finance and business adviser on the case.

19 Q. (Mr Rudran) Sen Rudran, Business and Financial Adviser.

20 Q. (Ms Ayinde) Mary Ayinde, Project Officer.

21 Q. (Ms Basran) Sabrina Basran, Project Manager.

22 THE CHAIR: Could you introduce yourselves?

23 A. (Ms Field) My name is Ann Field. I am the Chair of the Campaign for Press
24 and Broadcasting Freedom. Regrettably, I need to ask permission to leave at

- 1 4.00 pm, if that will be okay?
- 2 Q. You do not have to ask my permission, but thank you for telling me.
- 3 A. (Mr Gopsill) My name is Tim Gopsill, also from the Campaign for Press and
4 Broadcasting Freedom. I am the editor of the journal Freepress. I actually
5 come from the industry myself because I am a former journalist. I have worked
6 for the National Union of Journalists. I edited their magazine. I was, for some
7 years, the official in charge of discussions on journalistic standards.
- 8 A. (Mr Babbs) I am David Babbs. I am Executive Director of 38 Degrees.
- 9 A. (Mr Wilks) I am Alex Wilks. I am the Campaign Director with Avaaz.
- 10 A. (Ms Zoyab) I am Alaphia Zoyab. I am a senior campaigner at Avaaz.
- 11 A. (Mr Carusone) Angelo Carusone. I am the President of Media Matters.
- 12 A. (Dr Schlosberg) Justin Schlosberg, Senior Lecturer in Journalism and Media
13 at Birkbeck, University of London and current Chair of the Media Reform
14 Coalition.
- 15 A. (Ms Lenn) I am Rebecca Lenn. I am Director of External Affairs at
16 Media Matters for America.
- 17 A. (Mr Peretz) I am George Peretz, Barrister at Moncton Chambers. I have been
18 acting for Avaaz. I am not planning to say anything but, being a barrister, I may
19 feel the urge to say something if there is a point more to us.
- 20 Q. We have got lawyers here too!
- 21 A. (Mr Peretz) I am going to sit back and take notes.
- 22 A. (Mr Flynn) I am Nick Flynn, Legal Director of Avaaz.
- 23 A. (Mr Sparkes) I am Nathan Sparkes, Policy Manager at Hacked off. My
24 colleague, Dr Harris, will be joining us shortly; he is just in traffic.

1 A. (Ms Chao) I am Maggie Chao. I am a campaigner at 38 Degrees.

2 A. (Ms Evans) I am Emily Evans. I am a campaigns intern at 38 Degrees.

3 A. (Mr Davies-Coates) I am Josef Davies-Coates. I am the National Organiser at

4 the Campaign for Press and Broadcasting Freedom.

5 Q. Thank you very much. Let me just start with a little bit of background to the

6 hearing. As you know, we have been asked to investigate the transaction which

7 is Fox's wish to take over 100 per cent of Sky on two public interest grounds,

8 media plurality and a genuine commitment to broadcasting standards.

9 We have published an administrative timetable. We have also published an

10 issues statement, which I am sure you have all read, which sets out the key

11 areas for our investigation.

12 The reason we have asked you to come today to talk to us - we have all, of

13 course, read all your submissions - is really to explore some of the issues lying

14 behind the public interest considerations, in particular whether there will be a

15 negative impact on media plurality and whether or not the merged entity will

16 have a genuine commitment to broadcasting standards.

17 I also need to go through some formal things about the procedures and

18 treatment of evidence. We have previously sent you information on our

19 procedures at hearings and about our treatment of evidence. As you see, a

20 transcript of this hearing is being taken. We will publish a version of it but we

21 will give you an opportunity to review it for accuracy beforehand. If you wish to

22 add to or amend your evidence that you give today, please do not do so by

23 amending the transcript but send us a separate letter instead.

24 I will remind you, as I remind everyone, that it is a criminal offence under

1 section 117 of the Enterprise Act 2002 to provide false or misleading
2 information to the CMA at any time including at this hearing.

3 In terms of how we are going to conduct this afternoon, as I think we have told
4 you in advance, we give each party five minutes each - and I am quite strict on
5 timekeeping - to highlight the key points of their submission, and then we will
6 go into our questions. The questions are primarily going to be led by Joel as
7 the Project Director but you may find members of the group or members of the
8 staff team also intervening.

9 I am just going to introduce one more member, Sarah Chambers who is the
10 fourth member of the group.

11 Q. (Ms Chambers) Sorry I am late.

12 THE CHAIR: Before we begin, do you have any questions?

13 A. (Mr Davies-Coates) I have just got a quick question that someone asked me
14 about submissions already made to the CMA. Are we able to publicly publish
15 those or is there any reason why we are not allowed to?

16 Q. I see no reason. I look at my lawyers. No.

17 A. (Mr Davies-Coates) Okay. So, any submission we have already made we are
18 allowed to make public now as opposed to waiting?

19 Q. They are your submissions. Yes, that is fine.

20 Okay, you have got an order. Can you tell me the order, please?

21 A. (Ms Field) The order is Avaaz, CPBF, Media Matters for America, Hacked Off,
22 MRC and 38 Degrees.

23 Q. That is great, thanks very much. So, starting with Avaaz ...

24 A. (Mr Wilks) Thank you very much indeed. We spent some time in the early

1 months of this year calling for the CMA to get a chance to review both the medial
2 plurality and broadcasting standards and it is a great thing to be here helping
3 you with your inquiry. As first timers to the CMA, I thought we should say a
4 couple of words about what Avaaz is and how we operate.

5 Avaaz means voice or song in several languages. The idea is for citizens to
6 have their voice on important decisions. We have got about 45 million
7 members in countries all across the world and we campaign and communicate
8 in about 17 languages on a wide range of issues. We are a very democratic
9 movement, taking our directions from our membership through polls, tests and
10 funding. Indeed, our model of accepting only small crowdfunded donations
11 means we are totally independent of any institution. Our members clearly
12 show, throughout all of these exercises, that they are concerned about the state
13 of our democracies and they are concerned about the rules such as media rules
14 which can help uphold proper deliberative debate and real democratic values.
15 We are lucky in the UK to have laws to protect our media and, indeed,
16 institutions like the CMA to scrutinise and uphold those things. We do not take
17 those for granted. We feel that you and the secretary of state are like explorers
18 plotting a course across a tough landscape and buffeted by strong winds in the
19 shape of expensive lawyers and powerful interests. You have an
20 unprecedented terrain to walk across and we are very pleased to help.

21 We have made submissions on common control, on-screen broadcasting
22 standards and on the corporate governance behaviour which is pertinent to the
23 commitment to broadcasting standards as well as supported the plurality
24 submission led by the MRC. I am not going to summarise all of those in

1 five minutes, you will be glad to know.

2 What we do show in the common control briefing is that, despite Fox-Sky's
3 inaccurate account of Ofcom's report, Ofcom were right in their legal analysis
4 of the transaction under the complex provisions of section 58 of the Act. The
5 critical issue is to understand, beyond that, the extent to which, in reality, the
6 Murdoch family now control Fox and would control Sky if Fox were to get
7 complete control of it. The evidence we provided you with shows that, at the
8 moment, even supposedly independent directors in key Murdoch businesses
9 are not truly independent. The Murdochs are able to, effectively, exercise
10 complete control of those businesses.

11 We brought some evidence as well showing that there are a series of class
12 action lawsuits from independent shareholders which have been settled for
13 huge amounts on this issue. This question of control is, obviously, relevant to
14 the editorial agenda, the business ethos and attitude of the businesses which
15 the MFT have those stakes in.

16 In our submission on on-screen broadcasting standards, we show that Ofcom's
17 bald summary in its public interest test report that Fox's compliance was "good"
18 conceals a pattern of Fox breaches and potential breaches, which we urge the
19 CMA to look into further, and that Fox's responses to Ofcom show that they
20 either have not understood UK media laws or do not respect them. There are
21 a series of examples there in our testimony. I hope we come to them later.

22 Fox argues that Sky could not be Foxified because of strict UK rules but there
23 are at least two problems with that. The main one is that there is often a flexible
24 approach, to put it generously, to complying with regulatory standards and even

1 the criminal law by the Murdochs. Our corporate governance submission
2 responds to your request for information on their broader attitude to regulations
3 and compliance. We show that the Murdochs, across six businesses and
4 three continents, have often pursued commercial and political power at the
5 expense of ethical and legal considerations. We have also shown that, in some
6 cases, the Murdochs have misled merging parties and regulators when they
7 were about to pursue takeovers and they have done the opposite or done other
8 things after the takeovers. Importantly, we believe that, in this bid, the
9 Murdochs may have done so again, shooting a hole in their credibility.

10 In December, in the preliminary submission to the DCMS on the bid,
11 Allen & Overy, on behalf of Fox, wrote that:

12 "21CF has adopted strong governance measures and controls
13 to ensure it meets the highest standards of corporate conduct.
14 Amongst other things, these arrangements provide for the rapid
15 escalation of material issues from individual businesses through
16 the Compliance Steering Committee to the independent
17 directors of the Audit Committee and the full Board."

18 Yet, revelations over the weekend have shown that, just weeks after sending
19 that to the DCMS, the Fox Board learned that Bill O'Reilly was settling a
20 harassment claim by a long-serving female staff member, but they failed to find
21 out details of what harassment was alleged to have occurred or the amount
22 being paid to the victim. They let Bill O'Reilly get away with declaring this, his
23 sixth such settlement - the first was in 2004 -, a personal issue between him
24 and his junior colleague. They went on in the subsequent weeks to award

1 Mr O'Reilly a 30 per cent pay rise as part of a new four-year contract, sending
2 a signal that executives will be protected whatever their behaviour. Rupert
3 Murdoch was and is the CEO of Fox News.

4 We look forward to the CMA using its powers to obtain a full picture of the
5 threats to the public interest from this family which so often has shown an
6 attitude of defiance rather than compliance. Thank you.

7 Q. Admirably to your five minutes. Thank you very much. Now the CPBF.

8 A. (Mr Gopsill) I am Tim Gopsill. I am presenting this. I introduced myself before
9 as a journalist because our approach to this is very much with the editorial
10 content, particularly of Sky News and the likely effect of the merger.

11 We were very pleased that the secretary of state included corporate
12 governance in the consideration of broadcasting standards but our concern
13 very particularly is the mechanisms by which we believe - in fact, we are
14 convinced - that a Sky News wholly owned by the Murdochs would without
15 question breach the Broadcasting Code. We are talking about, particularly,
16 section 5 of the Broadcasting Code which concerns fairness and impartiality.

17 The basis of this is that the Murdochs for years have made very clear their
18 disdain, if not contempt, of the very concept of regulated broadcasting. Of
19 course, Sky is regulated but they have always complained about that.
20 Rupert Murdoch and his son, James, who is the chairman of Sky, have both
21 made very strong statements. James Murdoch said in a speech in Edinburgh
22 in 2009:

23 "A heavily regulated environment with a large public sector
24 crowds out the opportunity for profit, hinders the creation of jobs,

1 and dampens innovation in our sector."

2 In 1989 in a speech in Edinburgh, Rupert Murdoch defined British broadcasting
3 as:

4 "... no more than the parading of the prejudices and interests of
5 the like-minded people ..."

6 and:

7 "... television has operated on the assumption that people could
8 not be trusted to watch what they wanted to watch, so that it had
9 to be controlled by like-minded people who knew what was good
10 for us."

11 I am sure you can look up the references of the two MacTaggart lectures by
12 both of them.

13 The question is, given Murdoch's thinking on the subject, how it would be likely,
14 if not certain, to operate in practice. Fortunately, the Murdochs themselves
15 have given us clues.

16 In 2007, Rupert Murdoch was interviewed by the House of Lords
17 Communications Committee in which he said the very well-known quote, which
18 you again can look up, "Sky News would do better if it could be like Fox in the
19 USA". The phrase that he uses for the improvement that will be made, very
20 specifically and interestingly, is that it has not made "presentational changes".
21 That is a clue to how it operates.

22 I do not know how many people have seen Fox in the USA. I am sure we have
23 all sat in hotel rooms late at night and watched all these people shouting at
24 each other at the top of their voices with contrived controversies. The way it

1 works is that Fox, in its weekday evening programmes, presents a series of
2 very strident talk shows in which strong, conservative points of view are
3 reinforced between each other. The statements then that are made are put into
4 the news bulletins themselves and the news agenda is set that way. The other
5 media, which Murdoch always disdains as the "liberal" media, feel obliged to
6 follow suit and those stories, which can be completely untrue, then find their
7 way into the mainstream.

8 I want to give you two very short examples. They are interesting because they
9 both affect the UK. There is a broadcaster called Judge Andrew Napolitano
10 who is the legal analyst for Fox News. He produced a story which said that
11 GCHQ in Britain had been used by Barack Obama to wiretap Donald Trump
12 during the election campaign. The story was, obviously, completely
13 untrue - this is all referred to in our submission - and after a couple of days, they
14 withdrew the story and conceded there was no truth in it whatsoever. Yet, that
15 was not by some studio guest but by their own security legal analyst.

16 There is another analyst called Steve Emerson, who is a terrorism analyst. He
17 produced a story a couple of years ago that the city of Birmingham in England
18 was entirely populated by Muslims and other people did not go there and he
19 made other comments about the Muslim community in Britain, all of which
20 caused great offence; and again they withdrew it.

21 Those stories, which were completely untrue, even though made by their own
22 analysts, got a lot of air time and were placed very firmly on the news agenda.
23 This is extremely dangerous.

24 So, if we ask ourselves the question, "What is commitment to broadcasting

1 standards?" Fox say that they are required to comply. Of course, they are
2 required to comply with section 5. But the question is not compliance; it is
3 genuine commitment. The secretary of state made this clear when she referred
4 it to you that Fox have to show that they have a genuine commitment to
5 broadcasting standards. In Britain, that means compliance with the
6 Broadcasting Code of Ofcom. There is no question that they do not have that
7 genuine commitment; whatever happens, they certainly start without it.

8 Q. Thank you very much. Media Matters for America ...

9 A. (Mr Carusone) Thanks for having me. Media Matters is a media watchdog.
10 We primarily focus on conservative media. We watch all the media but we are
11 particularly focused on conservative misinformation because we have an awful
12 lot of it. So, we are steeped in Fox News and a lot of that is reflected in our
13 submissions. We understand the content and, in particular, the insidious way
14 that they blur the line between commentary and news.

15 It is not a hard line at Fox News. In fact, that distinction where they have started
16 to elevate it really was born in the summer of 2011 after the Glenn Beck fallout -
17 - who had lost a lot of advertisers; Fox News having an awful lot of difficulty
18 booking guests; and Roger Ailes announced a course correction and it started
19 to really emphasise the distinction between the two. It was mostly, from my
20 opinion, a branding assessment, an exercise, not really a reflection of a true
21 distinction between the two.

22 But, in particular, not only understand the way they blur the lines but also the
23 way in which they can engage in targeted retaliation. According to reports that
24 came out in 2016 from a New York magazine reporter, Fox News had retaliated

1 against one of our investigative reporters who had been doing some work
2 exposing the ways in which slanting the news was coming as official directives
3 from news executives there, in particular Bill Sammon and a few others that
4 actually are responsible for the news divisions. He was hacked. His phone
5 records were obtained through illegal means, if this reporting is accurate. That,
6 obviously, is one example of it.

7 As an institution, we also understand the retaliatory power because they led a
8 multiple-weeks' long campaign, every hour on the hour, organising their
9 audience to petition the IRS to take away our (c)(3) status (c)(3) which is
10 essential to be a non-profit in the States; you need to be a (c)(3). They literally
11 organised a campaign to have us removed from that [✂]. I imagine we are
12 going to talk about that. A lot of that is in our submission.

13 What I really just wanted to do was give one story about one station because I
14 think it really ties together a lot of the considerations that we are looking at
15 today. It is a Tampa station, WTVT. The Murdochs took it over in the 1990s.
16 It is an owned-and-operated local station, meaning that they have the broadcast
17 licence for it and they operate it as opposed to an affiliate which is connected
18 to it but they have no editorial control. This one they actually control. That
19 Tampa station was a well-known, well-received, well-regarded station for
20 cultivating investigative reporting and journalists.

21 There were two journalists working on a report about a bovine growth hormone
22 in milk. It is banned in many parts of the world. It is still legal in the States;
23 RGBH. They were just working on an investigative report about it; did all the
24 due diligence. They interviewed the company who was responsible for

1 producing it, Monsanto. Three or four days before the report was about to air
2 Monsanto sent a letter to Roger Ailes, the chairman of Fox News, threatening
3 that, if the report were to run, it would have dire consequences for Fox News
4 and its owner, explicitly citing Rupert Murdoch. The report was delayed. The
5 general manager of that station, who himself had a background in investigative
6 reporting, vetted it again just to deem that it was able to be aired and set a new
7 time to air it. Monsanto sent a second letter and then the report was delayed
8 indefinitely. The general manager was subsequently fired and replaced by a
9 non-news-experienced person, somebody that did not have a news
10 background to take over the station. Those investigative reporters were
11 sidelined and, ultimately, sued for retaliation.

12 The reason I highlight this story are for the takeaways. One is why was the
13 letter addressed to Roger Ailes? Because, he was also not just the chairman
14 of Fox News but Rupert Murdoch had put him in charge of Fox Television
15 Stations, overseeing all of the owned-and-operated affiliates. It is an illustration
16 of the way in which the Murdochs exercise relationships with key executives in
17 order to have vertical control over the large parts of their corporate entities.
18 This was a way of imposing discipline and consistency and to put key people
19 into decision-making roles like that.

20 Why did they cite Murdoch? The mere fact that Rupert Murdoch was
21 referenced in that letter shows that Monsanto believed that, even indicating him
22 and mentioning him, somehow he should have some editorial control; that it
23 was not some ridiculous thing to ask Rupert Murdoch to engage or weigh in on
24 a local news report. That is atypical.

1 The other takeaway from that is that not only was Monsanto a large advertiser
2 of the Fox empire but they were also a client in another company that
3 Rupert Murdoch owns that was a part of News Corp that was responsible for
4 placing media bias on other media properties. They were a customer as well,
5 aside from just an advertiser. It really illustrates and underscores the
6 interconnectedness of these relationships and how that can influence not
7 always the left-right divide but important life-essential information and really
8 good reporting and how that can be stifled and swept up as well.

9 The last reason I think this station is worth highlighting is because it is not just
10 this one report; I also think it gets to and underscores the way in which these
11 entities operate. Not that long ago, after a series of consolidations, much of the
12 local -- all of these owned-and-operated stations are in different markets; they
13 are not in the same area. It was recently done so that almost all of the on-
14 screen graphics are now being produced out of a digital studio in this one local
15 owned-and-operated station, which means that this station is producing the on-
16 screen graphics for much of local news that they are not even connected to. I
17 think that is another illustration of the way in which they operate. Not only does
18 that impose consistency and control but it also eliminates a lot of local
19 relationship. Most communication is non-verbal. Those on-screen graphics
20 matter. The Fox people understand this and they recognise that having a single
21 graphics producer has real power.

22 I think that story just ties together a few threads and I wanted to share it today.

23 Thank you.

24 Q. Thank you very much. Hacked Off ...

1 A. (Dr Harris) Thank you. We believe that you are right in your issues document
2 to recognise that what will matter in respect of the genuine commitment to
3 broadcasting standards provision is their track record, that their track record
4 matters, and including their conduct and their track record in non-broadcasting
5 entities.

6 In my view, you would need to be confident that they had a genuine commitment
7 to broadcasting standards and that would not be possible, that conclusion, if it
8 is clear that they did not have a genuine commitment to any standards or any
9 standards regime which conflicts with other priorities that they have in terms of
10 running their business. The evidence of that is very clear. One does not
11 actually even have to look --- and perhaps it is a distraction to look --- at the
12 narrow issue of broadcasting standards when what matters is whether you can
13 assess a genuine commitment to those standards or indeed any standards.

14 What would a genuine commitment to broadcasting standards or indeed any
15 standards look like? It would involve all, or at least some -- I would say all --- of
16 these: that, when something goes wrong, there is an agreement and a
17 determination to get to the truth, not to sweep it under the table; not to say
18 things from a corporate leadership position, as the Murdochs have, that show
19 a disrespect or a disregard, to put it mildly, for adequate standards and
20 governance; to comply with societal standards of regulation in other businesses
21 rather than not to do so nor, indeed, to urge others not to do so; to show a
22 change in corporate governance following the disaster that overtook them at
23 News Corporation; and specifically to ensure that they do not run a regime
24 where impunity is provided, neither for the individuals who were involved in the

1 failures of corporate governance (to put it at its lowest), nor to encourage a
2 culture where it is seen that people can do that and get away with it. They
3 ought to also, as a minimum, be consistent with the statements that they make,
4 statements of remorse or statements that they wish to change.

5 It is important to understand the scale of the wrongdoing that has been admitted
6 or has been found in court. Thousands of ordinary people, and people in the
7 public eye, had - voicemails intercepted. Thousands of people were data-
8 mined by private investigators getting their personal data, telephone data,
9 medical data, banking data; thousands. This took place over what is said to be,
10 and has been shown to be in settled cases, a decade. Dozens of police and
11 public officials receiving corrupt payments from journalists at News Corporation
12 and, recently, six years after the allegation, an admission that computer hacking
13 took place under the auspices of senior journalists at News Corporation.

14 In addition to that, there are now allegations that have been taken seriously by
15 the courts, that are going through the courts and have survived attempts to
16 strike them out as groundless, that there were years of hacking at The Sun
17 newspaper under the editorship of the person that the Murdochs have
18 specifically chosen, since their new post-2012 regime started, to put in charge
19 of corporate governance at News UK.

20 There are also allegations that have been made - and this has been deployed
21 in open court - that the senior executives, including those that the Murdochs
22 have retained in position (that is James Murdoch) - or put back in positions of
23 power and responsibility for corporate governance - namely
24 Rebekah Brooks - not only concealed through a failure to properly investigate

1 and making statements that were known to be untrue - but also destroyed
2 evidence. These have been heard in court and one would think that it is
3 important that you will need - and I am sure you realise - to get as close to
4 getting to the truth of those allegations as you can.

5 Instead of the things that I think that most people would think would be the
6 components of a genuine commitment, let us look at what has happened. The
7 Leveson Inquiry made findings critical of Murdochs. In the Ofcom fit and proper
8 test, which I know is a different threshold and different terms of reference to
9 what you have, Sky only "passed" due to the non-Murdoch majority on the
10 Board, it is fair to say, and they were critical of the record. Now, a record is a
11 record. You cannot change the record. What you can do is change staff. So,
12 where staff have been implicated in wrongdoing or incompetence that has led
13 to a failure of corporate governance, you do not promote them or reward
14 them - that encourages impunity - but you change them and/or you change
15 policy, and you change your approach to regulation.

16 None of those have happened in the non-broadcast media sector that the
17 Murdochs control. Their only response to these criticisms has been to advertise
18 that they have got a new corporate governance structure since 2012. But it is
19 under that corporate governance structure that they have re-employed - and
20 this is in the public domain - someone who was convicted of a criminal offence
21 to a senior position --- this is Mr Nick Parker; it is in the Ofcom report --- in one
22 of their newspapers, even after the Murdochs went on record saying they would
23 have "zero tolerance of criminal wrongdoing". You cannot get further from zero
24 tolerance of criminal wrongdoing and not creating a culture of impunity by

1 "welcoming back" - that was the term used - someone convicted of a criminal
2 offence in their work for the Murdochs. And reappointing someone responsible
3 for the previous failures of corporate governance to be in charge of corporate
4 governance at News UK, Rebekah Brooks, is a rejection of a change and to
5 say that things have moved on.

6 And it is very clear that they have fought against getting the truth out. The
7 second part of the Leveson Inquiry is very clear in its terms of reference that it
8 is to get to the truth of the extent of criminal wrongdoing at News International
9 and the extent of any failures of corporate governance. That has been opposed
10 by the Murdochs and they have used their newspapers to campaign against it
11 and encourage other people to campaign against it. I do not see how that
12 portrays any kind of genuine commitment to corporate governance.

13 In addition and finally, they have rejected the model of regulation proposed by
14 the Leveson Inquiry despite saying at the Leveson Inquiry that they recognise
15 that the existing regulatory model had failed. Not only have they rejected what
16 was proposed by the Leveson Inquiry and endorsed by parliament, but they
17 have campaigned to encourage others to boycott it as well. That shows a
18 rejection of normal standards of corporate governance, in our view.

19 Q. Thank you very much. Now it is the MRC.

20 A. (Dr Schlosberg) Thank you very much for having me. I am going to speak to
21 the issue of plurality, which has been the focus of both our submissions in
22 phase 1 and this inquiry and also the focus of my research for the best part of
23 the last decade.

24 The first thing to say in regard to this is that it is quite easy to see on the surface

1 level why 21CF and, indeed, many people think that we live in an age where
2 we have abundant sources of news and media at the click of our fingers and
3 virtually any conceivable issue or story gets some kind of coverage that is, in
4 theory, accessible, especially on digital platforms, and, therefore, that this
5 should not be an issue in this inquiry. If we drill even slightly below the surface
6 it becomes equally easy, in fact more compelling to see why -- when we ask
7 the question of who produces the news that matters, who produced the news
8 that cuts across fragmented audiences, who produces the news that reaches
9 beyond their own direct readership, I think the answer is very clear that we still
10 live in an age where that power of voice is exercised by a very small number of
11 individuals and institutional megaphones. That is really what our research
12 throughout this process has spoken to.

13 There are two sources of confusion. One, as I have just mentioned, stems from
14 the fact that, at the retail level and at the level of availability - to use Ofcom's
15 language - there is an abundance of news sources. But when we drill down to
16 the wholesale level, we find that, actually, there is a very small number of
17 institutions that are able to produce the kind of generalised regularity of output
18 that we associate with daily news in this country (much less, for example, than
19 in many countries in Europe, and considerably less than in the US as well).

20 The other source of the confusion concerns the role of so-called intermediaries.
21 There is this prevailing assumption that is made by 21CF and many other
22 people that the rise of platform monopolies, particularly Google, Facebook and
23 Twitter, has indirectly eroded the agenda power and gatekeeping power that
24 was one vested in the hands of traditional or conventional media operations.

1 Part of the problem is that many of those platforms do the very opposite; they
2 actually amplify the voices of mainstream incumbent news brands. We can see
3 this at a very cursory level. If we look, for example, at the latest Google patent
4 application for its news algorithm, it is very clear that the kinds of news
5 organisations that its algorithm gives prominence to are those that produce
6 news in volume, on a scale and on an international level that only a very few
7 organisations in this country are able to do. One of them is, obviously, the BBC.
8 Another is Sky News. And others are those that are controlled by the Murdoch
9 family, namely The Sun brands and The Times brands. That is really, I think,
10 the crux of the issue from plurality concerns in regard to this review.

11 The other thing we need to think about is, as I mentioned earlier, this issue of
12 agenda power. I think this was really the cliff edge where the phase 1 review
13 left off. Ofcom acknowledged that News UK titles in particular but also Sky
14 have the potential to exercise agenda influence beyond their direct audiences.
15 That is evidenced in a number of ways. It is evidenced in the data provided by
16 News Corp and Sky themselves, which show that, actually, they have a
17 disproportionately large presence on so-called intermediary and aggregated
18 platforms, whether that is Apple News or Snapchat or Facebook's Instant
19 Articles.

20 One of the points that Ofcom makes is that there are limitations to its survey-
21 based research on news consumption and medial plurality. One of the
22 limitations is that we live in a world where the news is increasingly
23 disaggregated. People are no longer able to necessarily recall or even be
24 aware of exactly who produces the news that they consume. If you ask them

1 the standard question, "Which source of news do you use regularly nowadays?"
2 and you present them with a list of options that includes brands like Google and
3 Twitter, et cetera, then they may well cite those brands even though they are,
4 in fact, actually reading stories by The Sun or watching videos by Sky News,
5 for example, on those platforms.

6 It is one of the relatively unexplored areas in scholarly research within this field,
7 but I do not actually accept that this is an impossible or even particularly difficult
8 thing to explore, particularly for the CMA, because there is abundant data that
9 is collected by commercial media analytics agencies, which show, with very
10 strong relevance to this inquiry, exactly what kind of presence and performance
11 these brands have on platforms like Facebook, Twitter, Google and YouTube.
12 Indeed, we have collected a sample featured in our submission, which shows
13 that Sky, in particular, has a disproportionate presence on these platforms. I
14 think that is partly because it is very strong in audiovisual content but partly
15 because I think we can also deduce something about Sky's business model. It
16 is a loss-making entity and it exists, in many ways, to promote primarily the Sky
17 brand. Therefore, it is logical that it would seek to leverage its content as widely
18 as possible on as many platforms as possible.

19 We see a similar thing has happened with The Sun, particularly since it
20 abandoned its paywall in 2015. Not only has it grown spectacularly in terms of
21 its own direct readership and page views on its website but it has developed a
22 very strong presence on social media and aggregated platforms.

23 The third key area is the agenda influence that titles like The Times and
24 The Sunday Times still have in spite of the fact that they maintain a very high

1 paywall on their digital platforms and in spite of the fact that The Times has, for
2 decades been - in fact, since before Murdoch purchased it in 1981 - a loss-
3 making brand. It is very influential. That is clear in the way that both successive
4 editors and News UK spokespeople have articulated The Times's role, which is
5 very much about setting the news agenda. It is also very clear in the research
6 that we have produced for this submission which shows that The Times is
7 actually one of the most influential news brands in terms of agenda leading
8 stories; that is to say, what goes as a headline in The Sunday Times or any
9 edition of The Times newspapers is very often a cue for news outlets across
10 platforms that this story is a story worth telling. That really goes to the heart of
11 plurality concerns, particularly, as Ofcom has defined it, in terms of the ability
12 to exercise excessive influence over either public opinion or the political
13 process.

14 On the point of profitability, it is worth just emphasising that we live in a world
15 today where news is increasingly less profitable, but that in no way is that a
16 proxy for declining influence. In fact, the very opposite seems to be happening.
17 As institutional investors withdraw from major news assets we see that vacuum
18 being filled across Europe and the US and in this country by oligarchs, by
19 individuals, by families who, I think it is fair to say, have an interest beyond the
20 commercial opportunities of their asset, whether that is in the prestige of owning
21 such an influential title or in the potential to leverage it for political access and
22 influence.

23 I think that is certainly clear in the case of the Murdochs. If you look at the
24 history of the way Rupert Murdoch has built his empire it has been very much

1 about investing not just in news for profitability but news for political access.
2 We have seen that in the way that he still enjoys to this day vastly
3 disproportionate access to the highest levels of government. We did research
4 which showed that News Corp executives and the Murdochs met more
5 frequently with the Prime Minister and the Chancellor than any other private
6 sector individual or organisation by far. Interestingly, the second on the list was
7 the Lebedevs who are owners of The Independent print and Evening Standard
8 titles. That just demonstrates that there is still this reality whereby, if you are
9 the owners of influential media brands, you can, should you wish to -- and not
10 all media proprietors do wish to -- but the ones that do can open doors to the
11 most senior levels in government at a rate that no one else can.

12 Finally, I just want to speak to this issue of the shift to full control and the
13 implications thereof. It is very clear that there are formal structural reasons why
14 the acquisition will enhance control over Sky and Sky News in particular. Much
15 more important for the purposes of this review is the informal context. There
16 have been decades of sociological research including a very recent study that
17 has showed that, when you get consolidation of media in the hands particularly
18 of individuals or families, there is a consistent correlation between that and
19 declining levels of editorial independence, based on the testimony of journalists
20 and editors themselves. I think that is really what we have to consider when
21 we think about this question of the risk that this deal could pose to the public
22 interest; that the risk is that even just a friendly pep chat in the newsroom post
23 acquisition could have a trickle-down influence; it could result in certain
24 perspectives and values being internalised both by editors and journalists. That

1 will not, I am afraid, be captured or protected against by the Broadcasting Code.

2 THE CHAIR: Thank you very much. Finally, we have 38 Degrees.

3 A. (Mr Babbs) Hi. Thank you for inviting us. This is also 38 Degrees's first time
4 in front of the CMA, so I will start by explaining about how we operate and why
5 we have an interest in this.

6 38 Degrees's founding assumption is that democracy works better when more
7 people get involved. We operate as a network of a very large number of UK
8 citizens who wish to participate in the democratic process more. We have
9 about 2.5 million active members drawn from all socioeconomic groups and all
10 areas of the UK. Our campaigning agenda is set by a combination of surveying
11 and discussion with those members to decide what issues we work on and how
12 we operate. It is from that interest in democracy and that interest in serving a
13 wide-ranging membership drawn from the general public that leads 38 Degrees
14 to be encouraging the CMA to not let this Sky takeover go ahead.

15 What I really wanted to reflect to you was that I do not come here as an expert
16 in media matters, as so many of this panel are, but I wanted to reflect to you
17 that I think there is overwhelming evidence that it is not just experts who have
18 concerns about this deal. Those same concerns are widely held amongst the
19 general public. That is what has led this issue to become a 38 Degrees issue.
20 One of the main things that we have done as we have engaged with this is
21 crowdfunded donations from our membership to conduct public attitudes
22 research into the public views this deal.

23 I also, as preparation for coming here today, surveyed the 300,000 38 Degrees
24 members who have taken part in aspects of our Murdoch campaign before, to

1 ask them why they were part of this campaign and what they wanted me to say
2 to the CMA on their behalf. What we found is a very high level of alignment
3 between what the 38 Degrees members expressing concerns are
4 saying - probably in some cases submitting to the CMA directly - and what our
5 research which we commissioned by YouGov also says. When we have asked
6 members of 38 Degrees whether they think the deal should go ahead the
7 results are very much in line with when YouGov have asked the general public.
8 We have submitted quite a lot of detail on the YouGov research to you. I would
9 highlight that YouGov have found pretty much every age group, every political
10 persuasion, there is majority concern about this deal.

11 On the issue of media plurality, we asked the public if they thought giving 21st
12 Century Fox 100 per cent ownership of Sky would or would not give Rupert
13 Murdoch too much power over the UK's media. We asked that question
14 three times and, on every occasion, at least two-thirds have said that it would
15 give the Murdochs too much power. Most of the rest are made up of "Do not
16 knows". There were very few who think that it would not.

17 When we have asked them whether they feel that Rupert Murdoch and his
18 company can or cannot be trusted to have a commitment to fair and neutral
19 reporting at Sky News, 68 per cent say "Cannot". When we have asked them
20 about their commitment to corporate standards, ensuring their employees are
21 treated fairly and will not experience racial or sexual discrimination and
22 employees will not engage in criminal activities, 61 per cent say that the
23 Murdochs cannot be trusted to ensure those things.

24 What we have heard from everyone else is that the public's concern lines up

1 with the evidence. The overall impact of this deal going ahead would be to
2 undermine public trust in the media landscape in the UK and in Sky as a
3 broadcaster.

4 I wanted to conclude by just offering one reflection about another thing that has
5 come out for me in the surveying of 38 Degrees members about what motivates
6 them in being so concerned about this deal, and that was that there is a real
7 strong, gentle-but-firm, patriotic concern behind a lot of what I think people are
8 saying. We have a history in the UK of having a media landscape which is
9 better than that which Fox News has contributed to in the US. At a time of great
10 political polarisation and turmoil, the last thing we need is a deterioration in
11 broadcasting standards in the UK. The impact of this takeover, I think it is
12 widely felt by the general public, would be negative both at the level of our
13 media and at the level of our politics. That is, I think, why so many people are
14 looking to you as the CMA to be brave in your decision and to not let this deal
15 go ahead.

16 THE CHAIR: Thank you very much. Thanks to all of you for both giving us information
17 but also keeping to time, which is great.

18 Joel, over to you for some questions.

19 Q. (Mr Bamford) A couple of opening remarks. Firstly, we have a series of
20 questions. Some are general questions which I will put to all of you; others are
21 in relation to individual submissions where I have to do further probing. Our
22 questions should not be taken as an indication of a forming of a view; they are
23 just an exploration. I will go through three key areas. The first will be around
24 plurality; then I will look at broadcasting standards; and, finally, the impact of

1 the merger in general.

2 I would like to start with respect to plurality. We have seen from the Ofcom
3 report various metrics around reach, consumption and share of reference. I
4 wondered whether you could expand on what factors might mean that a media
5 or news provider's influence may be greater or weaker than those metrics might
6 tell on the bare fact of the numbers.

7 A. (Dr Schlosberg) In terms of reach and consumption - and this is where we look
8 at a platform-by-platform rather than a cross-platform picture - it is pretty clear
9 that News UK still has a strong dominant position within print media. Obviously,
10 that is qualified by the fact that print newspapers are in long-term decline.
11 Nevertheless, they still sell millions of copies every day, notwithstanding the
12 point that I made earlier about the potential agenda influence of those brands.
13 So, there is a dominance there and a dominance that may be even greater than
14 simply what reach and consumption measures suggest.

15 In terms of television, in the conventional reach and consumption measures
16 that Ofcom uses, Sky comes out as the third biggest national television news
17 provider after the BBC and ITN. That does not take into account, of course,
18 that Sky is the only competing 24-hour news provider to the BBC. So, again
19 we could consider the influence as being, if anything, greater than what the
20 conventional measures suggest.

21 In terms of radio, we know that Sky News has the exclusive contract to supply
22 the commercial radio sector with wholesale newsfeeds around the clock. There
23 was a controversial decision made by Ofcom in 2015 to discount Sky as the
24 wholesale provider to Global and Bauer stations, which are the two biggest

1 commercial radio groups. Ofcom reflected on this in their public interest report.
2 One of the points that they made is that that decision was based on the fact
3 that Global and Bauer do operate their own newsrooms, which is true.
4 However, we have done research, both for the phase 1 and more extensively
5 for this review, which shows that, very clearly, there is shared content between
6 Global and Bauer stations, particularly the use of shared clips. That can only
7 come from Sky, which is the exclusive wholesale provider.

8 So, at the very least, what we are concerned with is that, if you discount Sky's
9 wholesale provision to those radio groups altogether, then you miss out on
10 something. We suggest, based on our evidence, that a much more accurate
11 and appropriate measure would be to attribute 50 per cent of the wholesale
12 news provision for those groups to Sky. If you do that, it has a significant impact
13 on the cross-platform picture based on Ofcom's share of references. In
14 particular, if we think of Sky and News Corp titles combined, which follows from
15 the presumption of control principle established by Ofcom, and which is really
16 the basis on which this should be assessed because those are the titles that
17 would, effectively, fall under the control of the Murdoch family post-merger, then
18 they are now only eclipsed on that measure - the shared references - by the
19 BBC.

20 Q. (Mr Bamford) Could I just ask a question on the radio context? Having read
21 the paper and the research that you put in there, we suggest that bulletins
22 across, as you say, the radio stations, are very similar, including the same news
23 clips provided by Sky. Did your research also look at the selection and ordering
24 of the programmes and the commentary around them and any contextual

1 matters in that way?

2 A. (Dr Schlosberg) Yes, absolutely. By the way, we are not saying that they are
3 the same and we are not at all discounting the fact that there is some original
4 newsgathering that is being done, particularly by Global stations, actually. We
5 did do precisely this in-depth, qualitative analysis that you suggest. If there is
6 a vox pop or a clip of someone being interviewed, the way in which it is
7 presented by the stations may be, "X spoke to Global News" or, "X spoke to
8 Magic FM", et cetera, but, in fact, when it is the same person that is doing the
9 interview and supplying the recording, then that is a cosmetic presentation of
10 newsgathering. It is not a reflection of actual wholesale newsgathering on the
11 ground that, for example, individual stations or Global and Bauer may be doing.
12 I am not saying they do not do that but it is clear that a lot of what is presented
13 on the programme is presented as original newsgathering when, in fact, it is
14 very likely that much of that comes from Sky. Indeed, there are many instances
15 where Sky reporters are actually referenced by both Global and Bauer stations.

16 Q. (Mr Bamford) That is in the context of newsgathering. Did it look at the editorial
17 choices around where, say, a news clip would be placed within a running order?

18 A. (Dr Schlosberg) Yes. It is fair to say that there is a significant variance there.
19 It is very easy to do that. You do not need to invest in newsgathering to pick
20 and choose which stories from the wholesale newsfeed you want to run as your
21 lead headline, which ones you want to ignore altogether, et cetera. So, the
22 ordering, there is certainly variance there.

23 In terms of the range of stories that appear on the bulletins that we looked at,
24 there was much more homogeneity between Global and Bauer than there was,

1 for instance, between the Global and Bauer stations and BBC stations. It was
2 clear from our analysis that the BBC is following a much more independent
3 editorial agenda. Again, that does not necessarily prove that there is reliance
4 on Sky as the wholesale provider but it at least suggests that there may be
5 some kind of influence there. Coupled with the hard evidence of shared clips
6 between Global and Bauer stations, I think that discounting Sky altogether
7 really does skew the picture in the wrong direction.

8 Moving on to the digital context, that is, obviously, much more complex because
9 there are so many different measures even if we just restrict ourselves to reach
10 in consumption. The most conventional measure is page views. If we look at
11 page views, again it is relatively consolidated, and the market is more
12 consolidated than in much of Europe and America. We see, for example, that
13 out of the top ten brands, based on page views - this is the data collected by
14 comScore in April of this year and I am sure you could get access to much more
15 recent data - it is very much dominated at the wholesale level by traditional
16 broadcasters and newspaper groups.

17 In the digital context, we have to look at other measures including things like
18 shares and likes and audiences on Facebook and Twitter. That is where I
19 mentioned our research speaks to and it shows that Sky, in particular, is
20 disproportionately influential on those platforms.

21 In terms of the cross-media picture, we have to be very careful about the share-
22 of-references measure, very cautious, partly because of the problem that I
23 suggested earlier that there is this difficulty in people recalling or even being
24 aware of who is actually producing the news that they consume. If you look at

1 the way Ofcom presents this data, it is now acknowledged that there needs to
2 be a distinction between intermediaries such as Facebook and Google and the
3 wholesale news brands like Sky and News UK titles. But the former still account
4 for a piece of that pie; they are still attributed shares. So, if someone says they
5 get their news from Google, that contributes to that figure of market share. That
6 is, potentially, a black hole because we do not actually know what sources of
7 news – at the wholesale level - are being consumed on those platforms.

8 Some people argue, I think with some validity, that there is an editorial role
9 played by these intermediaries in the way in which their algorithms prioritise
10 certain content over others and the way in which they are able to direct the flow
11 of news traffic. I would argue, just as retail channels do not have the same kind
12 of power as wholesale channels, intermediaries do not have the same kind of
13 power in respect of particularly the plurality question which is, ultimately, about
14 the power to dominate public conversation and, by extension, the political
15 process. That is about who produces the news that reaches across those
16 audiences.

17 So, I would say, in answer to your question, taking into account standard reach
18 and consumption measures, the picture of plurality is not good. If we take into
19 account the reach and impact of Sky and News UK brands and intermediaries
20 it has worsened. If we take into account Sky's wholesale influence over
21 commercial radio, it is worsened further. If we take into account the agenda
22 setting power of key News UK brands across platforms, then it is worsened
23 ever further.

24 So, based on the research that we have produced, the problems of plurality,

1 which -- by the way, in the phase 1 report, Ofcom pulls no punches. Its
2 language is actually much stronger - if you compare it to the 2010 public interest
3 report on the News Corp BSkyB merger and which is the closest precedent we
4 have - about the fact that plurality is not a solved problem in this country. I think
5 the research that we have produced not only reinforces that but suggests that
6 it is worse.

7 Q. (Mr Krumins) In terms of around traditional measures, we have to look at those
8 because those are recognised by Ofcom and those are, primarily, the measures
9 we have available. You used the phrase that this combination would only be
10 eclipsed by the BBC. Then, regarding plurality on standard measures, you said
11 the picture was not good.

12 I would like to push you on exactly what is an okay or acceptable share of
13 reference for any party to have versus what is an unacceptable share. Where
14 is the line that you would feel uncomfortable with any party, be that Murdoch or
15 anybody having.

16 A. (Dr Schlosberg) That is a very difficult question. This speaks to the other
17 underlying problem of what is plurality sufficiency in more general -- I think that
18 we have to take it in the round. One of the things that Ofcom made clear in its
19 plurality measurement framework is that contextual factors such as what kinds
20 of programmes, what kinds of news operations does a particular owner or
21 institution provide, what kinds of safeguards and protections are in place to
22 ensure that this thing called internal plurality is upheld -- all of that non-
23 numerical, qualitative context has to be factored into any assessment of

1 plurality.¹

2 If you take, for example, a country like Slovenia, the market is simply not big
3 enough to support less than a handful of national news providers across
4 platforms. The question for regulators becomes a question of internal plurality.

5 If you accept the fact that you cannot have a greater number, what kinds of
6 news do these actual organisations produce?

7 If we look, for example, at the BBC, we can see that there are very stringent
8 guidelines both in its own editorial guidelines and now supplemented by the
9 Broadcasting Code to ensure that there is a diversity of views represented, that
10 there is editorial autonomy within the BBC and, to that extent, we have to
11 consider the BBC's position as qualified in that share of references as a result.

12 So, when we look at News Corp and Sky and when we see that, in a post-
13 merger context, this will effectively mean that the Murdochs have control over
14 the joint second biggest share of references, we have to ask the same question
15 about their internal plurality. It is pretty clear, certainly in terms of newspapers,
16 that there is not that plurality in existence both in terms of the range of
17 viewpoints represented, that The Times and The Sun have always had a
18 conservative-leaning editorial agenda, but also in terms of their editorial
19 independence and autonomy. I think the submissions by other groups here
20 really speak to that; that, actually, there is very little that we could say amounts
21 to internal plurality within those organisations. The great concern is that that is
22 going to impact on Sky in a post-merger context.

¹ Clarification provided by the MRC following review of the draft transcript.

1 Q. (Mr Krumins) If I understand, you are saying it is not the share of reference that
2 they would have, it is whether they have internal plurality or not. You are not
3 concerned about whether this is 10 per cent or 15 per cent or 20 per cent share
4 of reference.

5 A. (Dr Schlosberg) It is both.

6 Q. (Mr Krumins) Let us go to the first part. What is too large a share of reference?

7 A. (Dr Schlosberg) It is very difficult to answer that because I think you have to
8 contextualise it with reference to things like internal plurality. You can use any
9 increase in the share of references as a trigger or justification for review, but
10 not as the basis of.² That is why Ofcom has resisted coming up with a definitive
11 definition of plurality sufficiency. The Competition Commission did the same
12 thing in the ITV/Sky case. I think it is very difficult to put numbers on it. This is
13 where plurality assessment in general and particularly in the context of this
14 review is a very challenging job.

15 If you do want to have a benchmark of comparison you could look at what exists
16 in comparable media markets internationally. If you look at, for example, the
17 work done by the Reuters Institute on their annual digital news reports, it is clear
18 that, as I said, on even conventional measures, there is less of that plurality
19 here than exists in other countries. with comparable or even smaller markets. I
20 think you have to take into account those contextual factors.

21 It is the same thing with the question of reach in consumption versus agenda
22 influence. One of the arguments that 21CF tried to make in their initial

² Clarification provided by the MRC following review of the draft transcript. gravely

1 submission to you is that reach and consumption are not proxies for influence.
2 They make this point very strongly in respect of The Sun which has a
3 dominance both of the print news market but also, increasingly, the online news
4 market. That is true and accurate in a sense. You have to take everything with
5 a pinch of salt. Clearly, the fact that the BBC reaches audiences directly that
6 are much greater really than most commercial competitors has to be taken into
7 account when you are considering things like impact and influence.

8 Equally, you also have to take into account the fact that titles and brands like
9 The Times who do not reach anywhere near those kinds of audiences can have
10 a disproportionate influence even on the BBC's agenda. In fact, one of the
11 interesting things about our research in terms of the intermedia agenda power
12 is that the BBC ranks pretty low. That reinforces findings from previous
13 research done by Cardiff and others which suggests that, actually, newspapers,
14 despite their declining circulation, despite their declining revenues are still very
15 influential. In fact, there is no evidence whatsoever to suggest that influence
16 has declined in terms of the broadcasting agenda.

17 A. (Ms Field) For the CPBF I just want to add a point about this question of what
18 is too big, what is too small. It is a gritty question. The simple answer from the
19 point of view of campaigning organisations such as we have been for the last
20 nigh on 40 years is that the current level of 30 per cent, 35 per cent, 40 per cent
21 of one area of the market is too much. There is a hell of a lot of argument
22 amongst all sorts of organisations, commentators, journalists, proprietors,
23 companies and so on, as to whether 15 per cent or 20 per cent, 30 per cent,
24 what is right. It is a question for public and open debate.

1 Clearly, there is and has been for many years mounting concern about
2 domination of one particular area of the media by an ever smaller number of
3 organisations. What we have here is not just domination in one sector, it is
4 mounting an increasing domination across all the known current media sectors,
5 whether you are talking about TV news and film, radio and digital including
6 social media. The question is that the position of this particular company which,
7 albeit has split itself into two halves, is, nevertheless, predominating across all
8 of the four current major sectors, one, two, three and four, and coming up very
9 rapidly to position 3 on the fourth area which is digital. The Sun, in particular,
10 its online news is proliferating in terms of usage.

11 So, the question in any society has to be is it right for one organisation to be
12 able to predominate not just in one sector, not just two, not just three but four
13 and to be able to use and promote its facilities, its services, its news, its
14 influence including its political influence right across all four sectors.

15 I know I am not giving an answer on it should be no more than 25 per cent or
16 no more than 15 per cent. That is, clearly, an issue for society and society's
17 representatives to consider. We are saying that, at the minute, it is too much
18 and it is going to get more if 100 per cent is owned by the company.

19 A. (Mr Peretz) If I might add just something on the law here. Plainly, the position
20 is a much more complicated one than you come across when you are dealing
21 with traditional competition law analysis. You can see that from the Court of
22 Appeal judgment for ITV/Sky because you have got internal plurality as well as
23 external plurality. Any sort of market share starting point is going to be no more
24 than a first step among many for a number of reasons; (1) because you have

1 got to look at internal plurality; (2) when you have looked at that, you have got
2 issues such as the effect that one provider has on setting the news agenda of
3 another, which is going to be very difficult to capture in any sort of figure. That
4 makes the job of assessing what the threshold is extraordinarily difficult
5 because there just is not anything you can attach a figure to. It is conceptually
6 impossible to come up with a single figure that captures everything.

7 What I think one can say is a matter of law from that which is in the sense of
8 partly discomfoting and partly comforting for you; what is slightly discomfoting
9 is that you do not have much of an anchor to hitch anything to; what is
10 comforting is that it would be quite difficult for anybody challenging you to say
11 that you have got it wrong. One would imagine that the courts would see the
12 problem and would give you a very large measure of discretion in deciding
13 where the appropriate point was.

14 One shortcut that you should certainly resist - and I hope you have already
15 reached this view - is the shortcut that Fox are pointing you towards, which is
16 to say 2003 must be regarded as a benchmark for sufficient plurality. There is
17 something plausibly tempting about that argument because they say this
18 regime was set up in 2003. Parliament, in that context of setting up that regime,
19 was also at the same time, for the first time, effectively, allowing cross-
20 shareholdings between television and newspapers, therefore, parliament must
21 have assumed that there was sufficient plurality otherwise it would not have
22 done that. That is the argument in a nutshell.

23 That, however, falls down when one begins to think about it, first as a matter of
24 statutory interpretation. I would certainly submit that a court would not accept

1 that as an argument for very good reason, which is that it involves reading a
2 whole lot into a statute that simply is not there and it involves, in particular, an
3 assumption about parliamentary intention that, if one stands back and thinks
4 about it, simply is not justified.

5 MPs would have voted for the regime with all sorts of background assumptions
6 as to whether there was or was not sufficient plurality; but it would be perfectly
7 possible that an MP might have voted to set up the current regime even if he or
8 she thought that there was not, in 2003, sufficient plurality on the basis that,
9 according to that MP, any independent regulator looking at the market would
10 have found that there was not sufficient plurality and, therefore, cross-media
11 shareholding should not be permitted. The reason why that MP could square
12 voting for that but also voting for a more liberalised regime on cross-media
13 shareholding is that, in due course, perhaps when the market opened up, the
14 regime was then more open to cross-media ownership. When one thinks about
15 it, it is not a coherent account of parliamentary intention, what Allen & Overy
16 are putting forward in terms of the 2003 anchor.

17 The other reason why it is not a helpful -- more a self-evidently wrong
18 proposition is that, if you accepted it, it would force you into what actually is
19 quite a bizarre exercise; just trying to compare a quite different media market.
20 I think we are all agreed that things have change a lot between 2003 and 2017.
21 So, instead of actually looking at what the situation is now, it forces you into a
22 rather artificial exercise of trying to compare the market now with a quite
23 different market as existed in 2003 and drawing all sorts of strange
24 comparisons. It is, actually, entirely unclear when you read Allen & Overy's

1 submission exactly how they propose you do the comparison, and that, I think,
2 is a pretty fundamental criticism of what they are saying.

3 I hope that is helpful.

4 Q. (Mr Bamford) I will come back to the point around agenda setting and influence.

5 There are questions related to that I just wanted to pick up on a couple of points
6 around the extent of online news and its development, not directly related to
7 2003 but essentially around to what extent have online-only news outlets
8 changed the news landscape. We have seen websites such as BuzzFeed and
9 so on develop into investigative journalism. Huffington Post is another.
10 The Independent has now gone online only. I wondered whether they have, in
11 your eyes, any meaningful impact on plurality?

12 A. (Dr Schlosberg) It is interesting that you mention those three because they are,

13 certainly in terms of the UK news market, probably the only three significant
14 online-only players in terms of their reach and consumption. In terms of their
15 agenda influence, I think it is pretty clear that, although BuzzFeed has invested,
16 as you say, to some degree in its investigative reporting, most of the news that
17 it produces, most of the "exclusives" that it produces, which is one of the first
18 things that you look for in terms of agenda-leading power - news origination -
19 BuzzFeed do a lot of that but most of it goes nowhere. Most of it is just a
20 headline that is purely aimed at and consumed by BuzzFeed readers. Much of
21 it does not even qualify as news. An awful lot of their lead headlines on any
22 given day are things like listicles, or very entertainment-focused or so-called
23 "weird news" formats. It does not really compare to the kinds of agenda-setting
24 power that comes from covering UK social, political, economic issues that can

1 have, potentially, a real bearing on the way in which people vote, for instance.

2 I think that is the first thing to say.

3 I think it is the same for The Independent. The Independent, in terms of the
4 way its business model has shifted after it ceased its print edition, has very
5 much been part of that game. People call it "clickbait news" or "click-driven
6 news" where it is very much about giving prominence to newsgathering and
7 articles that are very easily and prominently shareable in a digital context.

8 Huffington Post is an exception there based on the research that we produced.
9 We were actually genuinely surprised by how prominent they come out as
10 agenda influences, but that really is only one single additional competitor to
11 legacy national press and broadcasters. Indeed, if you look at the enduring
12 dominance in that research that is still enjoyed by News UK and by other
13 leading brands, I think that the landscape really has not changed in any sort of
14 material way as a result of new entrants.

15 A. (Mr Carusone) If I could just add one thing on that. What you might think of as
16 investigative journalism, we are currently experiencing a very different version
17 of that. It is relevant to your question because, Justin would agree with all that,
18 there is a lot of that out there that is good and it is coming from these places.
19 There is another strain of investigative journalism though that was born around
20 2010. It was a response to this market. It was borne out of a relationship
21 between the influence that Fox News had and its larger network of conservative
22 media that they are connected to and incentivising false journalism, false
23 reporting under the guise of being investigative journalism.

24 The first instance of this was a gentleman by the name of James O'Keefe who

1 masqueraded as an organiser. He had people pretending to be prostitutes.
2 They would go to an organising group and they did these sting videos. They
3 would then heavily doctor them to make the organisation look very bad and
4 then feed them to Fox News. So, it would be an exclusive. They would publish
5 it but then they would have this synergy with Fox. What happened from that is
6 it really borne out -- he did a series of those stings and when you went back
7 and did a forensic review of their video you would find that they were heavily
8 doctored, oftentimes months or weeks after the damage was already done.
9 What that did is it was not just him; it actually incentivised an entirely new
10 cottage industry of individuals coming up.

11 Where I think it comes full circle is an example of this; this woman by the name
12 of Lila Rose. She runs an organisation called Live Action. It is an anti-
13 reproductive health group. She runs a news website around this as well. She
14 has, basically, an exclusive synergy with Fox. She had a similar patent. She
15 started doing these investigative hits on the reproductive health community. As
16 a testament to how the power is - and I think you can connect that to the
17 agenda-setting role that these groups play - is that Media Matters did an
18 analysis of all of the reproductive health content that was consumed by
19 Americans in 2016; it was almost 76,000 articles. Live Action, a place that just,
20 basically, popped up, was in the top three of the outlets consumed on that entire
21 topic. Someone who had no prior experience in journalism, who was, basically,
22 doing very targeted kinds of, essentially, political ads under the guise of being
23 journalism had managed to carve out a very definitive voice on an issue in less
24 than two years. I just want to put that out there as an example because that is

1 the kind of secondary influence that who you bring on and the incentive
2 structures you make could create in the market.

3 Q. (Mr Bamford) Just to pick up on the online point, you were talking about
4 BuzzFeed and the types of articles; 21st Century Fox put it to Allen & Overy in
5 their submission that The Sun, for example, when you focus down to The Sun
6 news articles, they are far lower than Ofcom put forward as The Sun's reach in
7 consumption and online. Is that the same for other previous print providers
8 such as the Daily Mail or even some others?

9 A. (Dr Schlosberg) Yes, I think that is a fair point. It is clear, for example, if you
10 look on any given day at the home page of the Daily Mail or The Sun and
11 compare it with the front page of the print edition, that there is a marked
12 divergence there. In plurality terms, the first thing to say is the Daily Mail and
13 The Sun digital editions, although it is a different type of news, it is still much
14 more what we would call news. They do not tend to produce the kinds of things
15 like listicles as part of its headline content, the kinds of lifestyle tips and guides
16 that you will find on BuzzFeed, for instance. It is still news. It is more celebrity
17 focused, it is more entertainment focused but it is still news.

18 The key point I think is that, we need to look at the combined leverage that
19 comes from different measures of agenda power. And we are not just talking
20 about News UK or News Corp here. The Daily Mail is also very prominent. It
21 has one of the biggest newspapers; in fact it has the biggest newspaper if you
22 include the Metro and the Daily Mail and the Mail on Sunday, and the biggest
23 web property in terms of page views. The issue, the really difficult and heart of
24 the matter from a plurality assessment, is to look at these different types of

1 influence that can be leveraged across the market. There is a certain type of
2 influence that you have to attribute to simply being in the top three, based on
3 page views, web properties, even if some of your news is more celebrity than
4 political. There is a certain type of influence that you have to attribute to that,
5 not exclusively. There is a certain type of influence you have to attribute to
6 having a wholesale presence like Sky does on commercial radio; a certain type
7 of influence to the agenda-setting power of newspapers, et cetera; even a
8 certain type of influence to the ownership of Storyful, which is, for all intents and
9 purposes, a monopoly social media newswire that services all of the leading
10 news brands around the world, that is owned by News Corp.

11 All of that has to be factored in together. What is interesting to me about this
12 merger is that it completes the one piece in the puzzle that Murdoch is missing
13 and that is television, and not just television itself but the kinds of audiovisual
14 news that Sky is able to leverage across platforms. If you add that into the mix
15 then you get something that is unmatched even by the BBC in terms of the
16 sheer breadth and scope of that potential influence.

17 Q. (Mr Bamford) To pick up on that, and it is for yourself or for anybody else here
18 today, what is it about adding TV which would give a greater degree of
19 influence? What is the property around the TV broadcast that changes things?

20 A. (Dr Schlosberg) The first and most obvious thing is we still live in a society
21 where television is by some measure the most consumed news medium. We
22 also have to take account of the fact that, if you look at the audience for
23 television, it is very much transcendent across demographics, across the kinds
24 of niche, polarised, fragmented readerships and audiences that you sometimes

1 find in the digital context. So, in that sense, television has what we could call a
2 "super-layer" of agenda setting power. It may not be the first to originate stories.
3 It may take much of its cues, as I think the research suggests, from newspapers
4 like The Times, like the Daily Mail, et cetera. But what it does is it amplifies the
5 salience of that agenda. It is the thing that really, I think, is the key to the agenda
6 seeping into the public consciousness; that is, the range of issues, the range of
7 problems affecting society that people think about at any given time.

8 Q. (Mr Bamford) Just taking that influence point, particularly across the media
9 platforms, and thinking it through into times when the media has, essentially,
10 led to changes in public opinion or government policy, are there particular
11 campaigns or issues that you would like to highlight where the media has been
12 at the forefront of, essentially, leading either public opinion or government
13 policy, obviously, in particular relation to print or broadcast?

14 A. (Dr Harris) Media policy is a very good example. I do not think it is necessarily
15 what you were thinking of.

16 Q. (Mr Bamford) No, that is fine.

17 A. (Dr Harris) The reason it is a good example is that it is very clear that there is
18 a self-interest. So, a business person is entitled to have a self-interest but the
19 role of regulators is to prevent that becoming pernicious and acting against the
20 public interest. The way that it operates in respect of their business interests is
21 not one that engages the democratic system by changing public opinion but
22 goes direct to the politicians.

23 If you take the area of non-broadcast media regulation, we have a quite
24 remarkable situation where there were three -- well, two and a half

1 regulators - regulators - or authorities were lied to, and it is accepted they were
2 lied to, by News Corp. The police, the CPS and the Press Complaints
3 Commission, which is not really a regulator, it was a sham but it was used and
4 they said, "We listen to the police". The police said, "We saw what the Press
5 Complaints Commission said". That is how they managed to do it. That is why
6 regulators should be - and I am sure they are - very cautious about accepting
7 at face value what is said by this organisation.

8 As a result of what happened over, as I say, a decade of failed corporate
9 governance, a decade that failed to prevent an extensive criminal conspiracy,
10 failed to detect it, failed to investigate allegations and then failed to admit to it,
11 a public inquiry was set up because politicians recognised - this is on the
12 record - that, because of the power of the press, they were vulnerable to being
13 accused of being influenced. So, they gave it to a judge. The judge came up
14 with a very clear view; a view that the Murdochs - and others, but the Murdochs
15 in this case - implied that they supported while they were on the stand and then,
16 as soon as the inquiry finished and as soon as the media coverage went away,
17 they have - and this is set out in our evidence to of - used their newspapers in
18 particular to run a campaign, not to change public opinion which has not
19 changed one inch on the necessity to have independent regulation of
20 newspapers but to change government opinion. It has been done non-
21 transparently, and this is the allegation that has been made about the way the
22 Murdochs operate with back-door meetings and multiple meetings with
23 advisers, with ministers and with very senior ministers and prime ministers in
24 exchange for the support that they are legally allowed to give through their

1 newspapers to the party in power.

2 You cannot get, I think, a better example of the way the Murdochs are willing to
3 use their power both transparently in newspaper campaigning and non-
4 transparently in meetings with politicians, (again against the recommendations
5 of the Leveson Inquiry that these should not happen non-transparently), to
6 affect public policy not only in a way that goes against consistent public
7 opinion -- and I would argue, and I think the majority of parliamentarians would
8 argue and certainly the judge, Lord Justice Leveson, did, against the public
9 interest but also in their own interests. It is a case in point. This is what is quite
10 remarkable: they are still campaigning against the completion of a judicial
11 inquiry that is only aimed at getting to the truth of what happened in this
12 regulatory setting.

13 My view is that the CMA should try to establish how it is that that is consistent
14 with a genuine commitment to any standards at all in that setting which is clearly
15 translatable to this setting.

16 A. (Mr Davies-Coates) If you were to take the front cover of the Daily Express
17 after the Brexit result was given, then, arguably, the whole Brexit campaign is
18 an example of influence. They described it as "the world's most successful
19 newspaper crusade", of course at which, Murdoch haters apart and despite the
20 fact that the Independent Press Standards Organisation, IPSO, has got the
21 editor of The Sun and whatnot on its board -- the fact that they had The Sun
22 headline, "The Queen backs Brexit" is one of the few examples where IPSO
23 has said, "Actually, a front line like that is a bit wrong", especially given the
24 context of an upcoming referendum. The editors of the paper, the next day

1 after that judgment, more or less said, "We would do the same thing tomorrow
2 because it sells papers. It is the business".

3 A. (Mr Gopsill) An interesting and telling area in which Murdoch media have led
4 the way is the very deregulation of this industry and, indeed, of course, of other
5 industries. The remit of Ofcom since 2003 has relaxed a lot and Ofcom is seen
6 by many people as a deregulatory organisation. As an example, you could look
7 at the ways in which ITV has been able to draw back from its original obligations
8 to produce news by constantly referring to Ofcom and Ofcom has always
9 allowed it.

10 This ties in with the hostility to the BBC as a competitor. The Murdoch media
11 quite blatantly use their media power in their commercial interest by attacking
12 the BBC. They are not the only ones but it is actually The Times, interestingly,
13 with regard to what Justin was saying about the influence of The Times. The
14 Times is the paper that has led the way in attacks on the BBC. All the other
15 papers do it because, of course, they want to diminish the BBC's market
16 because of their own commercial interest. That is absolutely clear. That is why
17 we are here today.

18 It is interesting as well that James Murdoch, in advocating the case for this
19 merger to go through, said that it shows Britain is open to business because we
20 will be needing foreign investment, overseas corporations spending money in
21 Britain after Brexit. I looked at that headline and I thought, "It is largely thanks
22 to you that we have got Brexit in the first place".

23 A. (Ms Zoyab) I would just like to cite an example from the US of active meddling
24 in promoting a political conspiracy which proved to be completely untrue. This

1 is an example that straddles both media plurality concerns as well as
2 broadcasting standards concerns. This is a story about a murdered young man
3 called Seth Rich. He was a Democratic National Committee staffer. According
4 to the police, he was murdered as part of a botched robbery.

5 On 15 May, as part of Ofcom's fit and proper review, Fox, despite broadcasting
6 in the UK for 14 years, did not have a compliance policy and produced one on
7 15 May. On 16 May, in the US, they put out the story about Seth Rich, which
8 proved to be completely false. The story that they put out was that he was, in
9 fact, the source of the leaks and not the Russian government. Fox promoted
10 that story online as well as on television - their anchors repeated it for
11 six days - and then later withdrew that story at the end of the week.

12 This is an example where they promote a certain story because it supports their
13 political agenda, which they then, ultimately, had to withdraw. This is another
14 example of how certain stories are pushed because there is a broader agenda
15 to promote a certain viewpoint.

16 A. (Mr Babbs) I thought it might be helpful to offer a couple of examples of where
17 that influence has not necessarily been something that, for 38 Degrees, we felt -
18 - it suited us more because, obviously, we are in a similar business of seeking
19 to influence political events, from a different agenda.

20 A couple of years ago, we were running a long-running campaign against the
21 then Osborne plan to cut tax credits. Ultimately, The Sun came behind that
22 campaign and very shortly after that there was a government U-turn. It is
23 situations like that where I have got quite a useful vantage point where I can
24 see the political context in which that campaign is happening; securing

1 meetings with MPs, MP by MP around the country; supporting our members
2 who were being affected by that cut to put their experience to MPs. We certainly
3 felt like we were making progress and making a difference during that long
4 campaign. It is truly transformative when national newspapers like that swing
5 behind it. Certainly, to refer back to your earlier question, the sense of how
6 much closer that brought us to victory within the 38 Degrees office was several
7 notches higher than it would have been if BuzzFeed had backed out campaign.
8 Similarly, going back a few years earlier, one of the campaigns that first brought
9 38 Degrees to people's attention was a campaign against a proposal to sell off
10 England's public forest estate. Again, that was a campaign that had a lot of
11 public resonance. We thought we were onto a winner but the point at which the
12 Sunday Telegraph backed that campaign -- again transformative; the hearing
13 that you were able to secure for politicians.

14 I offer those as examples. I do not think this is just sour grapes that we might
15 disagree with the agendas that the media has. I think there are occasions for
16 38 Degrees where we see the media's influence lining up with our members'
17 agenda. Nonetheless, it is a huge level of influence and it is, obviously,
18 problematic, the accountability questions that pose, even when we might be on
19 particular occasions quite glad of the outcome.

20 Q. (Mr Krumins) Can I, just for a moment if possible, depersonalise the specific
21 owner from the structural plurality question? I am hearing a lot of evidence
22 which seems to suggest, in this digital market we are now in, very few media
23 properties have the ability to set agenda. Consequently, I am not clear in my
24 mind if you are saying that we cannot have cross-media ownership in this

1 market in that Sky News could not be owned by any of the three leading
2 newspaper groups because of these issues, or in some way these are specific
3 Murdoch issues. All the evidence, if I listen through it, seems to be that,
4 because there are now so few major groups, any kind of cross-media ownership
5 would be inappropriate and would remove plurality from the system, which
6 would be a bad thing.

7 Am I overreaching there or is that not what you are saying?

8 A. (Dr Schlosberg) No, not at all, actually. I can genuinely say that if this was a
9 proposed merger between the Telegraph Media Group and Sky or even
10 between the Guardian Media Group and Sky, and the Guardian has a very
11 strong digital presence, I would be raising exactly the same alarm bells and
12 exactly the same concerns. If it was a merger between Northern & Shell or
13 even Trinity Mirror and Sky I probably would not be raising as many concerns.
14 I would still be concerned, but I think that, looking at the overall agenda picture
15 that brands like the Mirror or the Daily Express have, particularly the cross-
16 media influence, it is not on the scale of The Telegraph, the Guardian and
17 certainly not of News UK titles.

18 Q. (Mr Krumins) And the Daily Mail group?

19 A. (Dr Schlosberg) The Daily Mail I would include in that as well, absolutely.

20 Q. (Mr Krumins) In the concerned or not so concerned?

21 A. (Dr Schlosberg) .Gravely concerned. There are almost divisions that you can
22 quite neatly draw here. I think the Daily Mail probably is in a division on its own,
23 second to News UK; The Telegraph and the Guardian below that; then I think
24 Trinity Mirror and Northern & Shell below that. I think News UK is a special

1 case even though I would raise similar concerns in respect of others, precisely
2 because their potential influence registers high in so many different contexts.
3 The fact that they own properties like Storyful, for instance, the fact that The
4 Times and The Sun, in conjunction, have a very large scale reach in both print
5 and increasingly online, and that fact that the Times in particular has that
6 prestige factor in terms of its agenda cueing.³

7 A. (Mr Wilks) Plus the radio.

8 A. (Dr Schlosberg) Yes, but the radio is Sky.

9 A. (Mr Davies-Coates) Just to say, of course, it is not just the agenda setting and
10 influence that cross-media ownership has; it also helps them kill the competition
11 because they can and do cross-media promotions, so they all promote each
12 other. Murdoch's newspapers promote --

13 Q. (Mr Krumins) Sorry, just to be very clear, I do not want to hear the word
14 "Murdochs" -- and I am thinking structurally, across-media ownership. So,
15 whatever party you talk about -- that is the question I am having.

16 A. (Mr Davies-Coates) Yes, that is the point.

17 Q. (Mr Krumins) Are you all of the view that we are, effectively, in a regime right
18 now where you cannot have cross media ownership by the top three newspaper
19 groups and a 24-hour-7 rolling news channel?

20 A. (Dr Schlosberg) Absolutely.

21 A. (Mr Gopsill) This has long been recognised. There are limits, and I cannot
22 remember off the top of my head - whether Justin can - there are regulatory

³ Clarification provided by the MRC following review of the draft transcript.

1 rules preventing newspaper groups owning ITV.

2 A. (Dr Schlosberg) There is a 20-20 cross-media rule.

3 A. (Mr Gopsill) That is right.

4 A. (Dr Schlosberg) I think that there are real problems with cross-media
5 ownership. That has only really become clear as a result of the phase 1 review.
6 Prior to the phase 1 review there was this prevailing assumption that things
7 were getting better. There was even talk of the 20-20 rule being relaxed. I think
8 that landscape, that whole agenda is completely changed now. I think it is very
9 clear that there is real concern about cross-media mergers, particularly
10 between leading newspaper brands and television.

11 A. (Dr Harris) The reason for that perhaps is, because there is a concern, that
12 whoever owns the newspaper, if they have a particular strong view, which they
13 are entitled to have, then that can be transmitted even through the existing
14 broadcasting standards code into the way news is presented, as you are well
15 aware. If someone threatens to only appoint or tolerate an editor who has a
16 pattern of selecting stories that fit a particular approach, which is legitimate
17 within the Broadcasting Code if the output for those stories is then duly
18 impartial, then one has to consider the risk of whether the sorts of people who
19 own newspapers and want to own newspapers are likely to impose an editor
20 and trust an editor or only engage an editor who they can trust to do what they
21 can within the scope they have through story selection. Then I think you must,
22 if you are in any doubt about the presumption you make, look at the record.
23 The record in this case is that you have got someone who has been willing, as
24 the fate of James Harding and, going back, Sir Harold Evans, has

1 demonstrated, and who has -- it is his right and power within newspapers - done
2 that. I suppose, in regulation, you have to look at the track record to try to
3 assess the risk of that happening over and above the generic question that you
4 raise.

5 Q. (Mr Bamford) To pick up on that point around story selection and the idea of
6 whether the Broadcasting Code would prevent or mitigate any issues with
7 respect to Fox -- let us take it, to Fox News, essentially, becoming what
8 Sky News would -- the shift, shall we call it. I think the Campaign for Press and
9 Broadcasting Freedom highlighted a couple of incidents around which Littlejohn
10 had some shows that were put into Sky and then removed.

11 A. (Mr Gopsill) Yes, there was that one.

12 Q. (Mr Bamford) I think it was two that you put forward.

13 A. (Mr Gopsill) It was Littlejohn twice.

14 Q. (Mr Bamford) I just wondered whether you could talk through that with respect
15 to (a) the application of the Broadcasting Code to those and also (b) the appetite
16 for a UK audience for that type of story, which I think is what you highlight in
17 your submissions.

18 A. (Mr Gopsill) That is a very good question, because there was not an appetite
19 for it. I dare say perhaps 30 years ago in America people would have said the
20 same. We are looking to the future now and we are looking to the record of
21 Fox in the US and what they would do to Sky if they wholly owned it. I do not
22 think there is any question. It is all about what they would like to do, and neither
23 is there any question about how they would go about it.

24 There would have to be changing taste; but there is changing taste. The media

1 market is transformed by the internet, by the collapse in numbers and I think
2 actually of authority of newspapers, and the coarsening - if I can use that word;
3 it is a horribly elitist word - of politics. This is not a political statement but right-
4 wing populist politics in the USA have been imitated to a lesser extent so far in
5 Britain. We do have the apparent popularity of very right-wing commentators
6 like Katie Hopkins and Kelvin MacKenzie and people like that who are the sorts
7 of people who would be presenting nightly programmes on Sky and making
8 very controversial remarks that would, as in America, get into the news agenda.
9 This is precisely our concern. That would be a huge shift in the whole of the
10 British media because the British media depends on a balance between
11 regulated broadcasting and deregulated press.

12 If you want it in one sentence, the News Corporation Fox view of TV is to run it
13 like what we think of as a newspaper. The values of Fox are the same values
14 as News Corporation's British newspapers; exactly the same. The value and
15 quality of our media depend on that balance. The balance has been slowly
16 eroded over the years. The concern is that, if this merger goes ahead and the
17 regulators are unable to constrain Sky in the way it took up that kind of
18 broadcasting, then, effectively, the regulations would be a dead letter.

19 A. (Mr Wilks) I would like to just add something as well. Another way in which the
20 Broadcasting Code is not sufficient beyond story selection is that it seems, from
21 Ofcom's analysis of some stories including the Seth Rich one which Alaphia
22 just mentioned, which Fox later withdrew -- is that, if a TV station recategorises
23 shows from news to some other format, they call it a panel show or something
24 else, basically, to entertainment, then due impartiality and the other parts of the

1 Broadcasting Code no longer apply. Ofcom wrote to the secretary of state in
2 August, saying as that was not a news programme it was not a problem, despite
3 the fact that it was on Fox News which you would think would be a clue to
4 consumers, plus Sean Hannity is one of their news presenters as well as does
5 these panel shows. So, that is another concern. There are several ways and
6 several loopholes I think in our Broadcasting Code which could be exploited.

7 A. (Mr Peretz) Just a very short legal point really, commenting on an opinion of
8 Lord Pannick which is annexed to the Fox-Sky submissions; a slightly elderly
9 one now - not necessarily a criticism of it but, basically, ten years ago. Really,
10 it is an attempted riposte to the proposition that -- the argument is that the
11 Broadcasting Code is not an answer for concerns about plurality because it
12 does not deal, effectively, with questions on story selection. What the Pannick
13 opinion does is it posits some examples of cases where one would say that an
14 issue of story selection or non-selection was fairly clearly contrary to the
15 Broadcasting Code. I think the example it gives posits the idea of a day on
16 which the home secretary publicly criticises the conduct of the prime minister.
17 Perhaps in 2010 it was regarded as a highly unusual event; perhaps it is slightly
18 less unusual in today's rather odd climate. But a story of obvious salience that
19 any broadcaster that did not cover it you would look at that broadcaster and
20 say, "Hang on, that must be a breach of the due impartiality provisions" because
21 non-coverage of that story could only be for reasons of wanting to promote a
22 particular political agenda. In that case, a decision not to cover it would be
23 because there was support of the government.

24 That is clearly right but it is actually a very limited point. The difficulty here in

1 story selection is it is really a question of agenda. It is those day-to-day choices
2 or week-to-week, year-to-year choices that broadcasters have to make as to
3 whether, if you are dealing with social security, you cover benefit fraud or you
4 cover failure to deal adequately with poverty. The choices you make as to the
5 balance of stories -- take that as an example -- is, clearly, pretty political. If you
6 want to promote one type of story, the benefit cheat story as opposed to the
7 poverty story or vice versa, you are making quite a big political statement and
8 your coverage will be pretty politically inflected. The Code does not really deal
9 with that.

10 A. (Mr Davies-Coates) I just want to succinctly quote James Murdoch on this
11 point. He said at his MacTaggart lecture:

12 "It should hardly be necessary to point out that the mere
13 selection of stories and their place in the running order is itself a
14 process full of unacknowledged partiality."

15 Q. (Mr Bamford) To pick up on the reference to James Murdoch, given Fox's
16 current shareholding in Sky and James's position as chairman and his previous
17 position as CEO for a number of years, how does this transaction increase the
18 Murdoch's ability to influence Sky News? Open question.

19 A. (Dr Harris) I have one example but others will have more expertise in this.
20 61 per cent at the moment could stop the serial sacking of the editor of
21 Sky News by the 39 per cent shareholder or at least has a chance of doing so,
22 because that is an overt act that is obvious to Board members, would be
23 controversial and could be prevented. It is through the appointment of an editor
24 prepared to do the rather more subtle story selection than the example that

1 Lord Pannick gives in his opinion which is one of the ways to create a problem
2 in that news channel while not breaching the Broadcasting Code. There would
3 be no opposition to that, independent directors notwithstanding, or certainly
4 significantly less opposition in 100 per cent-owned entity.

5 There may be other areas where it would have to be more subtle, but that is a
6 clear-cut area, the serial sacking of the chief editor of the news channel.

7 Q. (Mr Bamford) Just to clarify that, currently, we have Fox which is 39 per cent
8 owned by the Murdoch Family Trust and has, as I understand, a majority of
9 independent shareholders on its Board. It then owns 39 per cent of Sky which
10 again has a majority of independent shareholders. Is it the double layer which
11 is preventing it happening now or is there something else?

12 A. (Dr Harris) I think others ought to now deal with the point you are implying
13 which is that there is a dilution of Murdoch.

14 Q. (Mr Bamford) I am merely raising it as a question. There is no implication.

15 A. (Dr Harris) Yes. What your question implies, obviously, is that there is,
16 somehow, a dilution of Murdoch influence through the percentage and there
17 are other people here who can deal with that first aspect of what you are
18 positing.

19 Q. (Mr Tutton) Can I just pick up on this shareholding point. It is, obviously, critical
20 to what we are looking at in one sense. What is the change? The change is
21 39 per cent to 100 per cent. The question is what are the implications of that - it
22 could be various - in particular in terms of the questions we are looking at. I am
23 just trying to get my head around at the moment -- leaving aside the views of
24 independent directors or shareholders, forgetting about what they might

1 individually think, I am just thinking about the overall incentives here. If we were
2 looking at a merger case we would look firstly at the ability to do something then
3 the incentive to do it and then the effect of doing it. There is a sort of similar
4 thing in the back of my mind at least here; what are the incentives on either
5 independent shareholders or independent directors in the context of Sky at the
6 moment to do something particular?

7 All I am thinking about really is Sky News is a very small part, in fact a negative
8 part in obvious terms of the value of Sky. Insofar as the shareholders are,
9 basically, there to protect the value of their shareholding and Sky News may be
10 losing [✂] or whatever, in what way do you see incentives on shareholders or
11 independent directors to block the selection of any particular editor of Sky
12 News?

13 A. (Mr Flynn) If I may just contribute here, I think both our submissions and
14 Ed Miliband's submission outline a contrast between the shareholder structures
15 and the directorships of, for example, 21st Century Fox and Sky. We are
16 arguing that, in the case of the boards of Fox, the supposed independence of
17 the directors is nominal or non-existent. We give plenty of examples in our
18 submissions relevant to that and, in addition, give the example of supportive
19 sympathetic shareholders, obviously, who have a history of voting in support of
20 Murdoch's position.

21 By contrast - and Ed Miliband's submission goes into this in some detail - there
22 is evidence that, in Sky's case, the opposite is true; the 61 per cent of
23 shareholders and the boards actually do function to restrain the influence of the
24 Murdoch Family Trust through Fox and its current influence over Sky.

1 Q. (Mr Tutton) I accept that and I have read the evidence concerned. You point
2 out the example where the 61 per cent, effectively, supported the removal of
3 James. That seems, to me, consistent with what shareholders would normally
4 do. At that point, you could argue - and I am not arguing but you could
5 argue - that James Murdoch was a liability to the value of Sky as a plc. What I
6 am trying to focus on is, in the context of media plurality and broadcasting
7 standards, why those independent shareholders should be a positive influence.

8 A. (Dr Schlosberg) If I was an independent shareholder I would be particularly
9 concerned about James Murdoch or Rupert Murdoch having greater control
10 over the flagship news carrier of Sky precisely because of the legacy of the
11 phone-hacking scandal, the legacy of corporate scandals in embroiling Fox
12 News in the US; that show that, actually, where the Murdochs do have that kind
13 of influence over news , it is bad for business reputation. So, I can perfectly
14 see how that incentive could operate as one example.

15 A. (Mr Gopsill) The dilution of the ownership of Fox is not represented by the
16 actual shareholding because, as you know, the Murdoch Family Trust has,
17 effectively, controlling interest. So, there is no dilution of the control of the
18 company there I do not think.

19 A. (Dr Harris) Can I just make two points on that question? It is very clear that
20 the Murdochs' view, as they are entitled to hold, is that regulation in this country
21 is a constraint on their ability to run their business as they wish - for what they
22 would see as a legitimate way - of maximising profit. That is what businesses
23 do. So, if you accept the hypothesis that regulation and the requirement to
24 observe the Broadcasting Code is a constraint and that public interest deems it

1 to be a necessary constraint in this country, then if independent shareholders
2 are just looking at the bottom line, they may well go along with the view that
3 one could do what one can to get around without breaching - which would be
4 bad for business reputation and, therefore, for the bottom line - that area. So,
5 I do not think one can rely on people who are there only to look at the interests
6 of shareholders, to uphold the public interest that the regulator must. I believe
7 your decision here is an opportunity.

8 The second example is dealing with the question of whether the Murdochs have
9 39 per cent of the Murdoch Family Trust. It is to look at the decision by News
10 Corporation - 39 per cent owned by the Murdochs through the Murdoch Family
11 Trust - to appoint Rebekah Brooks as the person in charge of corporate
12 governance of what is now News UK. By any standards - and I do not believe
13 this is subjective - by any standards in business, that was an astonishing
14 decision to appoint someone who, by her own admission, at best her defence
15 was that she was too incompetent to prevent the wholesale criminality, the
16 thousands of victims and the, so far, \$500 million and more in losses as a result
17 due to legal costs of that position. In no other business would it be remotely
18 rational to reappoint someone like that, responsible, on her own case, for those
19 losses to a position of responsibility. Did the 61 per cent influence outside the
20 Murdochs and the Murdoch Family Trust do anything to prevent that? They did
21 not prevent it. If that is the effect of the fact that it is only 39 per cent Murdoch
22 through the Murdoch Family Trust ownership then the record shows that there
23 is no basis to consider that there is this genuine commitment to broadcasting
24 standards that can be safeguarded by other shareholders in this mix.

1 A. (Mr Flynn) If I may, we also have an interesting example in Sky Australia where
2 the ownership has gone recently from 33 per cent to 100 per cent and we would
3 submit that you begin to see the Foxification of Sky Australia as the direct result
4 of that change in ownership. It is analogous to what is happening in the current
5 merger--

6 Q. (Mr Bamford) Recognising the time and recognising that a number of the
7 submissions touch quite heavily on a genuine commitment to broadcasting
8 standards, I would like to move on from plurality and enable us to have enough
9 time for those views to be aired.

10 In moving to that topic, the first question and one of the fundamental questions
11 would be what interpretation do you think we should give to the words "genuine
12 commitment" in relation to attaining broadcasting standards in the UK? I will
13 open that up.

14 A. (Mr Wilks) I could have a go at that. We have seen what the secretary of state
15 and you and others have written and we have sent our submissions in. I think
16 you were -- in several of those places it talks about the attitudes and the culture
17 which underlie specific behaviour. I think that is what you have got to interpret.
18 Ways in which to do that are to look at not only patterns of behaviour but when
19 misconduct is seen and raises its head do executives wholeheartedly try to
20 understand what is going on and address it or do they look the other way where
21 convenient and exhibit in some ways a wilful blindness if there are incentives
22 to do so for commercial gain? I think it is possible to look in terms of,
23 particularly, Fox News at the on-screen performance and the way in which Fox
24 News interacted with British regulators when breaches were alleged. It is also

1 possible to look at the slew of other behaviour as we talked about and see that
2 that has not been properly, wholeheartedly and genuinely addressed.

3 A. (Mr Carusone) The one thing I would focus on there is the "genuine
4 commitment" language because I think there is a lot of room about what
5 broadcasting standards are and what is appropriate there. The genuine
6 commitment piece is the one that is critical here because, at its core, it feels
7 like the through-line for a lot of these conversations by example.

8 When I think of genuine commitment I think of what are the structural and
9 governance aspects that guide their decision-making when it comes to
10 producing and publishing, reporting and content. That transcends hard news
11 and moves into the commentary as well. What are the standards here? It is
12 not about one-off mistakes or other issues; the question is do they do anything
13 from a structural perspective to actually address these things.

14 Moving outside of the debatable content around the politics, I get to the clearest
15 things which are conflicts of interest. Time and again, we see consistent issues
16 with respect to conflicts of interest. We have a mass shooting in the United
17 States; we have people on air who are spending hours a week talking about
18 who are being sponsored by the Concealed Carry Association. They are,
19 literally, being paid by the gun lobby as Fox shows and never disclose it.

20 Or we have somebody on Fox Business, a host, not someone you would think
21 of as a commentary or opinion person, who is giving business and financial
22 information that people are relying on, that was being paid for and had an
23 interest in a particular fund. He, literally, had a client that he was on air talking
24 about.

1 Or you have on-air personalities - they call them "commentators"; they are staff
2 members - who are being paid by political campaigns, not individual but issue-
3 based campaigns, talking about that issue, never once disclosing it. What
4 happens is you can identify these things. Sometimes they will cure it; maybe a
5 small slap on the wrist or a sanction. Or they will nuance it so the next time it
6 goes on there might be a minor disclosure.

7 If I was thinking about the most obvious example, let us say, do they have a
8 genuine commitment to not having people that are being paid to say things or,
9 at the very least, identifying and disclosing their interest. That has been going
10 on for years. At face, that alone is the single greatest concrete example of the
11 much more nebulous and difficult things to get into. I do not see a genuine
12 commitment because, if there was, it would not keep happening.

13 A. (Mr Gopsill) Your question was answered actually by the secretary of state who
14 wrote to 21st Century Fox in September defining the commitment as:

15 "A company must have an internal culture that takes compliance
16 issues seriously, ie a commitment to attaining broadcasting
17 standards objectives."

18 She also wrote, following the reconsideration by Ofcom of the broadcasting
19 standards question over the summer:

20 "The company's corporate governance failures have called into
21 question the existence of an internal culture that takes
22 compliance issues seriously."

23 And so on. Obviously, you have this reference:

24 "The representations raise concern that various actions and

1 alleged failings -- the product of a corporate culture that does not
2 prioritise the need for regulatory compliance."

3 The difficulty people have is this is all understood by people in the workplace.
4 I have worked in the media myself and sometimes the outside think there are
5 great rows about things and people slamming doors and refusing to carry out
6 orders and so on. That does not happen because everybody working in media,
7 who are taking decisions every second, work that happens at great speed,
8 absolutely know the context that they are working in.

9 Over a period of time the culture of an organisation can change. There is a
10 strong record in News Corporation companies of bullying. There have been
11 some sensational tribunal cases you could look up about journalists who have
12 been bullied into leaving the company and have won large sums. There have
13 been cases - more than in any other industry as far as I am aware, in any other
14 company - of journalists resigning their jobs in protest of editorial interference
15 in their work. If you want, we could send you half a dozen examples of that.

16 We would also like to suggest, because you did ask us earlier, things that you
17 might follow up yourselves in the course of the inquiry that the CMA has the
18 ability to do that we do not. One of those is we would like to propose that you
19 look into the immaculate compliance mechanism set up by Fox News in the
20 USA in the process of this inquiry by Ofcom, where Ofcom criticised them for
21 not having a procedure. Miraculously, about a fortnight later they had one. It
22 has never been published, so nobody knows what it says. We would suggest
23 that that is one thing that the commission might follow up.

24 Related to that is how Fox News came to take the decision to withdraw their

1 service from UK broadcast, which again was made as a commercial
2 announcement. If there is any way that you have of investigating how that
3 happened, that would be useful.

4 Further related to those are the attitudes of the staff. I do not know whether
5 anybody has spoken to the journalists working at Sky or at Fox in Australia, as
6 our colleague mentioned; their experience of working for Murdoch and the
7 changes and their fears of changes in the future.

8 One last sentence is I would be prepared to say a little bit more about Australia
9 if there was time. We have done a submission which sets out the reaction to
10 that. It is a very telling case and quite uncanny that it is happening at the same
11 time.

12 A. (Dr Harris) You set out your own answer to your question so far in
13 paragraphs 50 - 55 of your issues statement. I agree with the approach you
14 take in various places in paragraphs 51 - 55 and I will not go through them here.
15 I will not repeat what I have said, that it is not just about genuine commitment
16 to broadcasting standards; it is can you be confident they have a genuine
17 commitment to broadcasting standards when you cannot be confident that they
18 have and have shown by their record a genuine commitment to standards
19 generally.

20 There is one point I would like to pick up because there is an issue with the
21 way Ofcom dealt with this. That is paragraph 55 where you talk about:

22 "We will need to assess the extent to which the record of
23 compliance in one field of regulation can read across into
24 another."

1 I have already made the point, if you look at their press interests compared to
2 their broadcast interests, that they have actively campaigned against having
3 effective independent regulation in the press area and, indeed, they have
4 actively campaigned against the truth coming out in respect of their own
5 conduct. The fact is that they are unregulated in the press area. The
6 Independent Press Standards Organisation is not a regulator.
7 Lord Justice Leveson, not me, said, to be a regulator, you have to have
8 investigations and the power of sanction. In three years, the organisation
9 funded and controlled by the large press has done zero fines and zero
10 investigations. So, it is a zero regulator. Ofcom were wrong to classify it as a
11 regulator. It is the same as the Press Complaints Commission which was never
12 a regulator and admitted that. It is on the record as admitting that and was
13 brought down by the single act it did, which was to believe what they were told
14 by the owners of News Corporation.

15 My final point is about -what I have been bogged down with in the last week. I
16 believe you have got enough in the public area to say that there is not a genuine
17 commitment, based on the points I made in my opening remarks. But there are
18 documents that are now available through disclosure in the court process; those
19 that have been deployed in open court. I will be sending you a list of those that
20 I know have been deployed and mentioned in transcripts. It is just taking a long
21 time to collate.

22 There are some that the party, 21st Century Fox, has control of. The Murdoch
23 Family Trust have control of the documents that they have disclosed which
24 have led to the pleadings that are on record in the allegations of the most

1 serious thing you could have in the regulatory sphere, which is concealment of
2 wrongdoing and destruction of evidence. Those have not been previously
3 prosecuted. They are live legal issues and you must - and I am sure you
4 will - within the ability that you can, get what is in the public domain, what has
5 been deployed in court and ask the relevant party, under whatever undertakings
6 you need to give, for those documents that they have disclosed that are not yet
7 in the public domain. I believe they will tell a story, both sets of documents.

8 A. (Mr Peretz) I will just make a very brief point, that is a legal point about the
9 interpretation of section 58(2C)(c):

10 "... genuine commitment to the attainment in relation to
11 broadcasting of the standards' objectives set out in section 319."

12 It is important to look carefully at those words. It does not say, "genuine
13 commitment to remaining compliant with the rules laid down by Ofcom" or some
14 such phrase. It is much broader. It is attainment of standards' objectives. One
15 might say it a teleological thing. It is aiming at -- it is a commitment to particular
16 public policy objectives, which goes wider than merely sticking within the black
17 letter of the law and not getting caught in particular violations.

18 There is a flavour in the Fox-Sky submissions of saying, "Provided we have
19 complied with the strict letter of our legal obligations and provided that we intend
20 to comply with the strict letter of our legal obligations and just remain on the
21 right side of the line, then you cannot possibly say that there is an issue under
22 paragraph (c)". I would say that that is not correct because the language goes
23 wider. It is aiming at the much broader question of is this organisation
24 committed to the public policy objectives set out in paragraph 319. To

1 paraphrase, it requires a commitment to the spirit of the rules as well as to the
2 letter of them.

3 Q. (Mr Bamford) Just to move that forward from the discussion we have had
4 around genuine commitment, one of the phrases which Ofcom use within their
5 phase 1 report is an "identifiable link" between corporate governance failures
6 or failures in other media areas outside of broadcasting standards. I would like
7 to have your explanation or your views on what is that identifiable link between
8 those corporate governance issues and not having a genuine commitment to
9 broadcasting standards.

10 A. (Ms Zoyab) As an opening comment to that I would say in the answer that
11 again, the secretary of state, in her 12 September letter, says what she found
12 that disturbed her was that the corporate governance failures are a product of
13 a corporate culture that does not prioritise compliance. The identifiable link
14 really is that, if you look across all the corporate governance failures that we
15 and others have highlighted in our submissions, you will see a pattern of the
16 initial response which starts off with denial; then it changes into a cover-up;
17 then it changes into a reluctant admission of guilt; and then there are public
18 statements made, "We have dealt with the problem. The problems have gone
19 away", and details about compliance mechanisms, but they do not actually work
20 in practice. A change of control means that the Murdoch Family Trust will,
21 obviously, have much more influence over these corporate governance
22 structures.

23 In the most recent example of something that happened over this last weekend,
24 The New York Times broke a story about how there was a \$32 million

1 settlement made by their leading presenter, Bill O'Reilly, on Fox News. He
2 made this \$32 million settlement with another contributor at Fox News. This
3 happened at the time when Fox was publicly claiming that they had set up a
4 mechanism of rapid escalation of material issues to the Board. So, that was
5 the centrepiece of their argument, that they had proper governance reforms. If
6 we look at what actually happened, the Board seems to have shown no
7 scepticism; seems to have asked no questions about what the settlement was
8 about; how much, et cetera. So, what we see is that they did know about
9 wrongdoing. They did not ask the relevant questions. On the other hand, they
10 claimed here in the UK that they had this mechanism of rapid escalation. They
11 have provided no examples of how many such instances were, in fact, rapidly
12 escalated, et cetera.

13 Really, the overarching theme here is that the serial failures of corporate
14 governance do not provide us with any confidence that they are genuinely
15 committed to broadcasting standards. The issues of fairness, impartiality,
16 et cetera, the corporate governance record here does not give us any
17 confidence in that.

18 A. (Mr Davies-Coates) I would go further. I would say there is hard evidence of a
19 lack of a culture that takes compliance issues seriously. To me, it is just clear
20 as the day is day and night is night that 21st Century Fox does not have an
21 internal culture that takes compliance issues seriously.

22 THE CHAIR: The key point, and this is what Ofcom said, is that these are all in a non-
23 broadcasting standards context and, therefore, Ofcom said, "You have got to
24 find this identifiable link". All of the alleged corporate governance failures were

1 in a non-broadcasting standards context.

2 You are making the assumption you can read straight across but we want to
3 make sure; the question is there an identifiable link?

4 A. (Dr Harris) I think there are three. Two I mentioned in my opening statement,
5 so I will not go into them in detail. The common theme is the people in these
6 organisations knowing that they can act with impunity because of the record of
7 granting impunity by acts of omission and commission in, for example, the non-
8 broadcast setting. I have given you examples. You can break the law and get
9 welcomed back. You can cost the company \$500 million at best through
10 incompetence and be reappointed, after having got a payoff, to head corporate
11 governance again; an unbelievable decision by any standards. And the
12 creation of a culture of not respecting regulations. Those are the two broad
13 ones.

14 Obviously, we would say the common theme is who makes the decision. In an
15 organisation where there was not a personality, that makes no pretence not to
16 be making the decision; does not pretend to have a macho, "I am the boss. My
17 decision goes", and to say, "I take responsibility", as they did when they claimed
18 to take responsibility in relation to the Fox News scandal, then this may not be
19 such an issue. But here, it cannot be denied, again objectively, that there is a
20 decision-maker or a family that makes decisions. A record - because a record
21 cannot be undone - of James Murdoch, which was set out and was criticised
22 both by Ofcom in 2012 and by Leveson, and has not been remedied, is
23 something that cannot be escaped from.

24 My fear is that Ofcom seem to say, "We take their assurances at face value". I

1 am sure Ofcom have their reasons for saying that, but everyone else who has
2 done that in the past has fallen foul -- the police, the CPS, the Press Complaints
3 Commission. Ofcom dodged a bullet in 2010 because they were about to
4 approve the takeover then and it only failed because of the work of investigative
5 journalists at Dispatches, the BBC and the Guardian. It was not the regulators
6 that exposed the problem there. There is enough evidence out there to show
7 that the truth has not been reached, particularly in respect of cover-up. I am
8 not arguing that the sins of 1998 - 2006 - and, indeed, perhaps to 2011, as the
9 disclosure seems to be revealing - are what is decisive here. It is the cover-up
10 of that, the failure to admit and the continued suppression through concealment
11 and destruction, which are the broad terms used in the litigation, that should
12 give serious pause to any regulator as to whether they can take these matters
13 at face value. If we were in a position where the Leveson Inquiry had been
14 completed and the truth was out there, consequences had been taken, people
15 had been sacked or not, depending on the findings, then you would be - I do
16 not envy you - in a much more confident position to make a judgement.

17 Q. We cannot hypothesise on Leveson part 2.

18 A. (Mr Gopsill) I would just like to skip through four suggested quick answers to
19 the question, just one line each.

20 The power that 100 per cent ownership have is the appointment of executives
21 and also it being both management and editorial. In editorial, there is the power
22 to skew the news agenda in line with the company's politics and commercial
23 interests. The example of the denigration of the BBC is one that I gave earlier.
24 Secondly, they can cross-promote their activities for commercial advantage in

1 editorial copy, editorial material. We have put in a submission on that from
2 Professor Jonathan Hardy, who is not here. I think we can leave you to read
3 that. It is a very forceful document.

4 Thirdly, there is the denigration of journalists' standards that actually relates to
5 what Evan was talking about, which is the way that the company betrayed its
6 staff in defiance of the first rule of journalism which is you protect your sources.
7 They destroyed evidence that would have incriminated the executives and gave
8 all the evidence that incriminated their staff to the police, and their own staff
9 were prosecuted, as you know, for phone hacking and for bribing public
10 officials. That is a journalistic question which is absolute anathema to all
11 journalists.

12 Finally, the interesting question about the women. Some people have said,
13 "What is the connection between these harassment cases and editorial?" The
14 question is we are talking - and it is quite difficult sometimes - about the culture
15 and style of an operation and what people understand and what they do. To
16 me, it does not surprise me at all that they have had all these sexual harassment
17 cases because of the way that Fox treats women. Even the intellectual women
18 presenters such as Megyn Kelly, very intelligent and forceful people are dolled
19 up with big hair and high-heeled shoes and lots of cosmetics on, lots of make-
20 up. We do not do that in Britain. That is just the sort of thing that would make
21 the difference.

22 A. (Mr Babbs) I think it is probably worth highlighting that, when we did the public
23 opinion poll and we asked people if Rupert Murdoch and his company can or
24 cannot be trusted to have a commitment to fair and neutral reporting at Sky

1 News, only 5 per cent said that Rupert Murdoch can be trusted. Obviously, you
2 have the challenge of trying to move beyond subjective assessments of what
3 constitutes a genuine commitment but I think it is surely relevant in that how
4 little perception of that commitment there is. It is hard to imagine, if only
5 5 per cent of the public believe he can be trusted, that 100 per cent of his
6 employees -- that the culture within a wholly owned Sky News would be
7 95 per cent different from that public perception of just how little trust there is in
8 Rupert Murdoch to uphold broadcasting standards.

9 Q. (Mr Tutton) Can I just put a brief follow-up on that one? I hear what you are
10 saying. How does that reconcile with the survey evidence on trust of different
11 newspapers and whatever? My memory, from looking at the stuff which you
12 will have seen too, is, for instance, The Sun does not rate very highly.
13 The Times, though, rates relatively highly. Murdoch, as you said or it has been
14 said, has a relatively free hand in influencing Times editorial policy and
15 whatever, but some of the papers within that are relatively high trust. How does
16 that reconcile?

17 A. (Mr Babbs) I must admit I do not have those figures in front of me. I have to
18 say that we do quite a lot of polling on trust and a 5 per cent trust record is much
19 lower than I have ever seen for anything else.

20 Q. (Ms Chambers) Could I just ask if all the 95 per cent were they 'do not trust' or
21 were there any 'do not knows'?

22 A. (Mr Babbs) There were 27 per cent do not knows and 68 per cent cannot be
23 trusted to have a genuine commitment to fair and neutral reporting.

24 A. (Dr Schlosberg) I think this issue of trust is an important one. Clearly, Ofcom,

1 rightly, looks at trust in, for example, the BBC as an impartial broadcaster and
2 the relative trust in a newspaper like The Times versus The Sun and takes that
3 into account in terms of impact. But we do need to qualify that, because
4 decades of research into media influence have really produced nothing but a
5 very murky picture about the way this kind of influence operates.

6 This speaks to the earlier question about influence over public opinion. We
7 cannot say for certain how influential, for instance, The Sun's editorial is over
8 the way people vote in elections. We know that The Sun has never "lost" an
9 election, or at least since Murdoch has taken ownership, including the last
10 election, but that is not necessarily evidence prima facie of influence. The key
11 question I think in respect of this review is to look at this from a question of risk
12 and the risk that that influence can translate through all sorts of ways; through
13 the trust and respectability of a brand like The Times, but also the mass
14 readership base of a brand like The Sun and cross-platforming base. Platform
15 reach of a brand like Sky News. All that has to be taken into account.

16 Trust is a funny thing because, in some ways, if you look at newspapers, few
17 people trust newspapers or say they trust newspapers to tell the truth, and the
18 media in general; those levels of trust are extraordinarily low. But if you look at
19 the levels of trust done in research in terms of what we call "gatekeeping trust",
20 ie trust that these major titles will print the news that is worth telling, that is
21 newsworthy, that is actually surprisingly still very high and, in fact, in many
22 ways, higher than ever as we get this noise from social media, that people are
23 actually increasingly searching for those major news brands as signals of news
24 authority and credibility.

1 A. (Mr Carusone) I just would like to go back to the identifiable link between the
2 sexual harassment and the governance that is there and broadcasting, because
3 I do think that there is some much more concrete crossover. One is that, up
4 until the Roger Ailes allegations, there was a policy at Fox News where women
5 were not allowed to wear trousers. That was a broadcasting policy. That is
6 one example, and that was on air as well. Most of these studios are not on site.
7 If you are in a satellite studio, the make-up artists that do the make-up in these
8 studios, they will do it for multiple programmes. They will do it for CNN and
9 NBC because they tend to share these spaces. If you go in there, you will find
10 that the make-up artists get no instructions from any of the other places that do
11 make-up except for Fox which actually gives them a set of concrete guidelines
12 for how to do make-up for women including assessing their eyelashes and
13 putting on fake ones if not -- and there have been instances of women who
14 have had their make-up done and being rejected and having to go back and
15 have it redone again because they did not meet what would be required for on-
16 air appearances. [✂].

17 It was not about what they were saying or commitments to not disclosing
18 conflicts of interest or ensuring accuracy but there were concrete policies
19 regarding how women looked on air. That is not the case across otherwise. I
20 do not think it is possible to decouple that broadcasting standard from the larger
21 governance failures that are there at Fox News.

22 One button, just to show the shamelessness of this and also how they can
23 weaponise this information is that, in the 20 days since the Harvey Weinstein
24 sexual harassment allegations and reports came out, Fox News devoted well

1 over 12 hours of coverage to that. They devoted 20 minutes to Bill O'Reilly over
2 the course of seven months, 16 of which came from one person, one host on
3 Sundays. The reason I illustrate that is because they are willing to engage in
4 this from a broadcasting perspective when they think they can weaponise it
5 against a prominent liberal or to push a larger agenda about Hollywood but,
6 other than that, even when it comes to atoning or just avoiding this entirely,
7 given their background, they did not. So, I do think that broadcasting
8 component is relevant.

9 A. (Mr Wilks) I have a couple of other thoughts on the identifiable link as well.

10 One, the Seth Rich story which we mentioned before about the DNC staffer
11 who was blamed, in Fox's coverage, for leaking the Clinton emails to the
12 Russians; that story, in a court deposition, there are texts showing that the
13 Republican donor who helped organise that story had taken the story to the top
14 levels of the White House. I think it may even mention the president in the text.
15 This was a politically convenient story to put out in May this year at the time
16 when Trump was under pressure.

17 The newsgathering methods - again in court it is alleged that the quotes by the
18 public investigator were concocted - intercepted with the political agenda and
19 led to sloppy material being broadcast which was then retracted by Fox. I urge
20 you to look at the internal inquiry that Fox has supposedly done into that and to
21 see what were the internal debates, who authorised that in terms of the
22 methods, the selection of that story, everything about that story. I think that
23 would be very clear and illustrative.

24 A. (Dr Harris) And who has been fired.

1 A. (Mr Wilks) So far, we have not seen any evidence that any sanctions or
2 incentives have been given to prevent that happening again.

3 That is a tight intersection of broadcasting standards, what people see on their
4 screen and the newsgathering methods news selection. The phone hacking,
5 obviously, was an example of newsgathering methods crossing ethical and
6 legal boundaries. I think these things intersect pretty tightly on several
7 occasions.

8 Q. (Mr Bamford) Just to follow up, a slightly narrower point around this link
9 between corporate governance and Brexit. We have a copy of a public advice
10 that you gave to Avaaz in relation to the European Intervention Notice right at
11 the beginning of this whole process, and it is still ongoing. In that advice, you
12 recommended, as I understand it - and correct me if I am wrong, please
13 do - that Avaaz should seek for the secretary of state to have an additional
14 public interest test related to corporate governance because the advice felt that
15 the single broadcasting standards public interest test did not enable the full
16 remit of the corporate governance to be brought in. I wonder whether you could
17 talk through that.

18 A. (Mr Peretz) You have the advantage over me that I have not brought advice
19 with me and do not have it in front of me. I am now trying to remember precisely
20 what I said. There are clearly wide corporate-governance concerns, and it is
21 always neater if your position is, as Avaaz's position is, that those corporate-
22 governance concerns of themselves should be sufficient to refuse permission
23 for the proposed transaction to proceed. It is always neater if that is your
24 concern, to have that concern addressed as such rather than, as it were, to try

1 to shoehorn it into another issue, in this case paragraph (c), because then you
2 have precisely the sort of discussion that we are having and you have precisely
3 the sort of submissions that are made by Fox and Sky saying, "This sort of stuff
4 is all of very limited relevance, and you should not really pay much attention to
5 it". One could predict that that was bound to happen.

6 I say that slightly tentatively, because I cannot remember quite how firm I was
7 on that advice, but the question of whether there should be a new ground is not
8 to say that it would be completely impossible to deal with those concerns under
9 the head in paragraph (c), and since paragraph (c) is where we are that is what
10 you have to look at.

11 A. (Dr Harris) It was raised in Parliament by Lord Puttnam in an amendment to
12 the Digital Economy Bill, and the minister from the dispatch box assured him
13 that his concerns around corporate governance could be dealt with, implied
14 would be dealt with, by the regulator under the heading of genuine commitment
15 to broadcasting standards. The same answer was given in the Commons, I
16 believe, to Tom Watson when he raised the question, or it may have been Ed
17 Miliband, from the Secretary of State. You are presumably not bound by that,
18 but it was reassuring to those of us who might have taken the Avaaz advice
19 further in challenging what the Government was doing, to know that they were
20 satisfied that the specific concerns set out in the amendment that set out
21 corporate governance could and would be dealt with under this heading.

22 A. (Mr Flynn) Which is one of the reasons why we did not pursue it; we accepted
23 the reassurances from the Secretary of State and I think also from Ofcom that
24 they would deal with this adequately in the broadcasting standards ground.

1 Q. (Mr Bamford) Just to come back to the issue around Fox News's broadcast
2 within the UK, to pick up that area of genuine commitment to broadcasting
3 standards, I would welcome your view around Ofcom's approach to regulating
4 the output of non-UK-focused news channels such as Fox in terms of due
5 impartiality and due accuracy, taking into account the contextual factors such
6 as size and expectations in the audience that Ofcom highlight both within their
7 initial report and their responses to the Secretary of State. I would welcome
8 your views on those points.

9 A. (Mr Gopsill) We had discussed this, and we feel they are a little too generous
10 sometimes, in that Ofcom has said – I do not have the text here – that the due
11 impartiality relates to the size of the audience and the nature and expectation
12 of the viewer, which allowed them to regulate Fox. I think we noted that there
13 were certain other stations from other countries who were not given that benefit.
14 It is not material to this case, but I think if you have broadcasting standards and
15 you enact them in regulations empowered by an Act of Parliament then you
16 really should adhere to them.

17 A. (Mr Wilks) I would add that while there may be some adjustment for the scale
18 of the audience if you have 65,000, 70,000-odd average viewers per week that
19 is a reasonable scale and it is a professional, large broadcasting organisation
20 that should be able to understand and comply with these kinds of standards.
21 There seems to be a different approach where you see community radio
22 stations being shut down for some things that are arguably similar to the
23 breaches that Fox was being asked to account for. In the submission that we
24 have brought here, it looks as if Ofcom was too quick to close down or to decide

1 not to look further into potential breaches, including quite serious things like
2 around the Referendum. Broadcasting content that could influence voters while
3 the polling booths are open is a very clear and simple rule.

4 It is also partly, I think, the attitude of Fox in responding to those serious
5 concerns that is worrying, a feeling that they do not need to take that seriously.
6 So, it was good that Ofcom did then ask them to bring forward a policy for UK
7 compliance. I think it was surprising, frankly, that it had taken so long to notice
8 that they lacked such a policy, and I feel that over that time of 16 years it would
9 have been good for Ofcom to have done some more proactive monitoring of
10 segments of Fox to see about compliance from random sampling rather than
11 just wait for complaints from audiences, many of whom may be Americans living
12 in this country who do not necessarily know about the standards that should
13 apply or how to talk to Ofcom.

14 A. (Mr Davies-Coates) I would add that whilst Ofcom I think massively
15 underweighed the relevance of Fox's compliance record here in the UK and
16 said because they are small and everyone knows they are bad it does not
17 matter that they are bad they have, to be fair to them, also raised concern about
18 Fox's responses to their numerous breaches, for example about the distinction
19 between advertising and editorial content. Ofcom said it was "concerned by
20 FNN's suggestion that using devices such as "lead-in and lead-out bumps and
21 teasers" is sufficient to ensure a distinction between advertising and editorial
22 content." Fox had said, It clearly was not an ad, because we did not end the
23 show and then start the other show.

24 The responses that Fox routinely give to Ofcom about their breaches are very

1 indicative, again, that they do not take compliance and regulatory stuff
2 seriously, certainly not as a commitment before the fact. They say, you are
3 enforcing that too strongly, and actually, this thing we did was fine, we thought.
4 That case I read was referenced in John Hardy's submissions.

5 Q. (Mr Krumins) If can just take a step back, we have put this, rightly, very narrowly
6 on the question of Sky News, governance, plurality and those sorts of
7 measures, Sky is a very large company, and Sky News is a very small piece of
8 that. It is a loss-making piece of that. Fox have made a public offer, and
9 particularly with the way the register is changing, that shareholders would look
10 to vote for whatever it would take for that offer to be made formally, we could
11 be looking at scenarios where Sky and Fox may decide to shut Sky News down
12 as a condition of the offer passing through. So, from a plurality perspective,
13 Sky News would disappear. I just wonder if that is a good outcome here,
14 because both parties are in their right to do that – it would take away the
15 concerns about plurality in terms of where Murdoch was – alternatively whether
16 there are mechanisms that you could put in to protect Sky News to address
17 these concerns, or alternatively would a scenario be where you shut Sky News
18 down and Fox starts from scratch in the UK with a news channel, rehires
19 existing people and rebuilds something? Could you just perhaps comment on
20 commercial scenarios that may happen here?

21 A. (Dr Schlosberg) The first thing I would point out is that I do not think that we
22 can just take the fact that Sky News is a loss-making unit of Sky's total
23 operations as meaning that it has no commercial value to Sky. I think that
24 institutions and individuals invest in news very often as loss-leaders. That is

1 true historically and is arguably increasingly the case.⁴ BuzzFeed is a very
2 good example. If you look at, for instance, the statements of BuzzFeed's CEO
3 about why it is that they have chosen to invest in a form of news that actually
4 does not offer much if any immediate return on their investment, the reason is
5 simple: because news is a very, very powerful way of generating traffic and
6 volume and attracting eyeballs in the converged media landscape. From that
7 perspective, it is a very, very powerful way of leveraging a brand.

8 From a commercial perspective I think even talk of closing down Sky News,
9 which is a very, very significant brand for Sky, is purely hypothetical. I think
10 when you take into account the approach of the Murdochs their investment in
11 news assets is very often not only to look at loss-leaders in terms of leveraging
12 brand value but potentially, I think, for all intents and purposes leveraging at
13 least political access if not political influence. I think we are talking about an
14 extraordinarily unlikely scenario, and I think that there is nothing about the
15 statements of 21st Century Fox throughout this review or indeed News
16 Corporation in the 2010 review that suggests to me that there is any remote
17 possibility that that would be the post-merger result of this deal.

18 A. (Mr Gopsill) Not to mention the political clout that running a 24-hour news
19 station gives you.

20 Q. (Mr Krumins) I am trying to make a commercial point here. The commercial
21 deal is in the billions of pounds. I can shut this channel down, and then I can
22 come back in six months or a year, rehire the exact same team and relaunch

⁴ Clarification provided by the MRC following review of the draft transcript.

1 under a different name. The News of the World disappears; The Sun on
2 Sunday appears. I am just asking you to think about the disaggregation of the
3 two, because Fox is the owner of a multi-channel platform that is highly
4 profitable in the UK. It is not what we are really looking at here in terms of these
5 plurality concerns; it is what happens with news, and so just taking a
6 commercial perspective, think through that scenario and just consider how you
7 would like to see that regulated.

8 A. (Dr Schlosberg) I think what you are touching on is potentially the whole issue
9 of undertakings. I think really the first thing that we would say on that is that the
10 undertakings that have been offered so far, which have basically been about
11 preserving Sky News as a condition of this deal and, secondly, notionally
12 preserving its independence through the independent board, are wholly
13 inadequate. I agree with you that if the decision was made as a result of this
14 merger going ahead that Sky News should be shut down that would be a
15 detraction from plurality, but, as I say, it is a very hypothetical thing to consider,
16 because I do not believe that it is either in the commercial interest of Fox to do
17 that or the political interest of the Murdoch family trust.

18 Q. (Mr Krumins) It is the commercial interest of doing the deal at all or doing the
19 deal without Sky News. Those are the two scenarios that you are looking at as
20 Fox.

21 A. (Mr Gopsill) If you are hypothecating that Fox would set up a channel in Britain;
22 we are discussing whether Sky News, which has a good compliance record,
23 can be trusted if it was under 100 per cent Murdoch ownership. There is no
24 way that Fox News would get a licence from Ofcom.

1 THE CHAIR: I think we are getting into a little bit of a hypothetical area.

2 Q. (Mr Krumins) But, in terms of your point, is there a regulatory framework that
3 does work?

4 A. (Dr Schlosberg) You mean in terms of undertakings?

5 Q. (Mr Krumins) Undertakings, yes, or however you term it.

6 A. (Dr Schlosberg) My simple answer to that question is no, and the reason is –
7 and this really speaks to a lot of the questions that you have raised today, and
8 it is a common issue between broadcasting standards and plurality – we have
9 to consider here the way in which power operates in these types of
10 organisations. If Sky News was to be notionally structurally separated from the
11 merged entity but there was still even the slightest lever of control or slight
12 connection structurally to Sky, we have seen decades of research in the fields
13 of industrial organisation, psychology and sociology that shows that the way in
14 which power diffuses and operates in these large-scale corporations and
15 organisations is in fact rarely through formal structures and formal levers like
16 shareholder votes et cetera, but actually it is much more through informal
17 channels.

18 The real risk here is that actually the result of this transaction is not that the
19 Murdochs will be able to have direct editorial interference in Sky News; the real
20 risk is they will not need to have direct editorial interference. The real risk is
21 that simply the symbolic significance of Sky becoming wholly under the
22 auspices of a Murdoch-controlled organisation will be translated into
23 internalised pressures, influence and self-censorship on the frontline of their
24 newsroom.

1 THE CHAIR: We are seven minutes away, and I think we have had a very full
2 discussion on a lot of issues on which we are very grateful for your input. So, I
3 am really going to say, are there any burning points any of you want to make
4 that you have not made, not just repeating what you have said? I assure you
5 we have taken notes and it is being transcribed.

6 A. (Mr Davies-Coates) I only have a small one, on the commercial influence.
7 What incentives would shareholders have for Sky becoming like Fox? Fox is,
8 in stark contrast to Sky News, highly profitable. That is one clear incentive that
9 people would have to move in that direction and possibly explains why that is
10 exactly what has happened in Australia.

11 The other thing I am touching on is what Justin said about the unspoken --
12 Harold Evans and Andrew Neil in their Leveson testimony – and/or the
13 politicians, actually – both spoke to the palpable influence that Murdoch has
14 when he is in the room or when he is there, not having to hand things down
15 directly. Within hierarchical organisations people like to please their bosses.
16 Murdoch or the MFT are 39 per cent of your boss; if they suddenly become
17 100 per cent of your boss, that is going to change how you act.

18 Q. Any more burning points? It is 4.55 pm, and, as I said, I think we have had a
19 very good discussion, but I offer you this opportunity for a one-minute point.

20 A. (Mr Wilks) Just a suggestion that in line with the commercial logic that you are
21 talking about there, it is a tricky question to think about what undertakings could
22 possibly work and insulate Sky, and I will not take that up now, but I urge you
23 to look at the practical ways in which the merger would take place in terms of
24 training, compliance, incentives, hiring, firing and all of those sorts of things,

1 which speak to the culture of the larger fish buying up the smaller fish, and to
2 imagine what the culture would be both in terms of offscreen and onscreen
3 compliance. For me, there are worrying signs, and of course we leave you to
4 draw your own conclusions, but I would just want to point you to some
5 suggestions that we have made in a couple of our briefings, particularly the
6 corporate-governance one about documents that you may want to obtain,
7 particularly on the other side of the pond, to build a full picture.

8 A. (Dr Harris) You rely to an extent on what you are told by the parties, clearly, to
9 the extent that you can trust them. My suggestion is that you look at what they
10 have said in places where they do not believe they are being heard. There was
11 an example of this where Rupert Murdoch spoke to News Corporation, Sun,
12 staff, he was taped, he said very clearly a number of things – and there is a
13 record and a tape that Ofcom should have transferred to you –he said, “We will
14 get revenge on the police, because they followed up what we asked them to
15 do”, and he expressed disdain for normal regulatory practice. People when
16 they do not realise they are being recorded and they are not on record give
17 away a lot of what their position is. He has had every opportunity to rebut, to
18 apologise for or to reject what was said, but he believes it, I believe, he is proud
19 of it, and that is probably the reason why it has never been taken back.

20 A. (Dr Schlosberg) Just to directly follow that, the Commons Select Committee
21 report from 2012 pointed out that corporately News of the World and News
22 International misled the Committee, they would have known they were not
23 adequately truthful and they failed to disclose documents that would help
24 expose the truth.

1 | Q. Okay. I think I will draw it to a close there. Thank you all very much for coming
2 | in. You have given us a lot of material, and you have also given us a lot of
3 | material in writing, which, I assure you, we are reading. Thank you very much.
4 |
5 |

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?