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

**Notes of a hearing with politicians
held at Victoria House, Southampton Row
on Wednesday, 1 November 2017**

PRESENT:

FOR THE COMPETITION AND MARKETS AUTHORITY

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

FOR THE STAFF

Joel Bamford - Project Director
David du Parc Braham - Assistant Project Director
Mary Ayinde - Project Officer
Sabrina Basran - Project Manager
Chris Jenkins - Economics Director
James Jamieson - Economics Adviser
Andrea Gomes da Silva - Senior Legal Director
Tim Capel - Legal Director
Timothy Ker - Legal Adviser
Bill Roberts - Assistant Director – Remedies, Business &
Financial Adviser
Senthuran Rudran - Remedies, Business and Financial Adviser
Steven Pantling - Remedies, Business and Financial Adviser
Jennifer Halliday - Project Director

POLITICIANS

Rt Hon Sir Vince Cable MP, Member of Parliament for Twickenham
Rt Hon Kenneth Clarke QC MP, Member of Parliament for Rushcliffe
Rt Hon Ed Miliband MP, Member of Parliament for Doncaster North
Lord (David) Puttnam CBE, Member of the House of Lords
Rt Hon Lord (Charles) Falconer (of Thoroton), Member of the House of Lords
Lyndsey Tod, aide to Ed Miliband
Leo Watkins, adviser to Ed Miliband

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1 THE CHAIR: Welcome to the CMA and thank you very much for coming in. I will start
2 with introductions. I am Anne Lambert, the chair of the inquiry. This side you
3 have a mixture of the inquiry group and staff team. There are three other
4 members of the inquiry group. I will let them introduce themselves.

5 Q. (Mr Krumins) John Krumins, one of the inquiry group members.

6 Q. (Mr Tutton) Tim Tutton.

7 Q. (Ms Chambers) Sarah Chambers.

8 THE CHAIR: The staff team. I will start with Joel.

9 Q. (Mr Bamford) I am Joel Bamford. I am the project director leading the staff
10 team.

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

13 Q. (Mr Jenkins) Chris Jenkins, economics director.

14 Q. (Mr Capel) Tim Capel, legal director.

15 THE CHAIR: We do have quite an impressive array at the back there. To save time
16 it is a mixture of our expert team who are supporting us on this inquiry.

17 A. (Mr Clarke) The back row is your staff?

18 Q. It is all the staff. Let them introduce themselves. Go on.

19 A. (Mr Clarke) I thought you may have a public gallery or something!

20 THE CHAIR: No, no, no, no, no! Start this end.

21 Q. (Mr Rudran) Senthuran Rudran, business and financial adviser.

22 Q. (Mr Roberts) Bill Roberts, business adviser.

23 Q. (Mr Pantling) Steve Pantling, business adviser.

24 Q. (Ms Halliday) Jennifer Halliday. I am a project director.

25 Q. (Mr Jamieson) James Jamieson, economic adviser.

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

2 Q. (Ms Gomes da Silva) Andrea Gomes da Silva. I am a senior legal director.

3 Q. (Ms Ayinde) Mary Ayinde, project officer.

4 Q. (Ms Basran) Sabrina Basran, project manager.

5 A. (Mr Miliband) Great. Shall we do the same?

6 THE CHAIR: That would be very helpful.

7 A. (Mr Miliband) Ken, do you want to say who you are!

8 Q. We might know but we still would like to know for the record.

9 A. (Mr Clarke) Okay. Ken Clarke, Member of Parliament for Rushcliffe.

10 A. (Mr Miliband) Ed Miliband, Member of Parliament for Doncaster North.

11 A. (Lord Puttnam) David Puttnam, Member of the House of Lords.

12 A. (Lord Falconer) Charlie Falconer, Member of the House of Lords.

13 A. (Sir Vince Cable) Vince Cable, Member of Parliament for Twickenham.

14 A. (Ms Tod) Lyndsey Tod, aide to Ed Miliband.

15 A. (Mr Watkins) My name is Leo Watkins. I am a media analyst at Enders

16 Analysis on a freelance basis and I am advising Ed Miliband.

17 Q. Okay. Thank you very much. Let me say a few words firstly about the purpose

18 of the hearing and then I have got to do some formalities. As you know this

19 proposed transaction, which is Fox's proposed acquisition of 100 per cent of

20 the shares of Sky, has been referred to us by the Secretary of State to consider

21 two public interest considerations; media plurality and broadcasting standards.

22 We have published a timetable and we have also published an issues

23 statement which I am quite sure your lawyers and your assistants have read

24 which outlines the steps we are taking in this inquiry and the issues we wish to

25 explore.

1 The aim of this hearing - and we are conducting a number of similar hearings -
2 is to explore the issues that arise in this case and, in particular, whether there
3 will be a negative effect on the public interest considerations of media plurality
4 and whether the merged entity will have, and I quote the words of the legislation:
5 "A genuine commitment to broadcasting standards". We have invited you to
6 this hearing as key political parties who have made substantive submissions
7 both to Ofcom at phase one, to the Secretary of State and to us in phase two
8 of this inquiry.

9 I now have to go through the formalities. We have previously sent you
10 information on our procedures at hearings and about our treatment of evidence.
11 We are taking a recording of this hearing and, in the interests of openness, we
12 intend to publish a version of the transcript on the CMA's website but we will
13 send it to you beforehand for an opportunity to review for accuracy. I would ask
14 that if you wish to amend or add to the evidence you give today you do so not
15 by amending the transcript but in a separate letter.

16 I also need to remind you, as we are reminding everyone, that it is a criminal
17 offence under section 117 of the Enterprise Act 2002 to provide false or
18 misleading information to the CMA at any time, including at this hearing.

19 We have a number of questions we wish to ask you. Joel is going to lead the
20 questions but members of the inquiry group and possibly other members of staff
21 may also intervene, as appropriate. I understand you would like to make
22 opening statements and ask if you could be five minutes each please.

23 A. (Mr Miliband) Thank you very much. I am going to lead.

24 A. (Lord Falconer) Would it be okay if I took my jacket off?

25 Q. Of course.

1 A. (Mr Miliband) I am sorry; I did it without asking! Members of the House of Lords
2 are better behaved I think. I am going to lead off then Charlie is going to speak,
3 then Vince, then David and then Ken. We will definitely try to keep to your time
4 and we are grateful for you giving us the chance to do this.

5 The first thing I want to say is we are not here from across parties because we
6 have a personal grudge against the Murdochs. We are here because we have
7 deep concern about the impact that this bid by the Murdochs would have on
8 our media landscape and our public discourse.

9 I want to concentrate on the issue of plurality and the second harm you identify
10 about one media owner having too much influence over public opinion and the
11 political agenda. My argument is this. First of all they will have control as a
12 result of this bid. I think what is very instructive in this is if you look at the
13 symmetry and ownership structure that there will be between their newspaper
14 group, obviously news is the core side the business, and Sky under 21st
15 Century Fox as a result of this bid.

16 My point to you at its most simple would be this. Nobody contends that the
17 Murdochs do not have control over their newspapers. Rupert Murdoch said:
18 "If you want to know my thinking read The Sun". He said that to the Leveson
19 inquiry. We contend it will be the same in relation to Sky. So they would have
20 control.

21 Ofcom, as you know, say in their public interest report that they would vie for
22 second place with ITN for share of references in terms of one quantitative
23 measure of control but we think that understates their potential influence. I
24 would point to two or three things in that context. First of all the cross-platform
25 nature of their interests is fundamental for us. The largest newspaper group,

1 the third largest provider of TV news, the supplier of radio news to almost every
2 commercial radio station and an online reach for The Sun and Sky News alone
3 of 70 per cent of internet users, according to Ofcom.

4 Secondly, the way the Murdochs maximise their influence. We cited in our
5 submission testimony from a whole range of quarters about the way the
6 Murdoch newspapers influence not just their readers but the BBC/ITV/other
7 broadcast news agenda. This would give them the opportunity not just with
8 their newspapers to influence other broadcasters but to use Sky News to
9 forward that agenda. Vince will talk a bit about online and our view that online
10 does not fundamentally change this.

11 Thirdly, they will not just have influence but they will use it. On the Iraq war 175
12 Murdoch owned newspapers supported the Iraq war, zero Murdoch
13 newspapers opposed the Iraq war. They speak with one voice. This weekend,
14 when Robert Muller filed charges against aides to Donald Trump, the New York
15 Post called for him to go, Fox News called for him to go, and the Wall Street
16 Journal editorial page called for him to go. That is not a mainstream view; that
17 is a Murdoch view expressed through his outlets. I think the stakes of this bid
18 are very high because if he has 100 per cent control of Sky News Sky News
19 would be part of that unified voice, or at least he would seek to make it part of
20 that unified voice. You only need to look at Sky News Australia and the impact
21 of his takeover to see the same thing playing out. You might want to ask us
22 about that.

23 The last point I will make is this; which is about this debate, no doubt you are
24 having, about what level of plurality is sufficient, what would we point to, to say
25 that the Murdochs have too much power after this bid? I would say that 2011

1 was a very important moment because people from across political parties,
2 including David Cameron, my political opponent, said, and I quote: "Never
3 again should we let a media group get too powerful" (he was referring to News
4 Corp). That was a moment when politicians woke up to the fact that the
5 Murdochs did have large amounts of power, too much power, over public
6 opinion and the political agenda. If they had too much power in 2011, before
7 this bid, we would contend that they will definitely have too much power if this
8 bid goes through. That is why we do not believe it is in the public interest for it
9 to proceed.

10 I'm now going to hand over to Charlie Falconer.

11 A. (Lord Falconer) The second issue, you put it absolutely, is, as a result of the
12 transaction, will there be a genuine commitment to broadcasting standards at
13 the merged entity? That is, using your language in the issues statement, which
14 is completely accurate, in my view. Parliament put in the commitment
15 requirement to broadcasting standards because whilst they were loosening
16 merger control in the 2003 Act, Parliament was keen that it should not be at the
17 cost to broadcasting standards.

18 The key points in this case I say are as follows. First of all, 21st Century Fox
19 will go from influence to control, which means the Murdoch Family Trust will
20 control Sky and, in particular, Sky News. The Murdoch interests/21st Century
21 Fox oppose UK broadcasting standards in three major respects. First of all they
22 say they are inimical to free speech. Secondly, they say they can be easily got
23 round and, thirdly, they say it is not a commercially sensible thing to do. You
24 will see the quotes that makes that submission good at page 70 and page 91
25 in our submissions. Ofcom agree with the Murdochs that broadcast standards

1 in particular relating to impartiality are not watertight. Fourthly, when the
2 Murdoch interests obtain control of broadcasters they do not comply with either
3 the spirit or the letter of what could be said to be UK standards. I draw attention
4 to Sky Australia where they moved from 33 per cent to 100 per cent quite
5 recently and the evidence is there has been a change there, and obviously Fox
6 News which is completely different in its culture and in its way of dealing with
7 news.

8 Their lack of commitment to media standards is demonstrated 1,000 per cent
9 by their commitment to media standards in relation to the newspapers they own,
10 in particular the hacking scandal. They knew from 2006 that it wasn't just one
11 rogue reporter, Goodman, who was doing it because the judge,
12 Mr Justice Gross, said it is obvious it was not just one rogue reporter, and they
13 did nothing about that. In their submission to the CMA and in their submission
14 to Ofcom before they seek to escape the consequences of that by saying:
15 "There has been a fundamental change in 2012". Do not look at it now but if
16 you look at the Allen & Overy submissions pages and pages go in to the new
17 corporate arrangements. They also rely very heavily on the split between News
18 International on the one hand and 21st Century Fox on the other.

19 You should reject the "new leaf" argument for three reasons. First of all they
20 have exhibited no change in behaviour in relation to the newspapers. I draw
21 attention to the re-hiring of Nicholas Parker who committed a criminal offence
22 and was convicted of it and they re-hired him. Secondly, the remarks made by
23 Mr Rupert Murdoch to the effect this is all a fuss about nothing. Thirdly, the re-
24 hiring of Rebekah Brooks after she was acquitted in relation to the hacking
25 charges but in the context of her having presided for years over what can be

1 described as, at best, industrial breaches of media standards. Secondly, the
2 fact that even after 2012 the serial misconduct at Fox News continued
3 massively. This is after the corporate governance changes. I do not know if
4 you have read it but I can pass up a copy at the end. If you look at a letter we
5 sent to Sharon White dated 7 August 2017 you will find, at the second and third
6 pages, pages and pages of the continuation of the sex abuse that continued
7 there.

8 Finally, the assertion that they make that a new leaf has been turned, is
9 completely given the lie to by the story of Bill Riley. In February 2017 they
10 increased his earnings from 18 million to 25 million. They did that at a time
11 when they knew that he had settled with a Miss Wiehl in relation to a sex abuse
12 allegations that she was making against Mr O'Reilly. They obviously kept
13 Mr O'Reilly on because he was their star presenter. Even though his conduct
14 was disgraceful they only got rid of him on 17 April when, as we know from
15 emails that have been obtained by the New York Times, it became apparent
16 that the Wiehl correspondence was going to be revealed so they had to dismiss
17 him. It was going to be revealed because there was a federal investigation into
18 misconduct by Fox News.

19 You should not regard them as people who have turned over a new leaf. You
20 should regard them, instead, as people who, what they say about regulation
21 here is what they believe, which is you can get round it, it is not in our
22 commercial interests, and we will push it as far as we can in order to make
23 money and have political power in relation to their newspapers.

24 A. (Mr Miliband) Charlies, thanks. Vince?

25 A. (Sir Vince Cable) Yes. I would like to address the question which you

1 encourage us to discuss which is the changing landscape and online providers
2 and whether this changes the arguments. Perhaps I will just start with a preface
3 that I was the Secretary of State who set up the CMA. I am very conscious of
4 your competition mandate and the way in which often the combination of new
5 technology and liberalisation can change the landscape quite rapidly and,
6 having seen the work you did on banking and electricity, for example, it is very
7 clear that market contestability can be considerably enhanced by some of the
8 things that are happening in the market.

9 The point we would make is that there is a fundamental difference between
10 competition of the kind that the CMA has real expertise and the particular
11 problems of plurality. Lord Puttnam will major on this distinction but what I
12 would argue is that it is possible to have increased competition and reduced
13 plurality. These are not the same and they can go in opposite directions. The
14 reason for believing that in this case the changing landscape reduces plurality
15 are several. First of all the big online operators are aggregators of news. They
16 are very rarely independent generators. There are a few people entering the
17 market - BuzzFeed is a good example - but they are very niche and there is no
18 great evidence that these have become major players or are likely to do so.

19 The second is that if you consider access to online consumers, as Ed Miliband
20 pointed out in his introduction, The Sun and Sky News together -and that is very
21 far from being the whole of the Murdoch empire - reach about 70 per cent of
22 online consumers. Just repeat the basic points that we are already talking
23 about; the third largest TV news company, the second news channel company,
24 three news websites of which The Sun I think is the one with the third highest
25 use, regular news channelled in to almost all commercial radio stations.

1 A third point I would make is that there is quite a lot of disaggregation which
2 has been studied in relation to who uses Facebook, one of the new online
3 providers. Some of the evidence that came out of that was that The Sun
4 newspaper was the second most referred, the most popular, source of news
5 and Sky News itself was the fourth so the Facebook platform adds to, and
6 provides an additional channel for, the existing and potential 21st Century Fox
7 acquisition.

8 Fourthly, the way in which the new online platforms operate, as we all know, is
9 changing the business model radically in the media to attract advertising to the
10 big platforms like Google and Facebook at the expense of other competitors
11 and we have seen the almost total extinction of independent local newspapers,
12 for example, and many others struggling to survive because of the loss of
13 advertising. We have new technology contributing to reduced competition and
14 plurality, not enhancing it.

15 The final point I would make is that some analysis has been done which
16 suggests that, as a result of this acquisition, the Murdoch family group would
17 have access to about 13 million independent data sets of individuals who use
18 Sky services and that could then be used for sending political messaging. We
19 have seen a great deal of this in the United States.

20 If we put that combination of things together we can see how, if Sky News were
21 a wholly owned subsidiary of the Murdoch group, combined with the capacity
22 for cross subsidisation, you could drive a very, very powerful dominant
23 presence in the online world. Even greater than the one which we dealt with
24 and commented on six years ago when newspapers were much more the
25 focus of attention.

1 A. (Mr Miliband) Vince, thanks so much. David?

2 A. (Lord Puttnam) Thank you very much, Ed. Can I check one thing? In order to
3 stay within your five minute timeframe at the end, if things have slipped off the
4 table or have not been raised, will we get an opportunity to drop in?

5 Q. Of course. Yes. Our aim today is to have a full discussion. If you have got
6 things you want to say at the end then, yes.

7 A. (Lord Puttnam) All right. I am a veteran in this. I should mention that there is
8 no malice in my evidence because in my conflict of interest statement I
9 mentioned that I am a very grateful profit participant in the 21st Century Fox
10 film Chariots of Fire . It probably keeps me afloat and is one of the reasons I
11 am in parliament at all! Also the publisher, of my book MacMillan, is a Murdoch
12 owned company.

13 I go back to among the most difficult periods of my life, the 18 months in
14 2002/2003, where I was chairing the committee looking at the ramifications of
15 what was to be the 2003 Communications Act. It was very difficult because we
16 came up, from memory, with 92 suggested amendments and there was a lot of
17 toing and froing with the Government. Unfortunately, as Ed will remember only
18 too well, it was with my own Labour government that I found myself in deep
19 opposition . To be lobbied on a daily basis by your own government is not a
20 pleasant experience. They were lobbying me not because of their own
21 preferences, but because they in turn were being put under extraordinary levels
22 of pressure.

23 The intentions of the 2003 Bill was, and indeed what became the Act, were
24 pretty fundamental. They were to achieve levels of plurality that were deemed
25 necessary. The great victories -- and they were great victories and are largely

1 the reason we are here today, was a triumph in the hierarchy of duties. Your
2 own chairman, David Currie, will remember this very well. The fact that we
3 ended up with a hierarchy of duties that began with the rights of the citizen, the
4 responsibilities of Ofcom to the citizen, not the consumer, was a phenomenally
5 important battle and was won with quite a lot of blood on the floor. Unfortunately
6 it started to get interpreted rather lazily as something called the citizen
7 /consumer. There never was such a thing as a citizen/ consumer and it was
8 always an error of wording. As you will know I am sure the Act is clear; it should
9 be the principal duty of Ofcom, in carrying out their functions, to further the
10 interest of the citizen in relation to communications matters. This is absolutely
11 fundamental and was at the core of everything that followed.

12 Further, in order to strengthen the Act it was connected in to the Enterprise Act.
13 This was the idea of a Conservative MP, Andrew (now Lord) Lansley. It was
14 an attempt at what he termed a 'double lock' the procedure. Very interestingly,
15 at the end Lord McIntosh, the peer who took the Bill through for the Government
16 in his very last phrase said: "Only when this double lock is tested will we find
17 out if it is robust enough". Weirdly that is where we are today. This is the first
18 time really that double lock that was invented in 2003 has been tested. So I
19 have been a witness to that entire process.

20 The important thing that was done was that parliament decided that the citizen,
21 when coming up against issues of shareholder value in the provision of news
22 and information, the citizen's rights trumped the normal rights of shareholders.
23 This is a very fundamental point. That was the will of parliament. That, again,
24 is I believe why we are here.

25 The second thing I wanted to raise is this is really about power, influence and

1 trust, public trust. I think you have an extraordinary opportunity here to roll back
2 some very difficult and not particularly helpful history. Personally I do not
3 believe this merger is about the acquisition of a very slowly declining satellite
4 broadcasting company. I think this is a merger intended principally to ensure a
5 flow of invaluable data to an extraordinarily powerful organisation to enhance
6 its position in the marketplace. I was concerned when I first mentioned this to
7 the Secretary of State and in evidence that it may not fall within your remit but,
8 happily for me, under 50 in broadcast standards, the very, last bullet point, says
9 that: "There is no use of techniques which exploit the possibility of conveying a
10 message to viewers or listeners or of otherwise influencing their minds without
11 their being fully aware of what has occurred". That to my mind is data. The
12 use and misuse of data.

13 I do not know if you are seeing the Information Commissioner, or if you already
14 have. I sit on the House of Lords artificial intelligence (AI) select committee.
15 She gave evidence to us yesterday. This evidence will be available online on
16 the parliamentary website at the end of this week. I took the best
17 contemporaneous notes I could. This was Elizabeth Denham yesterday, at
18 15:50: "There is increasing public concern at the growth of information
19 monopolies and the use and misuse of data. This has grown through a greater
20 understanding of the intrinsic value of this data. We are actively looking in to
21 this and it will require a far clearer position and enhance the role of the
22 competition authorities. I now have a large team dedicated to looking more
23 closely at this concern and will be issuing a report to parliament as soon as
24 possible". This is a major ongoing issue that will receive parliamentary scrutiny.
25 Now in case you think that that is an isolated view, last Thursday

1 Lachlan Murdoch at a conference in Los Angeles, said this: "Fox channels are
2 in the forefront of the digital multichannel video programming distributor
3 (MVPD) services launched by YouTube, Hulu and DirecTV and others in recent
4 months. The financial returns on these services are better for content providers
5 than its deals with traditional MVPDs. In addition to commanding higher
6 subscriber fees they also yield extremely valuable audience data that Fox can
7 sell to advertisers for massive premiums. We are at the beginning of an
8 incredible transformation. We are in the first months of something that will have
9 multi decade life and a future. Businesses that have large data sets and robust
10 data sets will be the companies that win in the future".

11 I think Mr Krumins is familiar with the data business probably better than I am.
12 This I believe to be at the absolute centre of this. Here is an organisation that
13 already controls a multiplicity of newspapers, radio, which it did not control at
14 the time of the 2003 Act, and an important television company which actually is
15 going in to the data business. I stress this point. The Sky subscriber base
16 throws up the most important well of data of any non-public source in the UK -
17 I could happily substantiate that but others could do it better, should you call
18 them in evidence - because the Sky subscribers base throws up behavioural
19 data. That data, misused, can have a very powerful political influence. This
20 has already been established any number of ways by what is going on with the
21 micro targeting of voters.

22 We are talking about something much, much bigger here than who owns a
23 satellite broadcasting company. We are effectively talking about who could own
24 the political future of this country.

25 A. (Mr Miliband) Thanks, David. Ken?

1 A. (Mr Clarke) Okay. Well I will try to conclude my five minutes. I will address the
2 political questions you ask and give my impression of views on the influence of
3 the media and public opinion and politicians, views on the influence of
4 proprietors on newspapers and TV, on which I have strong views, I shall try to
5 avoid being the standard politician moaning about the media and journalists
6 because all politicians in all countries do. Actually I do fervently believe in free
7 speech. I believe in a rumbustious and disrespectful media that are constantly
8 bashing them about and holding them to account, alongside the flow, I trust, of
9 proper information, accurate news and some information for the public who
10 follow this melee and do their democratic duty and choose a government.
11 It has always been rumbustious here and it has very little regulation. I will not
12 go in to the history but our newspapers have always been owned by a fair
13 number of political scoundrels from the first Lord Northcliffe to
14 Lord Beaverbrook, to Rupert Murdoch. The political establishment has never
15 had the nerve to stop anybody buying a newspaper. It is easier for a rogue to
16 buy a media outlet than it is for them to buy a football club, and it is pretty easy
17 to buy both, whatever country you come from. There have been a lot of people.
18 It has grown again. We had a bit of a lull from it. But buying media for political
19 influence as well as for commercial gain has revived again in my time. You
20 always had political bias in the newspapers. I come on to the relation with TV
21 which has not been affected by this. It is an antidote to what goes on in the
22 newspapers. The Daily Telegraph was the loyal voice of the Conservative
23 Party, followed the party line. The Daily Mirror was the loyal voice of the Labour
24 Party and always followed the Labour line.
25 Then Conrad Black came along and before he got sent to prison he bought a

1 newspaper that was going to be his voice. He wanted to get us in to the North
2 American Free Trade Agreement (NAFTA). Interesting chap. I had a lot of
3 discussions with him. He was very anti-EU because he thought the English
4 speaking nations of the North Atlantic should all be in NAFTA, not these
5 foreigners who spoke foreign languages. Then Rupert followed him very shortly
6 with The Sun and the highly politicising nature of the newspapers that he
7 bought.

8 The style of newspapers changed, largely because techniques changed. I will
9 not go in to the clichés of 24-hour, 7-day a week media. It has all become much
10 more hysterical and hectic which is quite interesting if you are trying to get some
11 sense in to the process of government against this constant barrier and which
12 gets more and more to dominate the thoughts of your leaders if you are not
13 careful because they are themselves overwhelmed and constantly
14 encountering it.

15 I think the change came. Tony Blair accepted the move. John Major declined
16 meeting newspaper proprietors, tried to resist it but was pretty well beaten up
17 by them. Then we had Blair. Since Blair came in, we have had the present
18 pattern of media ownership. It has become a very interesting sort of
19 relationship. I do not know whether Charlie will confirm or not. I think I know
20 that both Blair and Cameron had many rules of how you actually manage the
21 modern media. One was if you want to win an election you have got to have
22 The Sun and if you want to keep in power you have got to have the Daily Mail.
23 Constant communication to the proprietors trying to get the editorial line
24 switched to your party, was a key part of the struggle of recent years. Great
25 deals were done.

1 Quite how David Cameron got The Sun out of the hands of Gordon Brown I
2 shall never know. Rupert would never let Tony down because Tony had backed
3 the Iraq war. Maybe it was some sort of a deal. David would not tell me what
4 it was. Suddenly we got the Murdoch empire on our side.

5 This rumbles on through politics. It still does. I do not know how often
6 Mr Murdoch goes in to Downing Street, he does not come to England as often
7 he used to, pretty regularly before I think. The Prime Minister, and Ms May's
8 advisors, would tell her that she cannot possibly stop seeing those people.
9 Gordon Brown used to prefer being on the phone to them all day.

10 The idea that they are not influential is certainly absurd. One final illustration
11 was from my own experience. I came back in to government for one last time.
12 I told David I would do a couple of years. Did four in the end. We won in 2010
13 and I found myself Justice Secretary, Lord Chancellor. Within a week or two
14 we had got Andy Coulson on board - I think he was Murdoch's man, that was
15 part of the deal I assume - as the press officer. I am not being totally indiscreet.
16 Nobody seemed bothered by it very much. Within a few weeks of taking over
17 my Prime Minister arranged a meeting with Rebekah Brooks. Rebekah Brooks
18 described herself as running the government now in partnership with
19 David Cameron. I found myself having an extraordinary meeting with Rebekah
20 who was instructing me on criminal justice policy from now on, as I think she
21 had instructed my predecessor, so far as I could see, judging from the numbers
22 of people we had in prison and the growth of rather exotic sentences. She
23 wanted me to buy prison ships because she did accept that the capacity of the
24 prisons was getting rather strained, putting it mildly, it was not the way I
25 described it. She really was solemnly telling me that we had got to have prison

1 ships because she had got some more campaigns coming, which is one of her
2 specialities. I regarded this as a very amusing conversation and took not the
3 slightest notice. As long as I was Justice Secretary we would not have any of
4 this. I do not think my successor needed any promoting from Rebekah so it all
5 went back to the norm.

6 The power is quite considerable. I know Rupert. I have met Rupert. The idea
7 that Rupert is interested in a detached influence in the politics of the countries
8 where he owns his media; anybody who knew him, you could not put that
9 proposition to them without them breaking in to a very broad smile.

10 Coming back to what is our real concern; about the public interest here, it is up
11 to politicians to decide whether they wish to continue in this way. The public
12 interest is redress to the constant campaigning, sometimes of a hysterical kind,
13 which has such an influence on the politicians because they think it has such
14 an influence on the public and they need to defer to the media proprietors
15 whenever they can, particularly Murdoch who is by far the most powerful.

16 Television has not been affected by this. I have already said the British
17 establishment has never stopped anybody running a newspaper how they like
18 and never stopped anybody acquiring one either. Television has remained
19 unaffected. It is pretty detached. There are standards of course, quite properly,
20 which fortunately have been followed. The BBC news, Sky News, Channel 4
21 news, ITV. In modern times when the newspapers are losing circulation and
22 the equally rowdy and even worse informed social media is becoming such a
23 major source of information, television is still a major source of news. Fewer
24 people read newspapers. A high proportion of the population get their news
25 from television, still. Younger people probably do not, they go to the social

1 media.

2 The contents, the standards, hopefully unbiased, both parties always accuse
3 the BBC of being biased against them, but I think it is pretty balanced. Quite
4 different style. Cannot be influenced by the politicians and they do not try to
5 influence the politicians. They are scrupulously non-political. I am sure they
6 go out to lunch together and all the rest of it and the politician tries to curry
7 favour with whoever the presenter is but it is not like that, it is not the same as
8 the deals you do with the newspaper proprietors.

9 I find the idea that this owner of this mega empire who has always enjoyed his
10 political power as part adjunct to his very successful commercial activities -- I
11 acknowledge he is a brilliant man at it. The idea that the owner of Fox News,
12 one of the ultimate examples of savagely political American television -- I watch
13 a lot of foreign television news late at night as well because ours is rather
14 parochial I think and you get an insight. Fox News has always been great at
15 insight. It balances CNN and some. That is Murdoch. I know Rupert, that's
16 the voice of Murdoch. Robust politics, in his view. The idea that we allow the
17 owner of Fox News to buy Sky News, assuming he will resist the temptation
18 and be a changed man who will carry on running according to British
19 broadcasting standards, entirely impartial ... Believe that, you believe anything.
20 As far as the suitability of these people to own things. I managed to persuade
21 David Cameron - I think he regretted it ever after - to set up the Leveson inquiry
22 and tried to reassure Brian Leveson that it was a serious job but he almost
23 immediately decided that he should not have taken this on, it was an absolutely
24 nightmare. I think he did a thoroughly good job. The one thing it revealed is
25 what everybody in public life already knew. The whole News Corporation

1 empire was riddled with criminality. So was Trinity Mirror. The idea that it was
2 a sudden shocking revelation, good God, they bribed policeman, good
3 heavens, have we got one or two journalists who hack telephones! I could go
4 on. It was riddled with it. Nobody believed they could produce a newspaper
5 without doing that. Not a real newspaper. Not a man's newspaper. It was just
6 staggering the scale upon which this was going on.

7 Leveson produced his inquiry. The Government never had the nerve to
8 implement the second part of the inquiry. They were backing off like mad: "We
9 will upset Rupert if we go much further with this".

10 I am told it is all different now. Few of them have gone to prison. Great
11 improvements in performance since 2012. I would not recognise apparently
12 the present Murdoch arrangements, the Murdoch family, from those people.
13 James was bitterly criticised in 2012. They are now perfectly proper people.
14 There should be no doubt we are assured about allowing them to have one of
15 our major and most important television channels.

16 Well there we are. I told you I was going to give you a political view of all this.
17 I am absolutely amazed - and give her great credit for it - that the Secretary of
18 State has referred this whole thing - she has surprised me - to you. Perhaps
19 you might be the first time that we ever stop anybody acquiring a media outlet
20 in the United Kingdom. I think in the present state of the political debate I am
21 now becoming an old man saying it is not what it was. But we do have a
22 particularly low level, a ridiculous level, of public debate in this country at the
23 moment. It does become ever more tempestuous, scandal ridden, shock horror
24 crisis and all the rest of it. It would be a great thing if we could stop and protect
25 objectivity. The television world is still very crucial. We should try to keep some

1 of its present impartiality and everything else.

2 A. (Mr Miliband) Thanks so much, Ken.

3 A. (Lord Falconer) Ken and I talked about this yesterday but there is one bit he
4 did not tell me that he was going to say which I am very struck by. He referred
5 to Rebekah Brooks coming and talking to him about prison ships. I was the
6 Lord Chancellor responsible for prisons. When I became the Lord Chancellor
7 responsible for prisons I was rung up first of all by the Prime Minister, then by
8 the Chancellor of the Exchequer, then by the Home Secretary, separately, all
9 asking me why in the face of the prison crisis I was not considering prison ships.
10 That was 2007. That is an amazing piece of information, the extent to which
11 the Murdoch press was able to get, at least, for all the reasons that Ken said.
12 Let me tell you prison ships are a very bad idea!

13 A. (Mr Miliband) Before we go in to that I think we have gone over time so thank
14 you.

15 THE CHAIR: A bit over time.

16 A. (Mr Clarke) Presumably he had made preparations to buy prison ships --

17 Q. While it may be tempting for the CMA to look in to prison ships we are going to
18 conduct a rigorous inquiry but within the terms of our remit. We have to be
19 quite clear about that.

20 A. (Lord Falconer) It goes to power and agenda setting.

21 A. (Mr Clarke) It is relevant to your questions.

22 Q. Right. It may be relevant but a separate inquiry in to prisons is not top of our
23 agenda at the moment. I am going to hand over to Joel because we have a lot
24 more questions we do want to ask you and be quite rigorous in our analysis of.

25 Q. (Mr Bamford) Firstly thank you for your substantive submission in response to

1 our issues statement. I wanted to talk through three key topics. The first is
2 around media plurality. The second is around broadcast standards. Then
3 finally around influence, picking up some of the points that Mr Clarke has
4 raised.

5 With respect to plurality - and it also feeds through in to broadcast standards -
6 one of our key points from our issues statement is assessing whether and how
7 the ability of the Murdoch Family Trust to control or influence editorial and
8 commercial decisions at Sky News will change as a result of the changing share
9 ownership. One of our questions, after reading the substantive submission, is
10 given Fox's current shareholding in Sky, at 39 per cent, James' position as
11 chairman, and his previous position back in the early 2000s as CEO of Sky,
12 how do you see this transaction increasing Fox or the Murdoch family's ability
13 to influence Sky News in particular?

14 A. (Mr Miliband) Shall I lead off on that? There is two things that I would say in
15 relation to this. The first is this point I made about the parallel with the
16 newspaper ownership structure because the diagram is so striking on this,
17 showing that the relationship of 21CF, 100 per cent owners of Sky, with the
18 Murdoch Family Trust owning 39 per cent of 21CF, will be exactly the same as
19 the relationship on the other side of the ledger, News Corp owning 100 per cent
20 of News UK and the Murdoch Family Trust owning 39 per cent of News Corp.
21 What was so striking about the Allen & Overy submission - I can get the
22 reference to the particular clause where they say this - they have almost got to
23 claim that Murdoch does not control his newspaper but of course nobody really
24 disputes that Murdoch controls his newspapers. The 61 per cent at the top of
25 the ledger in terms of the ownership of News Corp, the 61 per cent who own

1 News Corp as opposed to the 39 per cent owned by the Murdoch Family Trust
2 have no influence, no apparent influence, on the way these newspapers are
3 run or what they say. I think the same thing will happen with Sky. That is the
4 first point I would make.

5 The second point I would make is to draw a distinction in terms of the record
6 between the 61 per cent independent shareholders in 21CF and those in Sky
7 because there is a difference if you look at the record. If you think about the
8 61 per cent owners of Sky, the independent shareholders, they got rid of
9 James Murdoch essentially as chairman after phone hacking. It was their
10 pressure that led to the departure of James Murdoch. As recently as last
11 month, in October, almost 50 per cent of the independent shareholders voted
12 against his reappointment as chairman. They are clearly a constraint. They
13 are clearly a monkey on the back of the Murdochs. If the Murdochs try to move
14 Sky News on the current dispensation in the direction that Ken and my
15 colleagues have talked about, try to have this unified voice, try to push it in the
16 direction of Fox News, which Rupert Murdoch said to the communications
17 committee in 2006 is something that he wanted to do, the revolt which nearly
18 got rid of James Murdoch as chairman would be a much bigger revolt, in my
19 view. They would be gone under this dispensation.

20 Then we look at the 61 per cent shareholders in 21CF - and we go in to this in
21 our submission - as opposed to the 39 per cent owned by the Murdoch Family
22 Trust and there is nothing like that level of independence. The second largest
23 shareholder, who owns 6 per cent, has been a supporter of the Murdochs
24 through thick and thin and when phone hacking happened he intervened to help
25 the Murdochs. There are also a number of other factors which, as you will

1 know, give them power. They have got non-voting stock which could be
2 transferred in to voting stock if there was any suggestion of a threat to their
3 control of 21CF. Plus they of course are in the crucial executive roles of 21CF.
4 They are the executive chairman, Lachlan and Rupert, and James is the chief
5 executive officer.

6 For all of those reasons I believe this transaction would transform their power
7 over Sky News. I do not believe that the independent shareholders of 21CF
8 would mount any kind of challenge to that.

9 A. (Lord Puttnam) Joel, could I answer your question? By the way it is a very
10 good question. We are the wrong people to ask, in a sense. There is an earlier
11 editor and an earlier senior on-screen journalist of Sky News, whom I would
12 suggest you talk to. I have talked to them and I am very clear about what their
13 view is. Their view was that their independence was guaranteed by the
14 ownership structure¹. On one or two occasions they ran afoul of the Murdochs.
15 Just to give you the most recent example of what I'm describing.
16 James Harding was, I think, a very good editor for The Times. He made the
17 terrible mistake of backing President Obama in The Times in the election and
18 was removed from his job. So the idea that this is an organisation that has
19 respect for serious journalism and serious independence is a wild fantasy. You
20 have just got to accept that. In a sense we do not do ourselves any particular
21 justice by pretending otherwise.

22 Q. (Mr Bamford) To pick up one point you made. It was the positions of the
23 Murdochs in 21st Century Fox with respect of them operating as executives.
24 Previously James Murdoch was CEO of Sky. Could you give any background -

¹ Reflects clarified text provided by Lord Puttnam after the hearing.

1 A. (Mr Miliband) He was chairman I think.

2 Q. (Mr Bamford) He was chairman. Previous to that he was also CEO. Back in
3 the mid-2000s. Could you give any insight as to why you think, at that point,
4 there was no move with Sky News to something that you are saying would
5 happen post-transaction?

6 A. (Mr Miliband) For the reasons I have explained. Because of the 61 per cent
7 independent shareholders. Just look at the record. If they got rid of him as
8 chairman in 2012 and they tried to get rid of him, a number of independent
9 shareholders tried to get rid of him, since his re-appointment as chairman since.
10 The notion that the shareholders are a sort of pushover and he could have done
11 what he liked - I still do not buy it.

12 Also another point is look at Sky News Australia. They have gone from 33 per
13 cent of Sky News Australia to 100 per cent of Sky News Australia. That was
14 just last November/December. Then read what the Australian press is saying
15 - and we can send articles to you - about what has happened. The Evening is
16 now a bunch of right wing talk show hosts. They did this interview with
17 Milo Yiannopoulos I believe his name is who has got links with white
18 supremacists and all that recently. I actually watched the interview. You should
19 watch the interview. It is a hair raising interview. The interviewer begins by
20 saying that his mother thinks that Milo is the greatest thing since sliced bread
21 and ends by saying it is great to see your comeback, you are a brilliant guy et
22 cetera et cetera et cetera. That is Sky News courtesy of the Murdochs.

23 THE CHAIRMAN: Can we unpick this a bit because in Australia there are different
24 broadcasting codes there.

25 A. (Mr Miliband) That was an ownership question. It was not a codes question.

- 1 Q. I want to come back to the ownership thing because it has been put to us that
2 the independent directors act, as properly, in the interest of minority
3 shareholding so minority shareholders are really interested in the commercial
4 aspects. It therefore can be argued that when they wanted to get rid of
5 James Murdoch in, whenever it was, 2012, that was in their commercial
6 interests. They are driven by the commercial interests of the minority
7 shareholdings. Do you have evidence that they are actually interested in
8 editorial independence? That is the key.
- 9 A. (Mr Clarke) The history of the organisation shows that the Murdochs have no
10 time for editorial independence. Many people inside Sky - I have not spoken
11 formally - the fear that it is going to go like Fox News is quite real in that
12 organisation. They regard the independent shareholders as their protection.
13 The people instructed by the Murdochs saying that it is commercial and they
14 are not having an influence, well they would say that, would they not.
15 I do not know whether any of the Murdochs have actually come here. They do
16 not buy newspapers just for commercial reasons. They will tell you they have
17 changed and that, once they have got complete control of Sky, they will be
18 indifferent to the content. If you believe that you will believe anything.
- 19 A. (Mr Miliband) Forgive me for asking you a question but set out the thesis which
20 says 39 per cent into 100 per cent is not important. What is the line of
21 argument? I am not understanding the line of argument I do not think.
- 22 Q. (Mr Bamford) We are not setting out a position.
- 23 A. (Mr Miliband) No, I know it is not your position. You are playing devil's
24 advocate position.
- 25 A. (Lord Falconer) Your point is, I assume, with 39 per cent, that gives them

1 “effective control” over Sky already so what is the difference going to be when
2 it goes to 100 per cent. That is the argument that is being put, is it?

3 THE CHAIR: I would not say effective control. The argument that has been put is that
4 with the Murdoch family members who are there currently you have got James
5 as chief executive, you have got --

6 A. (Mr Miliband) Chairman.

7 Q. Sorry, chair. Chief executive of Fox. With Lachlan and Rupert as executive co-
8 chairs of Fox. That, combined with the 39 per cent gives some influence now.

9 A. (Lord Falconer) Yes. Can I give the reasons why I think that is wrong, which
10 Ed has gone through. First of all Ofcom took a different view in 2012 when
11 addressing the question of James Murdoch. They said that because there were
12 dilutions, namely shareholders and directors, he did not have enough influence
13 to determine what happened in relation to Sky News.

14 A. (Mr Miliband) On the fit and proper test.

15 A. (Lord Falconer) On the fit and proper test.

16 Q. Which is not our --

17 A. (Lord Falconer) No, no, but it is a significant piece of evidence in relation to this
18 issue. Although it is a different issue, it is what their opinion was at the time.
19 Secondly and separately, it is clear that the shareholders, the other
20 shareholders, in Sky have taken a different and more independent attitude than
21 the other shareholders in News International have in relation to the
22 newspapers. If you go to page 14 of our submissions the first complete
23 paragraph - I do not ask you to look it up now - you will see the steps they have
24 taken that are independent.

25 Thirdly, Rupert Murdoch himself said in 2006: “I think we should move Sky to

1 be more like Fox News but nobody listens to me at Sky News". The evidence
2 is that Sky News operated in a way that was independent of what the Murdoch's
3 wishes were. The Sky shareholders operated in a way -- this is the non-
4 Murdoch shareholders, they are all minorities in Sky - hey operated
5 independently.

6 Thirdly, Ofcom endorsed that approach.

7 The question is, is it going to make a difference? I submit the right way for CMA
8 to look at it is to say it is moving from influence, which Ofcom said was the
9 position in 2012, to complete control, in effect. Because 21st Century Fox will
10 own Sky completely and therefore all of the things that Sky News does
11 thereafter will be in the interests of 21st Century Fox, which will own it
12 completely. 21st Century Fox, for the reasons that Ed has said, is in precisely
13 the same position to the Murdoch Family Trust as News International is. You
14 can see that the News International papers do exactly what Murdoch wants.
15 See 175 pro the Iraq war to nil. Secondly and separately, the Wall Street
16 Journal is calling for Muller's resignation now.

17 Q. (Ms Chambers) Can I ask a related question? We are obviously looking at
18 evidence here. How can we tell how much of Sky's current impartiality and the
19 way it has an attitude towards news which everybody thinks is okay, how much
20 of that is down to our broadcasting standards and our rules and the way it is
21 regulated and how much is down to the way it is owned and the way that the
22 owners treat it?

23 A. (Lord Falconer) You have got to make a judgement about that.

24 Q. (Ms Chambers) Well I know!

25 A. (Lord Puttnam) Can I suggest that, in a sense, James Murdoch answered that

1 question in 2009 in his MacTaggart lecture at the Edinburgh Television Festival
2 which reads: "We must have genuine independence in news media. Genuine
3 independence is a rare thing. No amount of governance in the form of
4 committees, regulators, trusts or advisory bodies is truly sufficient as a
5 guarantor of independence. In fact they curb speech. On the contrary,
6 independence is characterised by the absence of the apparatus of supervision
7 and dependency. Independence of faction. Independence of patronage." He
8 finishes by saying: "And people value honest, fearless and, above all,
9 independent news coverage that challenges the consensus. There is an
10 inescapable conclusion that we must reach if we are to have a better society".
11 Better society. "The only reliable, durable and perpetual guarantor of
12 independence is profit."

13 A. (Mr Miliband) If I may, I would add one other thing to that, which is to help you
14 reach your judgement, you think about what the regulator who will be in charge
15 of enforcing broadcasting standards is saying and they are saying very clearly
16 in their phase one public interest report that the broadcasting code on its own
17 is not enough to guarantee editorial independence to maintain impartiality. That
18 is very, very clear. I can supply you with a reference on that.

19 A. (Lord Falconer) That is page 79 in our submission. Rupert Murdoch himself
20 said to the House of Lords communications committee in 2006 that the
21 impartiality standards themselves did not provide a watertight guarantee. If you
22 look at page 90 in our submissions - do not do it now - you will find him saying
23 that. So he is saying it. Ofcom is saying it. I am sure Murdoch would have
24 said it after he had been given legal advice in relation to that. They are both
25 saying the same thing.

1 So the answer to your question is everybody perceived right up to now that the
2 impartiality standard and the broadcasting standards did not hold you in place
3 in the way that Sky News is impartial and yet Sky News has been impartial.
4 The answer must therefore be part of that has to be to do with the ownership
5 because we know, because the Murdochs have said this quite openly, they
6 wanted to move it to be more like Fox News.

7 A. (Mr Miliband) Can I just read this quote because it is quite important. "We do
8 not consider the impartiality rules of the broadcasting code are sufficient, of
9 themselves, to ensure the editorial styles of Sky News does not become aligned
10 with the other news outlets under the influence of the Murdoch Family Trust."
11 That is at 9.12.

12 Q. (Ms Chambers) Okay.

13 Q. (Mr Bamford) Okay. To move on more about that plurality assessment and
14 particularly the question around insufficient plurality. In the submission you say
15 that we should find that there is currently insufficient plurality - you have again
16 made that statement this afternoon - even before the merger. Could you talk
17 us through the basis for that consideration?

18 A. (Mr Miliband) My starting point on this, as I said in the opening, is 2011 when
19 right across the political spectrum - and I thought Ken set it out incredibly clearly
20 - politicians said that the Murdochs had become too powerful, that we had got
21 too close to them and it was very hard to find a politician at the time who actually
22 did not take that view. I think one of the reasons that politicians reached that
23 view was because there had been such a culture of acting with impunity within
24 the Murdoch empire. If that is the starting point the question is what has
25 changed since then. I thought, as Vince set out very clearly, I do not believe

1 that the online world has changed things. In particular if you look in our
2 submission at the dynamic impact of this transaction in terms of news
3 production and the amount of resources it would give the Murdochs in terms of
4 putting in to news production. The profits of Sky UK and Ireland last year were,
5 I think, £1.2 billion. They could use that to put extra resources in to news and
6 really take even more of a stranglehold than the systematic analysis suggests.
7 Secondly, if you look at the meetings, the access that the Murdochs have to
8 political power - again it is supplied in our submission - but for the period before
9 the bid began and before the bid was actually formally launched. Perhaps
10 politicians were more careful. For that 18 month period there were more
11 meetings with Murdoch executives, with Murdoch, by senior members of the
12 Government - and, by the way, this was a Conservative government but it has
13 been true in the past of the Labour government as well - than any other
14 organisation including the BBC. So access.

15 Thirdly, I just want to say something about policy influence because I want to
16 cite one example. I was an advisor in the treasury under Gordon Brown, as
17 you know. I remember these campaigns that The Sun used to run. I do not
18 know whether they did that under your time, Ken. "Get it down Brown" which
19 was all about the fuel duty. Basically we used to think when is this campaign
20 coming and, indeed, fuel duty was frozen a number of times. I am partly saying
21 that because I want to say it happened under a Labour government as well.
22 But also I want to draw your attention to this which was the front page of The
23 Sun the day after the budget of March 2017. "Spite van man." This was about
24 Philip Hammond's proposal to raise national insurance on the self-employed.
25 Within a week Philip Hammond had reversed his policy. Now I think that

1 testifies to the sort of power of this empire and the willingness for them to use
2 their power.

3 If you put together access, policy influence, which we discovered in 2011, I think
4 they already have too much power. I think politicians should have accepted
5 that in 2011. I think that will be even more true after this transaction.

6 Q. (Mr Bamford) To pick up on that concern then that Murdoch has too much
7 influence now or has done since 2011, how should we square that with Ofcom's
8 finding that the share of reference for News Corp, which is their current owner,
9 is 3 per cent? The share of reference across platforms is 3 per cent. So in
10 other words the total share of the overall media market.

11 A. (Mr Miliband) Well my response to that would be, firstly, Ofcom say that the
12 combined -- they go from 6 per cent to 10 per cent, more or less, I think I am
13 right in saying as a result of this transaction so they are vying to be the second
14 in the words of Ofcom, with ITN, in terms of share of references. So even on a
15 quantitative measure it is very, very significant.

16 Secondly, that analysis understates their power for the reasons that we have
17 set out. The Sun. The Times. These newspapers. You cannot simply measure
18 it on the number of people that read them. That is obviously important but they
19 influence the political and media agenda. It is very clear, if you look at what
20 Robert Peston has said, the political editor of ITN. I think even John Ryley at
21 Sky has said actually that the newspapers have this multiplier effect on the
22 political agenda, including at the BBC. I mean the BBC, the listeners of the
23 Today programme, I confess I no longer have to, that is one of the virtues of
24 not leader of a political party, is that they read out the headlines on the Today
25 programme. They read out the headlines of the newspaper and it influences

1 their agenda.

2 A. (Mr Clarke) The other proprietors tried to do the same thing. Conrad Black
3 once offered to back me in a leadership campaign but he said I would have to
4 change my views on Europe first. A very generous offer! Perfectly clear. I
5 would not, so he went off and backed somebody else. Cannot remember who
6 he backed in that particular campaign. Rupert has a history of this. When he
7 first acquired the Times there was a great deal of controversy about that. My
8 friend, John Biffen, was then the relevant Secretary of State. John was rather
9 minded to refuse it because he was worried about the great size of this thing.
10 That was the end of John's political career. The Prime Minister had a firm word
11 with him. I think she got him to agree to do it but he was then moved shortly
12 afterwards and did not stay in government for very much longer.

13 All this regulatory stuff. It has never had any effect on this at all. We have also
14 had inquiries. No one in this country has ever stopped anybody buying.

15 A. (Lord Puttnam) I would like to ask a question. I assume one of the key
16 elements here is the intent of parliament. I assume that one of the underling
17 facts you are trying to reach is the intent of parliament. I will leave all this
18 material with Joel. I have some useful material for him. 2 July 2003 in Hansard
19 is well worth reading. It is very clear as to what was intended by plurality. The
20 fact that we have struggled to reach the desired goal has got nothing to do with
21 what was Parliament's intention. Parliament was very clear about what it is
22 trying to do. There is no question that this particular issue we are discussing
23 here today would be in contradiction of what parliament was trying to achieve
24 in the Communications Bill 2003.

25 A. (Lord Falconer) The question you are asking is with only 3 per cent of the

1 references according to Ofcom's measure, how did they end up with so much
2 power? You rightly, in your issues paper, identify that the issue is not just a
3 quantitative thing but also a qualitative thing. You specifically refer, in my view
4 correctly, to what is the perception. It is well worth asking the question of
5 yourself: "What would the perception be of the politicians of a person who
6 owned The Sun, The Sunday Times, The Times and also contained the second
7 equal or third largest TV broadcaster which he then moved in a direction of a
8 political agenda?" It is not just about the quantity, it is also about what effect it
9 has on public discourse. You rightly define your second theory as 'does the
10 transaction increase the influence of the Murdoch Family Trust', so by proxy the
11 Murdoch family, on public opinion and on the political agenda.

12 I think a really key question for the team has got to be what would the effect be
13 if you ended up having all of that media power beyond the stuff you have
14 already got. Look at the power Murdoch is perceived to have owning only the
15 newspapers.

16 A. (Mr Miliband) I also think, coming to my other point, which is it is quite
17 interesting this comparison with ITN, is it not? Because Fox say in one of their
18 submissions to you: "Look at the transaction where ITN took over UTV. Why
19 is there not more of a fuss about that because of the shares question?" The
20 simple reason for that is nobody has ever said that ITN, the people who run ITN
21 or the shareholders of ITN, have this political agenda that they are trying to
22 impose on anyone, or political editorial unified agenda. Nobody would ever
23 dream of saying that. So in a way shares are important but, as you say, and
24 as Charlie said, you have to look qualitatively as well.

25 Q. (Mr Bamford) To pick up on the influence point, looking more widely, the BBC

1 is obviously significantly the biggest broadcaster and a very large online news
2 provider. How do you think we should take account of that within our plurality
3 assessment if you are thinking around the influence point?

4 A. (Lord Puttnam) I think you should not take account of it. The BBC is us. When
5 we talk about what the citizen is, the BBC represents the citizen. When it
6 ceases to represent the citizen all hell breaks loose. Quite rightly. So I do not
7 believe that the BBC should be counted as part and parcel of what is otherwise
8 a commercial media mix.

9 A. (Sir Vince Cable) Two points. One is to develop slightly a point that Ed Miliband
10 made earlier about the way in which the BBC itself reports news. Quite apart
11 from our impressions I think it was the University of Swansea did some very
12 detailed analysis of the 2015 general election and the running order of the
13 Today programme which in turn feeds the other BBC news channels. It was
14 almost entirely driven by the headlines and the lead stories in the popular
15 tabloids. You can look up the economic study or we can provide it for you if
16 you like.

17 The second is the reverse process. There have been periods in the recent past
18 when the BBC has been under sustained political attack. There was a period I
19 think immediately after the 2015 elections when the issue of cuts to the BBC
20 was a dominant political seam and there is quite a lot of recordings of an intense
21 pattern of meetings between Murdoch and the chancellor and other serious
22 members of the Government at that time. Obviously we were not flies on the
23 wall at those meetings but there was quite a strong correlation between the
24 frequency and timing of meetings and issues of controversy such as the BBC
25 funding.

1 Q. (Mr Krumins) On this issue of plurality I was struck by your earlier comment
2 about the newspapers being owned by political scandals and television having
3 avoided that. Are you suggesting then that there should be no cross media
4 ownership between newspapers and television groups like Sky because of all
5 the issues that you have outlined? Because clearly once you have the
6 combination, the ownership can change and you have the power vested in the
7 combination. Or is it specifically a Murdoch ownership issue that you contest
8 is the problem here?

9 A. (Mr Clarke) I made that point. I do say there are other media proprietors who
10 I have known because I have been around for so long. Lord Beaverbrook
11 bought newspapers for exactly the same purpose long before I was born.
12 Northcliffe did. Both of them had to be made ministers. They kept it on board
13 as they could not quite understand why they were not ministers afterwards. I
14 can think of people in the newspaper world where I am not quite sure how I
15 could come here and complain. I was on the board of the Independent with
16 Tony O'Reilley. The Independent lost money here until we bought the Belfast
17 Telegraph. We had newspapers round the world. One of the rules we
18 absolutely had was that the one thing the board could not consider and was off
19 limits was the content of the newspaper. Except Tony and I did have a private
20 agreement that we would never appoint a Euro-sceptic editor. That was about
21 as far as we went.

22 There are therefore isolated examples of newspaper proprietors for whom I
23 could not sit here and make an argument against them. We are discussing the
24 Murdoch empire which I do think has had the most powerful influence on recent
25 politics than any other and is the most ruthless. One or two of the others I would

1 be very nervous if I thought they were going in to television. That is irrelevant
2 for today. I think it is plain the Murdochs want to increase their influence.

3 A. (Lord Puttnam) I spent 20 years on the board of Anglia Television. If you want
4 to read a really good series of parliamentary discussions and debates it would
5 be those in 1951/52. During the discussion on where the second channel went.
6 It was a great battle between the BBC and commercial T.V. It was eventually
7 decided it was going to be a commercial independent broadcasting channel.
8 The eventual construction of the regional system in Britain was brilliant,
9 including its ownership. Most local newspapers were encouraged to become
10 involved. For example, at Anglia, we had the Eastern Daily Press but there
11 were very specific restrictions. Sitting on that board for 20 years I know how
12 those restrictions operated. The opportunity for investment was brought in
13 commercially to help underpin their finances because there was a very real
14 danger that regional and local newspapers could be commercially damaged,
15 particularly regional. But they were not allowed anywhere near editorial control
16 or influence. So actually we got it right. We got it superbly right in the 1950s
17 and I still think that the decision to break up the regional structures in the UK,
18 was a, very poor decision and we have suffered very badly from it.

19 A. (Sir Vince Cable) To go back to Mr Krumins' question about do we have a
20 general problem with cross media ownership. I think the answer is we do
21 actually. I recall saying this at the time, and I think Ed Miliband, too. The
22 problem is that we have got very few contemporary examples other than the
23 Murdochs where this is a major issue. The only one I can think of is
24 Richard Desmond and the Express Group and Channel 5. But he has now
25 divested himself in any event of Channel 5 and I think is in the process of losing

1 the Express, too. It is an altogether much, much smaller scale than the
2 Murdoch operation. The principle should be the same.

3 A. (Lord Falconer) I think on that, it gives rise to particular anxieties because of
4 the power that it gives the person who has the cross-media ownership. It is
5 plainly not banned by the legislation. What it involves is looking at the merits
6 of each individual case for all the reasons that we have gone through on these
7 particular facts, which inevitably includes looking at the Murdochs' other
8 ownership, the way that they have dealt with other ownership, what their
9 commercial motivation is. On the facts of this case, the dangers which
10 cross-media ownership gives rise to are very acute and should not be
11 permitted.

12 A. (Mr Miliband) We have all answered the question. The only other thing I would
13 add is - just following up what Charlie said is - perhaps ask yourself what is the
14 experience of the places where Rupert Murdoch has got 100 per cent
15 ownership; his newspapers, Fox News in the US, most recently Sky News
16 Australia. I think I would contend that there is a pattern there in terms of the
17 way those outlets are used.

18 Q. (Mr Krumins) I would like to de-personalise this to go to the plurality question,
19 because if cross-media ownership is fundamental, particularly given the way
20 that online is being developed by both print and television, whether cross-media
21 ownership is the fundamental plurality question that causes the problem here.
22 Or whether it is the way that you perceive the Murdoch Family Trust operate
23 their assets, but in anybody else's hands there would not be a concern.

24 A. (Sir Vince Cable) I think the answer is it would depend how - if Google were to
25 acquire a national newspaper and it is the leading media platform, would that

1 present us with a concern. I think probably because of the way Google currently
2 operates, maybe not to the same extent, because they are an aggregator.
3 There is no evidence that I am aware of that they do a great deal of content
4 generation. They may come to in future and were they to do so and were they
5 to generate content in a politically loaded way, in which the Murdochs have
6 done, then I would be asking that.

7 But it is a unique case because of the way they function, rather than because
8 of the principle. I think the issue you have raised that cross-media ownership
9 is potentially an issue it must be right, potentially.

10 A. (Mr Clarke) Yes, I think the cross-media thing as I think you are viewing it, is
11 an interesting question, but I do not instinctively think that you can just say
12 maintaining separate ownerships - the point is plurality, the size and power of
13 the influence. Having regard particularly to the history of the particular
14 organisation that is growing and how it used that power and influence, but then
15 of course having to look at the separate question of whether they are fit and
16 proper persons, as it were, how they behaved in terms of other standards of the
17 organisation.

18 But I think the spread of Murdoch control adding such an important outlet as
19 Sky News to their present stable, it just looms too big. Particularly because
20 there is no doubt they have demonstrated what they are perfectly legally entitled
21 to do, which is a voracious influence in political --

22 A. (Lord Puttnam) The only parallel in the West post-war, would be Silvio
23 Berlusconi and it is quite instructive to look at the history of Berlusconi. In
24 2002/2003 we treated Berlusconi as something of a joke. This is way, way
25 before a Donald Trump was considered a possibility. I think what you are

1 suggesting is that there does not necessarily have to be an issue, but when you
2 fall into a situation where the proprietor clearly has a strong political agenda
3 and strong political preferences, then of course you immediately do. How you
4 separate those out, I am honestly not sure. It is a very good question, but I
5 think the Berlusconi example is well worth looking at.

6 A. (Lord Falconer) I think we would put our case in two separate ways. First of
7 all the power it gives anybody, this, to own the newspapers, the radio stations
8 outright and Sky News outright (because he gets radio stations as well - or Sky
9 News is on radio stations as well). A cross-media ownership of itself probably
10 gives a private person, whoever it is too much power. But in any event, if you
11 add to that the way that the MFT have used that power over the years, that is
12 an additional matter that has to be looked at as well.

13 THE CHAIR: While we are still on the political process, is there is a risk that politicians
14 overestimate the influence of the media? Because politicians and the media
15 are very close; you are closely connected. You like being on The Today
16 Programme, whatever it is. You like using the media and the media likes using
17 politicians. But there is also evidence that shows that perhaps the media does
18 not influence how people - well, certainly the press, the newspapers do not
19 influence how people vote quite as much as we might have thought. Is there a
20 risk you are overestimating it?

21 A. (Mr Clarke) I have always argued that, but the trouble is most politicians do
22 overestimate it and they allow it to influence them. I have done various things
23 with colleagues. I have tried to tell them they ought to stop reading the damn
24 things and I have argued that you could quite strongly illustrate that they do not
25 have the influence on outcome that they would pretend to. I think the editor of

1 The Daily Mail once agreed with me on this. He thought politicians overrated
2 the influence of his newspaper and he is in a category all of his own. I get on
3 rather curiously well with him.

4 When I was a minister I refused to have the newspaper cutting service, which
5 they just assumed I would want. Because people sit there and they read their
6 newspaper cuttings and they spend far too long on it and then they are
7 persuaded that all the public is talking about outside is them.

8 The last election showed when - obviously, what they believed was desired by
9 the bulk of their readership - they derided Jeremy Corbyn, even I could see
10 they were hurling insult and abuse and silly photographs of him, deriding him
11 but It should have been a warning to the political establishment or
12 encouragement, if you like that they did not shift their readers to vote against
13 him. The trouble is, particularly since we got rid of civil service press officers
14 and brought in all these experts and all the rest of it, the public relations
15 machine, political leaders are obsessed with newspapers. Therefore, the
16 politicians are schooled to believe that above all else you have got to do what
17 you can to capture the support of these newspapers. We do go through patches
18 where you begin to think the policy is being made in order to get a headline in
19 The Daily Mail and not according to what is the impact going to be in two or
20 three years' time if we take this decision. What is it going to deliver by way of
21 the public good and therefore some enhancement of your own reputation,
22 because you have been seen to do something.

23 That is just my approach to politics, but I am regarded as eccentric and unique.
24 I was left alone when I had my four years in the Cameron Government, because
25 they realised they could not get me to go in for any of this message discipline

1 stuff. A fat lot of good it did them having all these multi-million pound experts
2 with message discipline and all the rest of it.

3 Right now there are a lot of people in the machine who are totally obsessed
4 with the idea that to have support of the media proprietors when they control
5 their newspapers and outlets, is absolutely an essential part of holding power.

6 A. (Mr Miliband) Can I just add two things to that. First of all, you say at
7 paragraph 46 of your Issue Statement, rather what Ken said: "We know that
8 even if that influence over public opinion is not exercised in practise, a
9 perceived ability to exercise such influence could be sufficient to give come
10 leverage over the political agenda"; the first point.

11 The second point; let us not make any bones about this, if you have a headline
12 the day after your budget saying, "Spite Van Man" - and as Mario Cuomo I
13 believe said: 'The thing with Rupert, you don't just get an editorial, you get the
14 whole newspaper', or you do not - it definitely has an impact.

15 Just to take head on 2017 - in case it is implicit in your question - in 2017
16 59 per cent of readers of The Sun voted conservative, compared to 47 per cent
17 in 2015. In other words, the share of the vote by the Conservatives at that
18 election went up significantly between 2015 and 2017. When Allen & Overy
19 say in their submission that: "The 2017 General Election proved the traditional
20 media is now unable to exert influence effectively", well, first of all, it does not
21 show that in relation to Sun readers. Secondly, to make the point, the
22 Conservatives did win more votes in the General Election than the Labour Party
23 and as we say in our overview, just because an election result is not a bigger
24 victory for the party supported by a specific media interest, it does not
25 demonstrate there was no influence by that media on the result. Imagine in

1 your own job if you had this as a front page day after day and you do not
2 necessarily have to win public opinion in your job, but we do.

3 A. (Mr Clarke) You do some jobs, you would get that every day, all the time.

4 A. (Lord Falconer) Just on your question, you should be under no illusions about
5 how absorbed politicians are, not just at what the newspapers say every day -
6 and I am a has-been politician, I am still getting from the Labour Party a media
7 briefing telling me what every newspaper has said about political issues.

8 The thing that really absorbs politicians is how does the 6 o'clock and the
9 10 o'clock news on the BBC and the ITV cover things. Imagine this guy has
10 The Sun, The Times, all the radio stations and the 24 hour news service. The
11 influence he is going to have on the politicians is going to be absolutely huge,
12 because that is what they are judging as their Strictly Come Dancing judges
13 throughout the course of the day.

14 The Chair may well be right that we hugely overestimate the influence - I do not
15 know - that the media have on the public. But the influence they have on us as
16 politicians is very, very substantial.

17 Q. (Mr Krumins) Could I just perhaps pick up on that newspaper headline as an
18 example, or maybe we can look at Fox News in the US as well. It has been put
19 to us that The Sun as a newspaper, or Fox News as a channel follows its
20 audience. It is what its audience wants. Its audience gets behind that and that
21 is why Fox News is such a huge commercial success, because there is a large
22 proportion, a large sector of the population that connects with it. A headline like
23 that, presumably it did not drive readers away. It connected with an underlying
24 view of readers and so what is the chicken and the egg there? Is the audience
25 there and the media follows the audience and addresses that need? Or is that

1 headline creating an audience and it is building something that is not there?

2 A. (Mr Miliband) Can I address that directly, because I think it is a very good
3 question. I think it is symbiotic. In other words, both go together. But just let
4 me cite two examples. The theory that President Obama was not born in the
5 United States, the so-called birther theory, the public did not start off believing
6 that in the United States. Or at least maybe some of them did, but that was not
7 a huge number. But the prominence - which is why I detail this to you - the
8 prominence given to that theory by Fox News made that a commonplace view
9 among those who watch Fox News. Maybe they were inclined to believe that,
10 but this issue - and this is why it goes to the heart of your deliberations - story
11 selection is so important.

12 Then go to, "Spite Van Man". No doubt, some of the people who were
13 self-employed would have been not very happy with this policy to begin with,
14 but a newspaper putting it on its front page, launching a campaign - I will cite
15 you another example. In October 2015, after the Conservatives won the
16 General Election, The Sun, rather surprisingly, decided to launch a campaign
17 against George Osborne's changing to the Tax Credits. These changes had
18 been around for some time. Within a month he had changed his policy.

19 I am not saying it is simply because The Sun did it, but choosing to highlight an
20 issue, choosing to drive the issue through the public agenda, definitely has an
21 impact on people's perceptions and the salience of that issue.

22 A. (Mr Clarke) Yes, and there is a bit of both. The newspaper editors, a bit like
23 the politicians, adjust their message and adjust what they give priorities to in
24 response to what they think is the view of their readers or their voters. These
25 two warring professions are not totally different, and a newspaper or a television

1 channel like Fox will not sail in the face of what they perceive to be the views
2 of their readers, but they do know where they are trying to go and they know
3 how to put their campaign the way it wins.

4 The Murdoch press has some very strong things, particularly, support of
5 American right-wing, neo-con approaches to foreign affairs. On the invasion of
6 Iraq they were very strong. But they realised that their readership had changed
7 a lot -- white van man, self-employed people, and so, campaigning for them is
8 actually a response to what I suspect their audience says is a very good one
9 for them to run.

10 But the Murdoch camp do have an underlying, really quite -- it is more
11 Americanised -- although they are Australian originally -- it is nowadays a more
12 Americanised, hard, tea party-type agenda which I think they believe in. But
13 they are subtle. They will not just sail in something that their readers are going
14 to dislike. They have an agenda, steadily over time and choosing how to put it.
15 That is how they do it. Some of the others are more straightforward.

16 But Paul Desmond, when he bought The Daily Express wanted it for political
17 power, but he did not actually have any strong political views of what he wanted
18 to do. At one point - I remember having conversations with him - he had not
19 quite made up his mind whether he was to be pro-European or anti-European.
20 As there had been no such thing as a Conservative pro-European newspaper
21 for the last 20 years, I was quite keen to try to persuade him the best thing
22 would be if he had a pro-European newspaper.

23 I lost the argument. He had the odd meal with anti-Europeans as well just to
24 get a feel for it. I do not think Paul had very strong views, but I am afraid his
25 people went out and surveyed his readership and as it was explained to me it

1 was quite obvious that the market opportunity was in going Eurosceptic - it was
2 not UKIP then. But as they never quite made the advances on The Daily Mail
3 that they wanted, they have gone for a niche audience and one part of that was
4 becoming the UKIP newspaper. But I think that has being towed by the readers
5 a bit. They probably warmed to the cause. They have got a lot and I think
6 recruited some people who were genuinely hard-line Eurosceptics.

7 But the Murdochs, they know where they want to go and I take my hat off to
8 their professionalism. These are bloody good journalists and proprietors, they
9 are brilliant businessmen - Rupert particularly. It is not just bang, bang, bang I
10 am going to write a biased, destructive headline. They are as good at
11 campaigning as the politicians are and they are sensitive to when and how you
12 are going to do something and what is going to appeal to our people. For
13 example, although that self-employed tax reform was aimed at rackets, and the
14 growing amount of abuse of self-employed status to avoid tax, somebody will
15 want to go for white van man.

16 A. (Lord Puttnam) Can I just ask one thing, because I do not , necessarily agree
17 with what Ken just said. I did a TED talk a couple of years ago - available to
18 you – during which I argued that the media now had to make a decision. Did
19 they see their duty as to inform or inflame? There is no question in my mind
20 that Fox News, literally as a business model, decided to inflame.

21 The United States - and I am just dealing with the consequences of that - is a
22 more divided, more troubled society than it has been at any point in my lifetime.
23 In many respects I am a total admirer of America. Like many of my generation
24 I was brought up on America. The idea that the influence of Fox News has
25 somehow made that a better informed and more stable society is ludicrous.

1 The same, I am afraid, would be true of The Daily Mail in this country. The
2 Daily Mail has done immense damage by inflaming, not informing. That is a
3 really fundamental component of our contemporary media mix.

4 Q. (Mr Bamford) The reason there has been a lot of discussion around the
5 influence of the media and particularly the influence of the newspapers, I
6 wanted to just unpick the page that you put forward. It is from The Sun, but
7 recognising The Daily Mail as another very large paper alongside some of the
8 others, who are less on the tabloid side, maybe The Guardian and The
9 Telegraph, could you just talk us through how other newspapers might have, or
10 whether they have the same influence as those put forward from the Murdoch
11 organisation?

12 A. (Mr Clarke) It is different to a smaller audience. The bulk of the electorate are
13 perfectly sensible, intelligent, reasonable men and women. Quite a lot of them
14 who are interested in politics, they are more likely to read a broadsheet. They
15 will buy a broadsheet that probably reflects usually their own political influences,
16 but a reader that reads one of the serious broadsheets knows that his
17 newspaper or her newspaper is biased slightly in her favour and reads it in
18 comfort, but expects to have a bit of a range of opinions in it.

19 To be fair, Murdoch gives a bit of leeway to The Times. But The Times in his
20 empire, he knows is a prestige title, its great worldwide prestige title. That is
21 another reason why he bought it. He also knows it is read by all the political
22 class, so that was the political influence he was buying, but he does not overdo
23 it. Unless you make the mistake of making an editorial line that is too
24 pro-Obama, you can put a much wider range of voices in there. I read The
25 Times because you can expect - as it happens, I usually agree with Matthew

1 Parris but there are also people in there I know perfectly well I am going to
2 disagree with. But I am the sort of person who - members of the public are not
3 - a minority of the members of public are idiots. Most are perfectly sensible
4 people and you know when you read them you are not going to - but it is quite
5 good for you to read it.

6 I always read The Guardian every day and often Polly Toynbee I do not always
7 agree with, but I like reading her columns. The trouble is, as you discovered in
8 this referendum, this enlightened, interested middle class is greatly
9 outnumbered by a lot of other people who are very busy. Then you get a lot of
10 protests and swinging in some and the mass of newspaper bases like to excite
11 and go for a different audience and they influence in a different way.

12 None of this is black and white, but the whole underlying point is to win your
13 argument. To some things Rupert - actually by a constant effort to get us to
14 support; neo-con military campaigns from America, a whole lot of ... and Blair
15 would have lost him overnight if he had not gone into Iraq and the other
16 newspaper proprietors to varying degrees.

17 A. (Mr Miliband) Tell us what you are getting at with the question?

18 Q. (Mr Bamford) I am not getting at, I am --

19 A. (Mr Miliband) No, no, sorry, I do not mean that. Just what are you most interest
20 in?

21 Q. (Mr Bamford) I am trying to put The Sun and The Times within the context of
22 other newspapers. We think about newspaper circulation, which has changed
23 considerably over the last seven years, for example. I look at the current
24 circulation of The Sun, which is about 1.5 million/1.6 million. The Daily Mail has
25 a very similar circulation. The Metro, which is a free sheet primarily within

1 London, again, has a very similar circulation. There are a number of
2 newspapers that are there or thereabouts in terms of circulation.

3 I am trying to understand how Murdoch, or the Murdoch owned enterprises,
4 have more, or whether they have a similar level of influence to the owners and
5 the proprietors and the editorial slants of those particular other newspapers?

6 A. (Sir Vince Cable) As one way of answering that, is that 50 years ago there
7 were three prominent media groups. There was the Beaverbrook Press, The
8 Mail and The Mirror. There are now three dominant media groups. Starting
9 from the newspaper standpoint, there is The Mail, there is the Murdoch press
10 and there is Trinity Mirror. They all have a political identity, but the big
11 difference between the Murdoch and the other two is the extent of the
12 cross-media ownership.

13 It is certainly true that The Mail and The Trinity Mirror are trying to develop
14 online, but when you add together the combination of television news channels,
15 television radio access and the online scope of papers like The Sun, I think the
16 Murdochs are in a different league from the other two. But superficially and
17 starting from press angle, the structures are not greatly different.

18 A. (Mr Miliband) The thing I would add, by the way, is that I think Ken may be right
19 about more latitude in The Times and The Sunday Times, but - and we can
20 supply you with this - consistently over the last two or three years, The Times
21 and The Sunday Times have been used in relation to press regulation to attack
22 the idea of independent regulation, to attack the Crown Prosecution Service
23 and what it did over phone hacking, to attack the idea of Leveson Part 2, time
24 after time after time.

25 It may be that on some issues there is more scope in The Times than there is

1 in The Sun, but this is a journal that is used for a particular agenda. I have just
2 incidentally - in case we do not get a chance to come back to it - it is a very
3 instructive quote from Andrew Neil - because I think as you think about this
4 issue of how does a proprietor exercise influence and how does Rupert
5 Murdoch exercise influence, I think it is very telling this, he was Editor of The
6 Sunday Times for 11 years and he said: "On every major issue of the time and
7 on every major political personality, I knew what he [that is Rupert Murdoch]
8 thought. And you knew as an Editor that you did not have a freehold, you had
9 a leasehold and that leasehold depended on accommodating his views."

10 A. (Mr Clarke) He got sacked, because he wrote a piece about Mahathir in
11 Malaysia. They wrote a piece about corruption in Malaysia and the trouble was
12 Rupert was trying to get a television franchise in Asia. Mahathir was furious.
13 Mahathir proudly boasted to me when I was on a ministerial visit that he got
14 Andy fired, because he had rung up Murdoch and said: "If your newspapers
15 repeat any of this again you are not ever going to get a television mast in Asia"
16 and Andy was fired.

17 A. (Lord Puttnam) You used as a data point circulation. That is only one data
18 point. There is also the rifle shot as well as the machine gun. Let me offer just
19 one example, last Sunday The Sunday Times ran, I think, three or four pages
20 on Gavin Patterson, the CEO of BT. Why? There may or may not be people
21 who are brilliant CEOs, ; I'd probably tend to look at The Financial Times if I
22 really wanted to find out Gavin Patterson will be leading the bidding process
23 against Sky for Premier League rights.

24 It is absolutely in Sky's interest and therefore, Murdoch's interest, to undermine
25 the CEO of BT with his own shareholders, at a moment which he is going to

1 presumably put in a very big competitive bid, one which will cost Sky/Murdoch
2 significant money. I do not know whether you think that is a legitimate use or
3 the misuse of media power, but that is what really goes on.

4 Q. (Mr Bamford) That is Murdoch's influence over The Times now --

5 A. (Lord Puttnam) It is over The Times now --

6 Q. (Mr Bamford) -- given his interests in Sky now?

7 A. (Lord Puttnam) Given his very, very significant shareholding in Sky now, but
8 do not forget this bid is for future, so on the assumption he will own the whole
9 of Sky, the Premier League rights are a very significant and important
10 transaction for him.

11 Q. (Mr Bamford) I think we have heard quite a number of times around
12 newspapers and TV channel, I just wondered whether you could talk through
13 how owning a newspaper and a TV channel would magnify the proprietor's
14 influence on that? Can you give us some demonstrations? I think you have
15 talked about other jurisdictions, but where you see that real magnification of
16 influence?

17 A. (Lord Falconer) The newspapers set the agenda for the radio and the TV. The
18 radio and TV channels owned by Murdoch will habitually pick up the stories that
19 are produced by newspapers that he owns, so you make them act in concert.
20 Secondly and separately, you can have a unified editorial position quite
21 separately from picking up stories from one to the other. Thirdly, you magnify
22 your power with the politicians by saying: "It is not just the newspapers, but also
23 the radio and the television where I can promote you or attack you". Those are
24 three obvious ways in which cross-media ownership magnifies. One magnifies
25 the other.

1 One of the things that happens in media coverage is, only if something gets
2 picked up by other outlets does it then get traction in the media world, generally.
3 There are lots of stories run by newspapers that because they were not picked
4 up by the electronic media, then went away. If you can use both to bounce one
5 off the other, then you keep a story going and it has much more influence in
6 relation to what is going on.

7 Take an example, the European Union. There were a large number of
8 newspapers that were quite anti the European Union. There was no channel
9 in the UK which was very anti the European Union, because they were all pretty
10 impartial. The head of steam against the European Union would have been so
11 much stronger if there had been a Fox News-type operation in the UK to build
12 up and build up the hostility towards the European Union. Which eventually
13 came, partly because of the newspapers, but it is just an example of what can
14 be achieved if you own both.

15 A. (Mr Miliband) Can I just add to that, I found the quote that I mentioned earlier
16 from Robert Peston, who said in June 2014 that the Corporation is: "Completely
17 obsessed by the agenda set by the newspapers". John Ryley, the Head of Sky
18 News, said: "I've always been shocked from the first time I started in TV news
19 at the reliance on newspapers". I think that really, is important.

20 Q. (Mr Bamford) To come back to the point, how does owning the two of them
21 magnify the influence you have? You are talking about the reliance there of
22 broadcasters on newspapers now --

23 A. (Mr Miliband) At the moment, you can set the agenda for the BBC, but as Ken
24 said eloquently at the beginning, there is at least some sort of line, cordon
25 sanitaire around television, although the agenda is set. If this transaction were

1 to go ahead, he would be able to use 24 hour news on Sky and Sky News radio
2 - which goes to they say to almost every commercial radio station in the country
3 - to select stories, dictate a tone and keep that agenda going throughout the
4 course of a day. It would not just be the newspapers land and influences the
5 BBC and ITV, he will have much greater agency in being able to take that
6 agenda forward.

7 A.(Sir Vince Cable) Cross-ownership provides cross-subsidiary, which is crucial in the
8 days when newspapers lose money to have highly profitable multi-media
9 outlets to provide support for the newspapers that themselves may be ailing,
10 but nonetheless have considerable influence.

11 Q. (Mr Bamford) To widen the circle, shall we say, we have talked a lot of about
12 newspapers and a lot about TV and, Vince, you brought up online earlier in part
13 of the initial statements. Just wanting to bring in the online and how that
14 changes things. We talked about 2011 and the sufficiency then and the
15 statement from David Cameron and Leveson concluded that he did not expect
16 the media to have the same influence going forwards, given the changes from
17 online and social media.

18 I wondered about your agreement with that statement, but also to what extent
19 does social media essentially, drown any influence from established media
20 organisations or amplify the influence of online and established media
21 organisations?

22 A. (Lord Falconer) Vince has made the point and has made the point very clearly,
23 the effect of this massive ability to get a whole a range of points of view across
24 on social media and online means that the value of producing news
25 commercially goes down. If news is a free good, I can find out any news I want,

1 pretty well, by going online, I am going to be less and less inclined to pay for a
2 newspaper in order to get information or pay to discover news, because it is
3 just all freely available online.

4 That trend is also being accompanied by there is no money to be made in
5 advertising for newspapers. The consequence is there are fewer and fewer
6 people who are actually funding a production of news gathering and news
7 making. Although there are all these cacophony of voices that can be heard
8 for free, equally it means those few organisations that actually produce news,
9 or have journalists that make news, become disproportionately influential.

10 I think that the effect of the online cacophony, every voice can be heard, far
11 from meaning you do not need to worry about plurality, means that those groups
12 that are willing to invest in the making of news and the gathering of news - and
13 Murdoch is unquestionably one of them - their influence is going to go up. An
14 example is looking at Trump's tweets. Did Trump win the election because lots
15 and lots of people were reading his tweets? Absolutely not, it is because of the
16 way that the prime news media addressed the question of his tweets. That is
17 why.

18 I am heavily interested in politics and I am interested in Trump, but where do I
19 get my prime information about Trump's tweets, from the professional news
20 providers, the BBC, Sky, the newspapers. Those organisations are making the
21 selection about which tweets to look at. Those organisations will become more
22 powerful as time goes on, rather than less powerful.

23 A. (Mr Miliband) Can I just make two points to that. The starting point as Vince
24 said is that these organisations are quite dominant online. It is Ofcom
25 themselves who said that The Sun and Sky News together have 70 per cent

1 reach, so the notion that somehow it is all okay because of BuzzFeed and these
2 people do not have any effect is frankly nonsense.

3 Secondly; lots of people are not online. I know you have expressed particular
4 interest in this in your issue statement, but only 18 per cent of over 65s get their
5 news from the internet and only 36 per cent of C2DEs against for the over 65s,
6 I think, 90 per cent say they get it from television and 70 per cent in the case of
7 the C2DEs.

8 Online, these players are very big and very powerful and will be more so
9 because of the money they will have to use to invest in news production.

10 Secondly; there are significant groups who are not online.

11 A. (Lord Puttnam) You may have felt in my opening statement that I went OTT on
12 the business of data. It is worth mentioning that not only do Sky have
13 12,761,000 subscribers in the UK and Ireland at the moment, they are also the
14 second biggest ISP in the country. The ISP are the gatekeepers. What I am
15 suggesting is, it is their role as ISPs, as the subscription levels decline slightly
16 that will take up the slack and that is what will enable them to retain an
17 extraordinary dominant position in this marketplace. They are the second
18 biggest ISP in the market, as well as being a media owner.

19 Q. (Mr Bamford) Just to pick up on the points around the cacophony of voices as
20 it has been described, picking through that in a social media context with many
21 individual bloggers or particular stories that have been picked up and viewed
22 multiple times, how have politicians changed their focus? Or have they
23 changed their focus with the development of social media and the development
24 of bloggers and individual voices out there?

25 A. (Mr Clarke) They have not very well, yet. I am an old fogey. I just do not hold

1 with any of this. Every now and again I step in and stop the bogus sites which
2 have been set up in my name. The platforms have improved. They will now
3 take them down.

4 A. (Mr Miliband) You do not tweet, Ken?

5 A. (Mr Clarke) I never have, but people tweet in my name and people tell me they
6 enjoy my Twitter page and I tell them I did not know I had got one. Anybody
7 can open up in your name, Ed and then start tweeting. I had several bogus
8 Facebook pages. But at the last election I think both parties tried for the first
9 time to enter into, how do you fight an election on social media and I know they
10 are all arguing about it in analysis, so I do not think either of them made a
11 particularly good job of it. I think they were completely defeated.

12 It is a strange cacophony that there is this - how on earth do you intervene in
13 this bizarre level of multifarious exchanges? Far too much of which is at the
14 level of personal abuse once individual people start screaming at each other. I
15 think some of the newspapers will have the same struggle, because their print
16 editions are very threatened.

17 The Mail is the biggest online edition, but it does not resemble - it does not have
18 any news in it. It is celebrity gossip and pin-ups. The BBC tags on and they all
19 grumble about that, because it means nobody will pay for theirs because they
20 can get it free on the BBC. We are in an unknown world and for the under 50s
21 it matters an awful lot. The next generation of politicians and media proprietors
22 are going to find it a rather changed world over the next 20 years unless they
23 do something about it.

24 Meanwhile, the newspapers, although dwindling, still have massive power, but
25 they are sinking faster than television. A big proportion of the population still

1 watch a bit of television. The young do not get news from television. But the
2 middle-aged as well as the elderly get a lot of their news from television, so you
3 are being asked to suddenly allow Sky to be handed over to an outfit, whose
4 power base in the newspaper medium is probably going to vanish, because
5 apart from the FT, I do not think any newspapers will appear in print editions in
6 ten to twenty years' time. I would just rather the sort of things we have been
7 describing going on in the Murdoch empire news media, the scandals of
8 five years ago, the constant attempt to use political power, allowing that to
9 spread at this stage to the television world is slightly --

10 A. (Mr Miliband) Can I just add one other thing. I do try. I do tweet and I do have
11 Facebook page and that is a way to try and directly communicate to the public.
12 That is definitely true. But I have to face the fact that the Facebook with the
13 second greatest likes is, I believe, The Sun and the fourth is Sky News. They
14 are there too and more successfully than me.

15 A. (Lord Falconer) The effect of it online and the cacophony is it leads to the way
16 that people, not just politicians, digest and find out things in a different way.
17 Instead of watching the tele and reading the newspapers they go online, but
18 what do they go online and do, they look at clips from the BBC News. They
19 look at extracts from The Sun. They look at extracts - probably not from The
20 Times because it is behind a pay wall. But they can just get things much more
21 quickly and they only get the bits that they want. But probably the things they
22 are looking at, exactly as Ed has just said, are just digesting the same material,
23 ie a newspaper or a BBC or a Sky thing in a different format.

24 Q. (Mr Bamford) We would like to make sure that we cover the Broadcasting
25 standards and public interest consideration. The first thing that I would say, the

1 simplest in terms of me asking the question, but probably one of the most
2 difficult to answer and I would welcome your views on this is what interpretation
3 you think we should give to the words, "genuine commitment" in relation to the
4 attainment of Broadcasting standards in the UK?

5 A. (Mr Miliband) If we could excuse Vince Cable, because he has to ...

6 A. (Sir Vince Cable) Sorry, would you excuse me?

7 THE CHAIR: Of course, yes.

8 A. (Lord Falconer) That the media owner or controller of the relevant entity is
9 genuinely committed to delivering the Broadcasting standards identified in
10 Section 319 and 320. It is not just minimalist legalistic compliance, it is a
11 genuine commitment to delivering it, hence the word, "genuine" and hence the
12 word, "commitment". What you are not focused on is as a matter of judgement,
13 do you think they will in the future comply? You are focused on what is their
14 commitment to them.

15 Q. (Mr Tutton) But there is still the question of how do you observe a genuine
16 commitment and not that Ofcom have said this, but a defence of Ofcom's
17 approach which implicitly or explicitly criticised by the Secretary of State was
18 the focus on compliance. But the question is, if you do not - compliance is
19 evidence of something and especially if you see a systemic breach of
20 compliance issues then you can draw conclusions from that. But, say you had
21 an organisation which was just good at complying in your minimalist legalistic
22 sense, how could you observe an organisation which in your view was showing
23 a genuine commitment?

24 A. (Lord Falconer) You could be genuinely committed to complying with the
25 standards because you believe that you must always comply with the law. If

1 the position was that your record showed that you always complied with the
2 law, then your commitment would be genuine.

3 As far as the record is concerned it is plainly highly material for the CMA to
4 consider the commitments made by individuals. Because everybody will come
5 before you and say: "Of course I am genuinely committed to Broadcasting
6 standards, because that is what the statute requires you look at". The only way
7 that you can judge that generally, is by looking at people's record in relation to
8 Broadcasting standards, media standards and legal compliance, generally.
9 Those have to be the three big tests.

10 Here you have got a fourth piece of evidence which is very unusual, which is
11 the Murdochs' statements about what their view about what Broadcasting
12 standards in this country are and as I indicated in my opening remarks, they
13 dismiss them on grounds of principle saying they are bad. They say you can
14 get around them as Ofcom do and they say that they are not in their commercial
15 interests. That is an incredibly bad starting point of somebody who comes
16 before you to say they have got a genuine commitment to Broadcasting
17 standards. Indeed, it would be quite hard to conclude that they did have such
18 a genuine commitment on the basis of those statements.

19 Q. (Mr Bamford) I will pick up on each of those elements. I want to first pick up
20 on their record with respect to Broadcasting standards in the UK and explore
21 that a little. We have Ofcom's Phase 1 Report where they have looked at Fox's,
22 and in particular Fox News' compliance record and they talk about their
23 approach to regulating the output of a non-UK focused news channel, as they
24 put it. Please correct me if I am wrong, I have summarised what you have said
25 is around looking at their compliance record and their outcomes.

1 A. (Lord Falconer) Yes

2 Q. (Mr Bamford) If we were to compare Fox News in the UK as a US channel
3 broadcast to a US audience, but simulcast into the UK, would we compare that
4 to another similar channel? Or should we compare it to somebody like the BBC,
5 which has over the years had breaches against their Code, Channel 4, for
6 example, with a number of breaches on accuracy and impartiality in the
7 previous few years. Where, for example, with the BBC, there are very large
8 editorial guidelines and standards and so on, but have still have breaches.
9 Channel 4 and ITN again, quite comprehensive procedures and policies in
10 place, but have still had breaches. How do we weigh those breaches and the
11 actual compliance processes and procedures in place?

12 A. (Lord Falconer) You should proceed on the basis in relation to Ofcom's
13 Broadcasting standards compliance that Fox News was governed by precisely
14 the same rules as anybody else broadcasting into the UK. The idea that
15 Section 319 and 320 did not apply is wrong. I do not know where Ofcom get
16 that from. If you go to page 70 of our submissions, were refer specifically there
17 to Ofcom's random investigation. This is not in relation to a complaint, but in
18 relation to the content that they were producing, because they did a random
19 look and they concluded that the random look - this is not somebody
20 complaining, just them choosing something at random - it was massively in
21 breach of the impartiality rules.

22 If and insofar as Ofcom are saying: "You should treat Fox News as being
23 compliant with our Broadcasting standards" you should reject that conclusion.
24 The reason why they appear to have quite a good record is simply because, I
25 think the figure is 2,000 viewers was how many they would normally have, so

1 who is complaining in relation to it. They are not given the same level of
2 complaints as everybody else.

3 Thirdly; look at Fox News - well, you cannot now because they have taken it off
4 the air - it is obviously not compliant with our impartiality standards. That I am
5 right in relation to that is demonstrated pretty clearly by the fact they had no
6 compliance procedures in place at all in relation to Fox News, which only
7 became apparent once this inquiry by Ofcom started. You can have no faith in
8 somebody that they are going to be compliant with Broadcasting standards on
9 that basis.

10 Their case is in the Allen & Overy document that between May 2017 and
11 August 2017 they then introduced proper compliance standards for UK
12 compliance and then promptly took it off the air. What is going on there? You
13 will have to make a judgement in relation to that. Could I suggest what was
14 going on there, which is - and this is pretty obvious - they were never going to
15 change Fox News in order to become compliant with the UK standards,
16 because it is such a success in the US. Because they could never bring it within
17 UK standards, they closed it down during the course of this Inquiry. Otherwise
18 why spend all your time putting compliance in place and then stop it?

19 Q. (Mr Bamford) What weight do you think we should give to Ofcom's finding that
20 Fox News had put compliance procedures in place, but that they were
21 inadequate prior to May 2017?

22 A. (Lord Falconer) No, no, that is not what they found. They found that they had
23 no compliance procedures in place in relation to Broadcasting standards before
24 May 2017. They then put some compliance procedures in place between May
25 and August 2017. By the time it has closed down Ofcom, I think, are out of the

1 picture at that particular point.

2 Q. (Mr Bamford) I understand the timeline and the procedures that would have
3 been in place and the procedures that were not in place before May 2017.

4 A. (Lord Falconer) None, none. They had no procedures in place.

5 Q. (Mr Bamford) I am asking what weight you think we should give to the fact that
6 there were no procedures in place before --

7 A. (Lord Falconer) That they do not care about compliance with UK Broadcasting
8 standards. That is obviously the only conclusion you can draw.

9 Q. (Mr Bamford) What relevance does that have where Ofcom have identified
10 relatively few breaches for Fox News prior to May 2017?

11 A. (Lord Falconer) What was the reason for them identifying few breaches? In
12 my view the reason they identified very few breaches is because they have got
13 very few viewers and so there are very few complaints. They would only
14 respond to complaints, Ofcom. When they are not responding to complaints,
15 but looking at it in a random basis, which is much the more telling evidence,
16 they find them massively in breach.

17 Q. (Mr Krumins) If we just explore that a little bit. Is there a chicken and egg
18 aspect to this? I think Ed Richards was on the record at Ofcom as well, almost
19 suggesting that the tiny channels with very, very small viewership: "We do not
20 focus that much at Ofcom. We focus on the channels that matter, that have
21 major viewership and so it is horses for courses the way we think about the
22 application and regulation". If that is what Ofcom encourages, is it that
23 surprising that you have channels that only had a few thousand viewers at any
24 point in time, not having those procedures in place, because in the last 16 years
25 Ofcom never chased that through?

1 A. (Lord Falconer) The question is do they, Fox, have a genuine commitment to
2 Broadcasting standards? They go through in enormous detail in the Allen &
3 Overy submissions, all the compliance procedures they have got for
4 Broadcasting standards in respect of the National Geographic Channel and
5 offer absolutely no explanation as to why they spent all that time on the National
6 Geographic Channel - which is not going to probably be offending Broadcasting
7 standards - and offer no explanation why they did not do anything in relation to
8 Fox News.

9 Your point goes to Ofcom's attitude, not to Fox's attitude and the question that
10 this tribunal is concerned with is not Ofcom's attitude, but Fox's attitude. I can
11 understand why Ofcom are saying: "We did not pay much attention to Fox
12 News, because it had very few viewers". But your question, rightly identified in
13 your issue statement is do they, 21st Century Fox, after the transaction have a
14 genuine commitment to British Broadcasting standards?

15 A. (Mr Miliband) Can I just add. Is it not the obvious conclusion to draw from this
16 Fox experience, that the reason there was not a compliance procedure in place
17 in the UK for Fox News, was that they did not think they had a hope in hell if
18 there was proper scrutiny of this channel, of it complying with UK Broadcasting
19 standards, because it was being run out of the US in a particular way? But they
20 just turned a blind eye to that fact and thought: "We can get away with it,
21 because nobody is going to pay much attention". As soon as anyone did pay
22 attention to Fox News they then hastily said: "Oh, well, we'll put a compliance
23 procedure in place". But then concluded two months later: "There's no way that
24 we're going to be able to make this channel compliant. We better shut it down
25 because it is just a massive embarrassment to us", for the purposes of this bid.

1 A. (Lord Puttnam) On this point, which is a very good one, I can again, I think
2 maybe. I was involved at the very beginning of this and Ofcom made a
3 judgement - I think in hindsight it was the wrong judgement and I think Ed
4 Richards knows it was a wrong judgement - that if they made the compliance
5 procedures too rigorous that could become a barrier to entry to a small
6 broadcaster. So they were trying to differentiate between the small broadcaster
7 with the small audience, not being too heavy handed with them, allow them to
8 grow and then they would take an interest. I think in his evidence to Leveson,
9 I think he describes the fact that this was a misjudgement – that they made a
10 mistake.

11 I spent six years as Deputy Chairman of Channel 4 where compliance was
12 taken very seriously and you are right, we had some breaches. But all I can
13 promise you is the attention paid at board level and the executive to those
14 breaches was intense. On one particularly sad occasion, where this involved
15 behaviours in corporate culture, we had to deal with a [§<].

16 I would argue that corporate cultures - this is directly to your point - corporate
17 cultures take a long time to develop and they have to be nurtured and kept in
18 place. All of us have had experience of good and maybe bad corporate
19 cultures. The corporate culture at Fox has been toxic for years.

20 Let us assume that Lachlan and James Murdoch are genuinely sincere in desire
21 to improve it. It will take a decade. We could all look back in a decade and
22 say: "I tell you what they did a pretty good job". To try and establish the truth
23 of this I looked at Unilever. Paul Polman came into Unilever in 2009 and made
24 a series of very important statements about the culture he wished Unilever to
25 adopt. He was taken to task somewhat by the financial community on the

1 grounds that he was being rather idealistic. But Unilever have developed and
2 maintained an extraordinary corporate culture. Anyone you ever meet who has
3 a, "I worked at Unilever" badge, is I think, is probably going to get a good job,
4 because it is seen as having an excellent corporate culture. Their share price
5 has more than doubled and what Mr Polman has done is created something
6 very special, which is now envied and admired by other CEOs.

7 Corporate cultures are very important. I am afraid, at every single step of the
8 way, the Fox corporate culture has been diabolical. Frankly, any attempts to
9 try to mitigate against it or try and make it look better may be sincere, but it will
10 take a decade for them to have any effect whatsoever.

11 Q. (Mr Bamford) To pick up on the corporate culture, because as I said I would
12 like to move on just to Broadcast Standards. To use Ofcom's terms, what would
13 you say is the identifiable risk linking, say, corporate governance failures to the
14 merging entities not having a genuine commitment to attaining the Broadcasting
15 standards in the UK?

16 A. (Lord Falconer) The corporate governance culture revealed in their conduct,
17 reveals that they put commercial gain above compliance with basic corporate
18 standards. I have gone through the examples of that. The headings are: the
19 hacking scandal; the re-engagement of Brooks and Parker; the persistent sex
20 abuse conduct - they are not just scandals, because they are acknowledged;
21 the willingness to continue to employ O'Reilly and indeed, increase his salary
22 from 18 million to 25 million knowing that he was still a serious offender. There
23 is no dispute about this: he paid off Ms Weil \$32 million in respect of abuse
24 allegations that she was making, which is a gigantic sum of money.

25 Ed told me that OJ Simpson, who was found in a civil trial to have murdered

1 Mrs Simpson and Ron Goldman - the man who was delivering the pizza - he
2 was ordered by the American courts to pay \$33 million for both those murders.
3 Mr O'Reilly is willing to pay \$32 million, so it must have been a very, very, very
4 serious case and it was the sixth case. The total amount of damages paid in
5 relation to all six cases was \$100 million. What reputable organisation would
6 keep someone like that in play - only one that put commercial gain before
7 everything else. Why did they sack O'Reilly in April 2017? Because the
8 Federal Prosecutor has subpoenaed their records which will reveal the detail of
9 the vile allegations, so they feel they have to sack him at that point. The general
10 counsel of 21st Century Fox sends an email to the Murdochs saying this is
11 what has happened: "The Federal Prosecutor is going to find out about the vile
12 stuff. We are going to have to get rid of O'Reilly".

13 Ask yourself the question, is that somebody genuinely committed to corporate
14 standards, or is it somebody who hoped they would get away with behaving
15 badly because it serves their commercial interests? I say it is relevant to this
16 Inquiry because it shows the attitude of the Murdochs, who we say will be in full
17 control of Sky after the transaction and as a result of the transaction. If that lot
18 is in control of Sky after the transaction you should not believe, having regard
19 to their record, that they are genuinely committed to complying with standards
20 that they and the Regulator say can easily be got around.

21 A. (Mr Clarke) I will not add because this is a very brief footnote, as you may
22 gather I have not had time to and have not done the research into the evidence
23 collecting and so on which my three companions have done. But I do have
24 years of familiarity with the Murdoch outfit. I have known half of these people.
25 I have been to Murdoch events and I know a very large number of their

1 | journalists and dealt with a lot of their outlets.

2 | I think the general ethos inside the Murdoch outfit of regulation, bureaucratic
3 | control is - you can guess at - it is rather ridiculed. I think their general view of
4 | what they regard as politically correct thinkers is equally ridiculed. My guess
5 | would be that their approach to broadcasting terms in Britain would depend on
6 | what they thought were the chances of them losing Sky, or having action taken
7 | against them if they too fragrantly breached them. Which is quite an interesting
8 | question and if they do get Sky it will be interesting to watch. I think you will
9 | find - my guess would be and it is just instinct so it is not very ... knowing a lot
10 | of these people who I have dealt with over the years - that they would not make
11 | any serious attempt to comply. They would comply with the ones they thought
12 | were necessary and what would Ofcom do? That is what they would be mainly
13 | worried about and they might react a bit if they got a warning. But I think once
14 | they have got it, I think, as in Australia, I gather, "It is ours" and they do not have
15 | to bother with all this stuff anymore.

16 | A. (Lord Falconer) To just go back to Mr Tutton's question, assume that Ken's
17 | analysis is right, which I am sure it is, does that constitute, "genuine
18 | commitment" to broadcasting standards. As a matter of law it plainly does not.

19 | Q. (Mr Bamford) Just to pick up some other strands around Broadcasting
20 | standards. Could I take any comments from you on News UK's newspapers'
21 | compliance with the IPSO Regulations and the current Editor's Code of
22 | Conduct and, in particular, to what extent does their record differ from other
23 | newspapers?

24 | A. (Mr Miliband) The problem we have got in relation to IPSO is that IPSO is a
25 | Regulator created and controlled by the newspapers and is completely not

1 compliant with Leveson. It has not applied for recognition by the Recognition
2 Panel, because it does not believe that it would get recognition. I do not believe
3 that it is a credible regulator because it is not what Parliament intended. It is
4 not what was passed. It was not what the cross-party agreement was. It was
5 not what the victims wanted and everybody said, "We are going to be guided
6 by the victims". They certainly cannot give an organisation a clean bill of health.
7 All that being said they certainly have not given News UK a clean bill of health.
8 I think I am right in saying the largest group of complaints of any group have
9 been in relation to News UK and we could go through some of them. For what
10 it is worth, which I do not think is all that much, they found that they were in
11 breach on a number occasions more than any other group.

12 A. (Lord Falconer) I agree with what Ed says. The Parker and Brooks
13 re-engagement is indicative of their attitude to that.

14 A. (Mr Miliband) Yeah. I think I would also add, if you are thinking about this
15 question of what has happened since the hacking - and we go through this in a
16 lot of detail in our submission - there has not been a proper inquiry, even an
17 internal inquiry in the Murdoch empire about why hacking was allowed to
18 happen; what it said about their corporate governance procedures. They do
19 not want to do that inquiry. They do not want to do that inquiry themselves and
20 they do not want to do it in relation to Leveson 2 either.

21 That is a pattern; that is a pattern. Just to add to what Charlie said earlier, I do
22 not think there is a bright line between compliance with content regulation and
23 wider corporate governance in relation to the Murdochs. Because their
24 non-compliance has a similar route, which is the desire to put commercial ends
25 ahead of anything else. Just to add the Fox point that it is important, Charlie

1 has detailed very clearly what happened on harassment.

2 I would also draw your attention to one case in relation to Fox News, the Seth
3 Rich case. This is a dreadful case. This is a guy who was murdered. He was
4 murdered. He was a Democratic staffer. He worked for the DNC, the
5 Democratic National Committee, in 2016. Fox News broadcast a report - I
6 believe it was in May earlier this year - which said that somehow he had been
7 leaking emails from the DNC, not the Russian government.

8 We now know from what Mueller has discovered that that is not correct. A week
9 later they retracted the story - it is now the subject of a court case - but they
10 retracted the story. The reporter who pushed the story is still broadcasting.
11 The on-air anchors who pushed the story are still broadcasting. The parents of
12 Seth Rich have received no apology, no communication from the Murdochs,
13 nothing. In fact, they have done an interview on national public radio, which
14 you should look at the transcript of, where they talk about the terrible grief of
15 their son being murdered, but the additional grief caused to them by Fox News.
16 Nothing has happened.

17 What does this unfortunately remind one of? Tragically, it reminds one of what
18 happened with Milly Dowler as well. You have got grieving parents, a grieving
19 family whose lives are made even worse by the actions of Murdoch outlets. If
20 that does not show a disregard for proper standards and proper ethical
21 standards, I do not know what does.

22 A. (Mr Clarke) On your IPSO point, they have cleaned their act up, to be fair and
23 they will carry on for a bit. What they are worried about - that had a big effect
24 on them. Apart from the fact that some people in the media did want to improve
25 their reputation because they had taken quite a bashing. But they have

1 succeeded in preventing the Government from doing anything about
2 Leveson 2, so no more inquiries and nobody is moving on as Leveson
3 recommended. I think he recommended some more inquiries and some
4 follow-up things, but he also recommended obviously moving to the genuine,
5 independent regulator.

6 That is quite a threat to all written media and they are trying to avoid that. To
7 be fair to them, I thought their regulator might turn out to be a sham, but I have
8 to admit they appointed - I cannot remember his name now - but the judge they
9 appointed at the head of it, I could not criticise him. He is a pretty tough judge.

10 At the moment there is risk in this very uncertain political world. They have not
11 quite got rid of the threat of Leveson 2. I think they think the Labour Party, if
12 the Labour Party were to take over would move straight back into something
13 like Leveson 2 and they are not quite sure how to halt this. They have raised
14 their act a bit, but again, as somebody has already said not surprisingly, I think
15 I am correct in saying, the Murdoch newspapers continue to attract still the
16 highest number of complaints.

17 Q. (Mr Bamford) Just one final question before we give you the chance to -
18 anything you feel that we have missed so far. We have talked about Fox, we
19 have talked about broadcasting, we have talked about newspapers, we have
20 talked about general corporate governance. Do you have any concerns
21 regarding Sky and particularly Sky News' current commitment to Broadcast
22 Standards?

23 A. (Mr Miliband) I think my concern would be that we lose Sky News as it currently
24 exists, because it is actually a trusted news source. I think in a way that makes
25 it all the more important to preserve it. I think I am right in saying that on the

1 metrics of trust, Sky News was pretty well. I think it is a trusted broadcaster
2 and in a way that emphasises the additional responsibility that I think you have
3 in relation to this question, which is we have got a trusted broadcaster. As Ken
4 said at the beginning, television at least being protected is very, very important
5 and that is the risk of this transaction.

6 A. (Lord Falconer) I completely agree with that. I understand the position to be
7 that we have got to focus on the transaction here and does the transaction
8 make a difference? As long as that 61 per cent are there, then Sky News
9 remains a trusted broadcaster. If they are not, then they are going to go the
10 way of Fox News.

11 He, that is Rupert Murdoch, according to the House of Lords' Communication
12 Committee stated that: "The only reason that Sky News was not more like Fox
13 News was that nobody at Sky News listens to me", said Rupert Murdoch. He
14 will not have to try and persuade people at Sky News if this transaction goes
15 through, because he will own the whole thing 100 per cent.

16 A. (Mr Clarke) It is second to the BBC, is it not, in trust, Sky? The BBC is on its
17 own. That is the NHS of broadcasting and deservedly. It is kind of untouchable,
18 is it not, due to it being widely trusted by the public and extreme politicians
19 attack it for bias from left and right. But no politician dare touch it, really. Sky
20 comes not with that blanket public trust, but I think it comes not far behind and
21 I think the figures show that. We do not have a bad broadcaster. There is not
22 a disreputable significant television outlet in this country at the moment. None
23 of them come under great criticism or attack, but if we had a Fox News I think
24 that would change.

25 THE CHAIR: I am conscious of time and I think we have had a pretty in-depth

1 discussion, but unless any of my team have a burning question, John?

2 Q. (Mr Krumins) Just on this last point about the 61 per cent. A central tenet of
3 your observations is the loss of the 61 per cent which would mean a definitive
4 move for Sky News. I am just checking my notes back from the early part of
5 our conversation, it was not clear to me whether you had any evidence that any
6 of those shareholders in terms of why they are investors in Sky had prioritised
7 or acted to support the independence of Sky News. We have heard quite the
8 opposite. Almost: "You invest in Rupert. You know what you are getting. It is
9 strong commercial story and that is why we invest in Sky". I just want to be
10 very clear, do you have any evidence from any shareholder or investor in Sky
11 that the independence of Sky News is a primary factor in their investment?

12 A. (Lord Falconer) We have evidence which is at page 14 in our submission that
13 they resist what the Murdochs want in relation to it. The key change that occurs
14 is the Murdochs have no restraint in what relation to what they then do. Then
15 the question for this tribunal is assume no constraint, what would the Murdochs
16 do with Sky News?

17 A. (Mr Miliband) I obviously do not know, I am not privy to the evidence that you
18 have received, but I am quite surprised by your characterisation of it. Because
19 when they got rid of James Murdoch as Chairman, it was not about the
20 commercial situation of Sky. Sky was not suffering commercially, because of
21 what had happened in terms of hacking. There was deep disquiet, as I
22 understand it, among the independent shareholders, about James Murdoch,
23 who played this role overseeing what had happened at the newspapers, should
24 be in this role as Chairman of Sky.

25 I do not think it was a commercially driven decision. It must have been partly

1 because of a reputational worry they had about Sky and about James Murdoch
2 carrying on being Chairman. But if there is evidence to contrary you should
3 and please do ask, but ...

4 A. (Lord Puttnam) I had suggested earlier on, because I had talked to at least two
5 of them, the people to ask are the previous Editors of Sky

6 Q. (Mr Krumins) Pre-John Ryley?

7 A. (Lord Puttnam) Pre-John Ryley, yes, the previous Editors, so people who are
8 not at the moment relying on their job. I think, what you will hear from all of
9 them is that their security and their sense of independence was made possible
10 by the nature of the shareholding and by the independent component of the
11 company. If I am wrong, fine. But I had talked to at least two of them. Whenever
12 there was a close run thing I think they felt absolutely they were protected by
13 the structure of the board.

14 A. (Mr Miliband) The other thing is - just thinking through your question if I may -
15 surely the material question is this. Not, what is in the mind of the independent
16 shareholders, but what is in the mind of the Murdochs? That is the material
17 question for you. In other words with 39 per cent of Sky as opposed to
18 100 per cent for 21CF, is it in the mind of the Murdochs that they are more
19 constrained than they would otherwise be. I put it to you that it is absolutely
20 clear that they will be more constrained with 39 per cent than they would be
21 with 100 per cent. In part, because they know what has happened with
22 independent shareholders who helped get rid of James originally and has been
23 on the warpath against him as recently as last month.

24 THE CHAIR: Okay, well thank you all. I think we have covered it, but if there is
25 anything else you want to say, I did promise there is an opportunity if you want

1 to say --

2 A. (Lord Puttnam) Just one point, because I think the second but last question
3 was very important. You asked about IPSO. To me IPSO proves the core point
4 we have been trying to make today. Here is an extraordinary situation where a
5 group of media owners have refused the will of Parliament, have refused the
6 will of Privy Council and have proceeded as if phone hacking never happened.
7 That is because they believe themselves to be untouchable. They believe
8 themselves to be untouchable, because of the environment that has been
9 created and as you quite rightly said, because of the perception that politicians
10 will not take them on, and that and therefore can defy the will of Parliament.
11 I do not know any other group of people - you may tell me I am wrong - in Britain
12 or any sector that believes it can defy the will of Parliament and get away with
13 it. To me it is absolutely evidential that in the creation of IPSO and their refusal
14 to comply with the will of Parliament, you are talking about a very different group
15 of people.
16 Hence, back to 2003 that was why the decision was made that the provision of
17 information and news had to be separated out from any other commercial
18 consideration. It is different. This is not widgets. It is not food products. It is
19 the stuff of democracy. It is the stuff we have to believe in. It is about trust. I
20 will finish with this, these are Rupert Murdoch's words, not mine, in Thomas
21 Kiernan's biography: "You tell those bloody politicians whatever they want to
22 hear and once the deal is done you don't worry about it. They are not going to
23 chase after you later if they suddenly decide that what you said wasn't what
24 they wanted to hear". That is him.

25 A. (Mr Miliband) Thank you very much for your time and I would just add to that,

1 that I think you have got a very, very big responsibility and I am sure you are
2 aware of it. Because it is about the quality of the public discourse in this country
3 and the nature of our public and political debate and the nature of our citizens
4 and whether they are properly informed, as expressed through plurality and
5 expressed through Broadcasting standards.

6 As I said right at the outset, we are here not because of a personal animus
7 against the Murdochs - I do not really know Rupert or James Murdoch - we are
8 here because we care about the quality of our public debate and we are from
9 different political parties. I hope you will ponder the fact that you have got a
10 former Chancellor of the Exchequer, a former Lord Chancellor, a former
11 Business Secretary and now the Leader of the Liberal Democrats, former
12 Leader of the Labour Party, distinguished Peer coming from very different
13 political points of view, but who share this concern about our public discourse
14 and what this transaction will mean for it.

15 THE CHAIR: I assure you we will be pondering very deeply. Not an easy task. Thank
16 you very much.

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?