

Anticipated acquisition by 21st Century Fox, Inc of Sky Plc

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Appendix A: Terms of reference and conduct of the Inquiry

ANTICIPATED ACQUISITION BY TWENTY-FIRST CENTURY FOX, INC OF THE ENTIRE ISSUED AND TO BE ISSUED SHARE CAPITAL OF SKY PLC THAT IT DOES NOT ALREADY OWN

TERMS OF REFERENCE

The Secretary of State for Culture, Media and Sport issued a European intervention notice on 16 March 2017 in relation to a European relevant merger situation, as defined in section 68 of the Enterprise Act 2002 ("the Act"), and has received a report of the Competition and Markets Authority ("CMA") and of Ofcom under articles 4 and 4A of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 ("the Order") in relation to the matter.

Whereas the Secretary of State for Digital, Culture, Media and Sport believes, as a result of the proposed acquisition by Twenty-First Century Fox, Inc. ("21CF") of the entire issued and to be issued share capital of Sky plc that 21CF does not already own, it is or may be the case that:

(a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a European relevant merger situation, in that:

- (i) two or more enterprises will cease to be distinct; and
- (ii) the value of the turnover in the United Kingdom of the enterprise to be taken over exceeds £70 million;
- (iii) a concentration with a Community dimension (within the meaning of Council Regulation (EC) No 139/2004), or a part of such a concentration, has thereby arisen or will thereby arise;
- (iv) a reference is prevented from being made under section 33 of the Act in relation to the relevant merger situation by virtue of Community law;

(b) the following public interest considerations specified in the European intervention notice are relevant to a consideration of the European relevant merger situation concerned:

- (i) the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience; and
- (ii) the need for persons carrying on media enterprises, and for those with control of such enterprises, to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in section 319 of CA03; and

(c) taking account only of the relevant public interest considerations concerned, the creation of that situation operates or may be expected to operate against the public interest.

The Secretary of State for Digital, Culture, Media and Sport, in exercise of her powers under article 5(3) of the Order, hereby makes a reference to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 in order that the group may investigate and report on the questions referred to in articles 6(2), (3) and (4) of the Order within the period set down in article 9 of the Order.

Rt Hon. Karen Bradley MP
Secretary of State for Digital, Culture, Media and Sport
20 September 2017

Conduct of the Inquiry

1. We published the [biographies of the members](#) of the Inquiry Group on 20 September 2017. The [administrative timetable](#) for the Inquiry was published on our [case page](#) on 27 September 2017 and updated on 6 December 2017. The administrative timetable was updated again on 23 January 2018 to reflect an 8-week extension to the Inquiry.
2. We agreed the bases for which Ofcom would provide information and assistance to us, a [letter](#) detailing these working arrangements has been published on the case page. We sent Ofcom six requests for information, which have been published on the case page along with the non-confidential responses. We received written evidence, in the form of initial submissions, from the Parties and submissions to Ofcom and the Secretary of State for Digital, Culture, Media and Sport during the phase 1 inquiry.
3. On 10 October 2017, we published an [issues statement](#) on our case page, setting out the areas of concern on which the Inquiry would focus. We invited all interested parties to comment on the anticipated acquisition. We published a [note](#) on the webpage setting out how and when contributions to the Inquiry could be made. We received nearly 12,500 written submissions to our issues statement. Thirty-six of these submissions were substantive and were published on the case page (including submissions from the Parties). A further three submissions received were marked as confidential; a [summary of the confidential submissions](#) is also available on the case page.
4. A [summary of the submissions](#) which were not published has been published on the case page.
5. Including the submissions received during phase 1 of the investigation, in total we have reviewed around 100,000 submissions.
6. We sent questionnaires to a number of third parties, which included broadcasters, online news platforms and print newspaper platforms. We obtained oral evidence through a roundtable discussion on media plurality and 24 third party hearings. Of these 24 hearings, we have published ten summaries and 14 transcripts on the case page. We have also published the [transcript of the media plurality roundtable discussion](#). Evidence was also gathered through a number of further written requests for information to the main and third parties.
7. We also held hearings with the Parties on 30 November 2017. Summaries of these hearings have been published on the case page.

8. On 20 October 2017, all members of the Inquiry Group, accompanied by staff visited the premises of Sky.
9. A non-confidential version of the provisional findings report will be available on the case page.
10. We would like to thank those who have assisted us in our Inquiry so far.

Appendix B: The regulation of broadcast media and the press in the UK

Introduction

1. This appendix provides an overview of the regulatory landscape for broadcasters and the press in the UK.¹ Arrangements for the regulation of broadcasters and the press vary considerably. The appendix addresses, in particular, the legal framework for the regulation of broadcasters via the Communications Act 2003 (CA03) and the Broadcasting Acts of 1990 (the 1990 Act) and 1996 (the 1996 Act). The appendix also addresses the findings and recommendations of the Leveson Inquiry (the Leveson Inquiry) into the culture, practices and ethics of the press and the changed nature of press regulation in the UK post Leveson.

The regulation of broadcast media

The scope of broadcast regulation

2. The CA03 substantially amended arrangements for the regulation of broadcast media in the UK. The 2003 Act transferred to Ofcom a range of functions previously exercised by the Secretary of State and predecessor regulators.² Ofcom is responsible, among other things, for granting licences for the provision of broadcast services in the UK, for ensuring that broadcast licence holders are ‘fit and proper’ persons to hold such licences and for ensuring that broadcasters comply with its Broadcasting Code which implements the broadcasting standards objectives set out in section 319(2) of CA03. As set out later, Ofcom’s powers and duties concern, among other things, the regulation of the broadcast of TV and radio services, including TV programme services transmitted via the internet where the service falls under UK jurisdiction. Material placed on the internet (including by a broadcaster) which does not involve the distribution of TV or radio programme services with a view to their availability for reception by members of the public does not fall within the scope of the Broadcasting Code.³ On-demand programme services are subject to different regulation.⁴

¹ This appendix does not seek to set out the regulatory framework for the press or media exhaustively. Instead, it sets out key features of this framework as context for the substantive assessment we have carried out.

² These include the Broadcasting Standards Commission, the Director General of Telecommunications, the Independent Television Commission and the Radio Authority.

³ [The most recent iteration of the Broadcasting Code was published in April 2017.](#)

⁴ On-demand services are provided for separately by part 4A (sections 368A-368R of CA03, including specific standards requirements regarding harmful content, advertising, sponsorship and product placement).

3. Section 319(1) of CA03 imposes a duty on Ofcom to ‘to set, and from time to time to review and revise, such standards for the content of programmes to be included in **television and radio services** as appear to them best calculated to secure the standards objectives’ (emphasis added). In addition, Ofcom has a general statutory duty to ‘secure the application, in the case of all **television and radio services**, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services’ (section 3(2)(e) of CA03) (emphasis added). The concept of ‘TV and radio services’ is an important one and is subject to a complex, multi-layered definition in CA03.
4. As indicated by section 319(1) of CA03, Ofcom’s duty to set standards applies in respect of ‘programmes to be included in television and radio services’. A television programme means ‘any programme (with or without sounds) which— (a) is produced wholly or partly to be seen on television; and (b) consists of moving or still images or of legible text or of a combination of those things’ (section 405, CA03). Moreover, ‘programme’ includes an advertisement and, in relation to a service, anything included in that service...’ (section 405, CA03). The core element of the test is whether the still or moving images are ‘produced wholly or partly’ to be seen on television.
5. The concept of ‘television and radio services’ is also explained in section 405 of CA03 which clarifies that ‘television and radio services’ means- (a) programme services apart from those provided by the BBC; and (b) services provided by the BBC in relation to which Ofcom have functions’. A ‘programme service’ is defined in section 405 of CA03 to mean ‘(a) a television programme service; (b) the public teletext service; (c) an additional television service;⁵ (d) a digital additional television service; (e) a radio programme service; or (f) a sound service provided by the BBC...’.

⁵ Section 362 of CA03 defines ‘additional television service’ to mean ‘... an additional service within the meaning given by section 48 of the [Broadcasting Act\] 1990](#) for the purposes of part 1 of the 1990 Act. For its part, section 48(1) of the 1990 Act explains that ‘additional service’ means ‘any service which consists in the sending of electronic signals for transmission by wireless telegraphy by means of the use of the spare capacity within the signals carrying any TV broadcasting service provided on a relevant frequency’. Section 405 of CA03 makes clear that the expression ‘wireless telegraphy’ has the same meaning as in the Wireless Telegraphy Act 2006. Section 116 (1) of the Wireless Telegraphy Act 2006 provides that ‘wireless telegraphy’ means the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which subsection (2) applies’. Subsection (2), ‘applies to electromagnetic energy of a frequency not exceeding 3,000 gigahertz that– (a) serves for conveying messages, sound or visual images (whether or not the messages, sound or images are actually received by anyone), or for operating or controlling machinery or apparatus; or (b) is used in connection with determining position, bearing or distance, or for gaining information as to the presence, absence, position or motion of an object or of a class of objects’

6. Section 362 of CA03 defines ‘television programme service’ as meaning ‘any of the following— (a) a television broadcasting service;⁶ (b) a television licensable content service (TLCS); (c) a digital television programme service;⁷ (d) a restricted television service’.
7. Many broadcasters, in practice, rely on a TLCS licence. ⁸ A TLCS is defined in section 232 of CA03 to mean ‘any service falling within subsection (2) insofar as it is provided with a view to its availability for reception by members of the public being secured by one or more of the following means — (a) the broadcasting of the service (whether by the person providing it or by another) from a satellite; (aa) the broadcasting of the service (whether by that person or by another) by means of a radio multiplex service; or (b) the distribution of the service (whether by that person or by another) by any means involving the use of an electronic communications network.’ Section 232(2) makes clear that ‘a service falls within this subsection if it- (a) is provided (whether in digital or in analogue form) as a service that is to be made available for reception by members of the public; and (b) consists of, or has as its principal purpose the provision of, television programmes or electronic programme guides, or both’. Thus, TV programme services may be transmitted, eg via the internet in a way that makes them available for reception by members of the public, and, if they fall to the UK’s jurisdiction, using a TLCS licence (and, would be subject to the Broadcasting Code where transmitted in this manner). On-demand programme services are subject to different regulation.
8. The above description provides a non-exhaustive overview of the scope of broadcast regulation. An important question concerns the extent to which online content is regulated by the Broadcasting Code and related powers and duties. Insofar as the standards are concerned, the position is, in short, that the broadcasting standards apply to TV and radio services, including TV programme services distributed for public consumption on an electronic communications network which includes the internet.⁹ Online content, even if

⁶ A TV broadcasting service is defined in section 362 of CA03 as follows, ‘television broadcasting service’ means a service which—(a) consists in a service of television programmes provided with a view to its being broadcast (whether in digital or in analogue form); (b) is provided so as to be available for reception by members of the public; and (c) is not— (i) a restricted television service; (ii) a television multiplex service; (iii) a service provided under the authority of a licence under part 1 of the 1990 Act to provide a television licensable content service; or (iv) a service provided under the authority of a licence under part 1 of the 1996 Act to provide a digital television programme service.

⁷ A ‘digital television programme service’ has the meaning accorded by section 1(4) of the 1996 Act (see section 362, CA03). Section 1(4) of the 2003 Act states ‘digital programme service’ means a service consisting in the provision by any person of television programmes (together with any ancillary services, as defined by section 24(2) with a view to their being broadcast in digital form so as to be available for reception by members of the public, whether by him or by some other person’. The section goes on to make clear that a ‘digital programme service’ does not include services falling within the remit of various other licences.

⁸ This form of licence is used for satellite, cable and internet but not Digital Terrestrial Television.

⁹ See definition of an ‘electronic communications network’: section 32, CA03.

provided by a broadcaster, which does not consist of TV or radio programme services produced wholly or partly to be seen on TV and distributed in a way that makes them available for reception by members of the public, is not covered by the Broadcasting Code or the broadcasting standards objectives.

9. On-demand programme services are regulated by rules set out in part 4A of CA03.¹⁰ CA03 lays down various rules with which service providers must comply. As well as various administrative rules covering matters such as the notification of changes to the service provided, the payment of fees by the service provider to Ofcom and on the supply of information to Ofcom by the service provider, a number of editorial rules are also imposed. These are currently more limited in scope than those which apply to television programme services. The rules cover matters including, for example, the protection of under 18s, incitement to hatred and other forms of harmful content, sponsorship and advertising. Duties in respect of due accuracy and due impartiality are not imposed in respect of on-demand programme services. Ofcom has published some guidance in respect of such services.¹¹

Ofcom's licensing regime

10. It is an offence under section 13 of the 1990 Act to provide a 'relevant regulated television service' without a licence. The power to grant licences falls to Ofcom under section 3 of the 1990 and 1996 Acts. A 'relevant regulated television service' is one which falls to be regulated by Ofcom under section 211 of CA03. This includes the various forms of TV broadcasting service set out in section 211(2) of CA03.¹² This includes, TLCS, Television Broadcasting Services and Digital Television Programme Services. As such, the licensing regime encompasses the distribution of TV programme services to the public via the internet.
11. Section 3 of the 1990 and 1996 Acts provide Ofcom with the power to grant broadcasting licences. Ofcom has published guidance for applicants in respect of the various forms of broadcasting licences which may be sought.¹³ Any licence granted by Ofcom must be in writing and continue in force for a

¹⁰ From 1 January 2016, Ofcom has acted as sole regulatory for on demand programme services content. The Advertising Standards Authority remains co-regulator in relation to advertising standards content.

¹¹ See [Rules and guidance: statutory rules and non-binding guidance for providers of on-demand programme services](#).

¹² These are defined in section 211 of CA03 to include: (a) television broadcasting services that are provided from places in the UK with a view to their being broadcast otherwise than only from a satellite; (b) television licensable content services or digital programme services that are provided by persons under the jurisdiction of the UK for the purposes of the Audiovisual Media Services Directive; and (c) restricted television services that are provided from places in the UK.

¹³ These include: DTPS/DTAS (Digital TV Programme Service/Digital TV Additional Service); TLCS (Television Licensable Content Services); L-DTPS (Local TV); and RTSL-E (Restricted services for an event).

period defined by the 1990 Act or 1996 Act or set by Ofcom.¹⁴ As regards scope, a licence may specify or describe a service in respect of which the licence is granted. Ofcom has broad powers to impose conditions on a licence holder. Ofcom may impose any conditions which 'appear to be appropriate' to Ofcom in light of the duties which are, or may be, imposed on Ofcom or upon the licence holder.¹⁵ Ofcom therefore has a significant margin of discretion as to the conditions which it deems 'appropriate' to discharge its own regulatory duties under the 1990 Act and 1996 Act and CA03.¹⁶

12. The power to impose conditions is broad. Such conditions could exclude from the scope of a licence certain forms of content. In addition, it is common for programming commitments to be imposed on certain types of licensee, requiring the licensee to transmit certain forms of content or limiting the nature and extent of permissible advertising. A condition may also be imposed under section 337 of CA03 in respect of the promotion of equal opportunities and training by the broadcasting business in respect of which the license is held. Ofcom may require a licence holder to give advance notice of proposals affecting shareholdings in the body or the directors of the body, where such proposals are known to the body in order to assist in the discharge of various of its regulatory functions.¹⁷
13. In addition, Ofcom may also impose conditions regarding the provision of information by the licence holder to Ofcom in order that Ofcom can discharge its functions under CA03 or the 1996 Act.¹⁸ Furthermore, conditions may be imposed regarding payment by the licence holder of fees to Ofcom.¹⁹
14. Standard licence conditions include the following, among others:
 - (a) a requirement that broadcasters must ensure that the provisions of the Broadcasting Code are observed in the provision of the licensed service;
 - (b) a requirement that broadcasters must establish and maintain procedures for the handling and resolution of complaints about the observance of the Broadcasting Code;

¹⁴ These periods are laid down in for example, sections 16, 19, 26 and 65, [Broadcasting Act 1996](#) and may be of unlimited duration or may be set by Ofcom pursuant to section 98 (1) (b) (1), [Broadcasting Act 1990](#)

¹⁵ Section 4 (1) of the [Broadcasting Act 1990](#) and of the [Broadcasting Act 1996](#). See also section 87 of the [Broadcasting Act 1990](#) and 43 of the [Broadcasting Act 1996](#).

¹⁶ Ofcom's powers are also limited by the general duties imposed by CA03 as well as the 1990 and 1996 Acts.

¹⁷ See section 5(2)(d) of the Broadcasting Act 1990.

¹⁸ Section 4(1)(c) [Broadcasting Acts of 1990 and 1996](#). See also section 87 (d), Broadcasting Act 1990 and section 43(d) of the [Broadcasting Act 1996](#).

¹⁹ Section 4(1)(b) Broadcasting Acts of [1990](#) and 1996. See also section 43 of the Broadcasting Act 1996 and 87 of the [Broadcasting Act 1990](#).

- (c) a requirement for a licensee to have adequate compliance procedures including ‘sufficient persons’ ‘adequately versed’ to be able to ensure compliance on a day to day basis;
 - (d) requirements in respect of the gathering of information to assist in the exercise of Ofcom’s functions;
15. It is open to Ofcom to vary the conditions imposed by a licence pursuant to section 3(4) of the 1990 Act.²⁰ Section 3(4) provides:

Ofcom may vary a licence by a notice served on the licence holder if—
in the case of a variation of the period for which the licence is to continue in force, the licence holder consents; or in the case of any other variation, the licence holder has been given a reasonable opportunity of making representations to Ofcom about the variation.²¹

Ofcom must therefore consult prior to amending the licence of an existing licence holder. Any representation must be taken into account in any decision on variation. But Ofcom is permitted to form its own view, in accordance with public law principles, as to whether a variation is required.

Fit and proper person test

16. As regards the granting of a licence, section 3(3) common to both the 1990 Act and the 1996 Act lays down a ‘fit and proper’ person test. Section 3(3) of the 1990 Act states:

Ofcom— (a) shall not grant a licence to any person unless they are satisfied that he is a fit and proper person to hold it; and

(b) shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.

This provision is reiterated in section 3 (3) of the 1996 Act. The effect of these provisions is to impose on Ofcom a duty to ensure that any new licence applicant is a fit and proper person to hold a broadcasting license and, in addition, that any existing licensee continues to be a fit and proper person to

²⁰ Analogous provisions (in respect of different forms of licence) are set out in section 3(4) of the Broadcasting Act 1996. See also Broadcasting Act 1996 and section 86 of the Broadcasting Act 1990.

²¹ Analogous provisions (in respect of different forms of licence) are set out in section 3(4) of the Broadcasting Act 1996. See also Broadcasting Act 1996 and section 86 of the Broadcasting Act 1990.

hold such a licence. In addition, Ofcom must refuse to issue a licence to a 'disqualified person.'²²

17. Ofcom has not published general guidance as to the approach it adopts in respect of the fit and proper test set out in section 3 of the 1990 and 1996 Acts.²³ A broad range of evidence may be relevant to a fit and proper assessment. In practice, the kinds of factors Ofcom looks at in determining whether a licence holder is a fit and proper person may include relevant evidence of misconduct in respect of the licence holder as well as their competence, capabilities and compliance history.
18. Insofar as a licence holder's compliance history is concerned, relevant matters include both compliance with any licensing requirements previously imposed as well as compliance with the Broadcasting Code more generally. In addition, Ofcom may also have regard to broader allegations of criminality or misconduct made against a licence holder. In its 2012 fit and proper decision in respect of Sky, Ofcom regarded allegations of criminality, in particular, phone hacking in News Group Newspapers as relevant to its fit and proper assessment. In addition, information concerning the corporate governance structure of the broadcaster may also be considered, as part of an assessment as to whether these arrangements may mitigate or aggravate concerns which may otherwise arise.
19. It is unusual for Ofcom to find that an existing licence holder is not a fit and proper person to hold a licence. It has done so on two previous occasions. In September 2010 Ofcom revoked three broadcasting licences held by Bang Media (London) Ltd and Bang Channels Ltd.²⁴ In that decision, factors taken into account by Ofcom included the following: the number of previous breaches of the Broadcasting Code; failure by Bang Ltd to pay a fine following a sanctions decision by Ofcom; the seriousness of the breaches and the failure of Bang Ltd to put in place effective arrangements to prevent future infractions. In addition, in 2017 a licence was removed from Iman FM as a result of concerns that content had, on numerous occasions, incited violence.²⁵

Broadcasting Standards

20. There are a number of statutory duties imposed on Ofcom in respect of broadcasting standards.

²² See schedule 2, part 2 of the Broadcasting Act 1990.

²³ [Ofcom has published a brief 'Q and A' on the fit and proper person test.](#)

²⁴ [Notice of revocation.](#)

²⁵ Ofcom's [breach decision](#) and [revocation notice](#).

- (a) CA03 imposes a duty to Ofcom 'to set, and from time to time to review and revise, such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure the standards objectives' (section 319(1) of CA03);
 - (b) Ofcom has a general statutory duty to 'secure the application, in the case of all TV and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services' (section 3(2)(e) of CA03);
 - (c) in performing its functions (including in applying the Broadcasting Code to complaints) Ofcom must have regard to 'the need to secure that the application in the case of television and radio services of standards ... is in the manner that best guarantees an appropriate level of freedom of expression' (section 3(4)(g), CA03);
 - (d) Ofcom must refuse to grant a TLCS licence if the proposed service would be likely to involve contraventions of the standards for programmes and advertising (section 235, CA03).
21. For its part, a licensee must ensure that all content to be included in the proposed licensed service will be able to comply with the relevant codes including:
- (a) the Broadcasting Code, which covers standards in programmes including 'due accuracy' in news, 'due impartiality';
 - (b) Code on Scheduling of Television Advertising (COSTA) Code, which sets limits on the amount of advertising that can be transmitted (eg no more than 12 minutes per hour) and when advertising can be scheduled; and
 - (c) the Broadcast Committee of Advertising Practice (BCAP) Code, which covers standards for the content of broadcast advertising.

The broadcasting standards objectives

22. Ofcom is required under CA03 and the 1996 Act to draw up a code for TV and radio, concerning standards in a wide range of matters. Section 319(4) of CA03 imposes a duty on Ofcom 'to set, and from time to time to review and revise, such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure the standards objectives'. Relevant standards are set out in section 319 to 322 of CA03.

23. The 'standards objectives' are defined in section 319(2). These standards include:

- (a) that persons under the age of 18 are protected;
- (b) that material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television and radio services;
- (c) that news included in television and radio services is presented with due impartiality and that the impartiality requirements of section 320 [eg the duty of special impartiality] are complied with;
- (d) that news included in television and radio services is reported with due accuracy;
- (e) that the proper degree of responsibility is exercised with respect to the content of programmes which are religious programmes;
- (f) that generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material;
- (fa) that the product placement requirements referred to in section 32(3A) are met in relation to programmes included in a TV programme service (other than advertisements);
- (g) that advertising that contravenes the prohibition on political advertising set out in section 321(2)²⁶ is not included in TV or radio services;
- (h) that the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented;
- (i) that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with;
- (j) that the unsuitable sponsorship of programmes included in television and radio services is prevented;

²⁶ Under section 321(2) of the [Broadcasting Act 1996](#) an advertisement contravenes the prohibition on political advertising 'if it is— (a) an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature; (b) an advertisement which is directed towards a political end; or (c) an advertisement which has a connection with an industrial dispute'.

(k) that there is no undue discrimination between advertisers who seek to have advertisements included in television and radio services; and

(l) that there is no use of techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds, without their being aware, or fully aware, of what has occurred.

24. In short, standards include due accuracy and due impartiality, a restriction on harmful or offensive material, as well as other matters including advertising, product placement, responsible broadcasting in respect of religious programmes, and the control of political advertising.

Special impartiality

25. Section 320 (referred to in section 319(2)(c) of CA03) imposes additional ‘special impartiality’ requirements in respect of ‘matters of political or industrial controversy’ and ‘matters relating to current public policy’. Insofar as such matters are concerned, the requirements of special impartiality are that broadcasters must:

- (a) exclude from TV and radio services (save for restricted services as per section 245 of CA03²⁷) ‘all expressions of the views or opinions **of the person providing the service** on any of the matters [specified in section 320(2) under CA03]’ (emphasis added);²⁸
- (b) preserve, in the case of every TV programme service, teletext service, national radio service and national digital sound programme service, due impartiality on the part of the person providing the service in respect of matters in section 320(2) of CA03;²⁹
- (c) prevent, in the case of every local radio service, local digital sound programme service or RLCS service, ‘the giving of undue prominence in the programmes included in the service to the views and opinions of particular persons or bodies on any of [the matters prescribed in section 320(2) of CA03]’.

²⁷ According to section 245(4)(c) [CA03](#) a restricted service is a service which ‘if it is a sound broadcasting service provided ... with a view to its being broadcast for reception— (i) within a particular establishment in the United Kingdom or at another defined location in the United Kingdom; or (ii) for the purposes of a particular event taking place within the United Kingdom’.

²⁸ Section 320(1)(a), [CA03](#).

²⁹ Section 320(1) (b), [CA03](#).

26. Further specific provision for due impartiality is made in respect of ‘major’ matters of political or industrial controversy or public policy. Section 320(6) of CA03 provides that the Broadcasting Code ‘must, in particular, take account of the need to ensure the preservation of impartiality in relation... (a) matters of major political or industrial controversy’ and (b) ‘major matters relating to current public policy’. As explained later, specific provision is made by Ofcom in respect of major matters in section five of the Broadcasting Code.
27. A broadcaster may satisfy the special impartiality requirements of section 320(1)(b) of CA03 by reference to ‘a series of programmes taken as a whole’. The Broadcasting Code provides further guidance in respect of this test, as explained later.

Scope of the duties of due impartiality, due accuracy and special impartiality

28. The general requirements of due impartiality and due accuracy apply to ‘news’. As regards the due impartiality and due accuracy standards, section 319(8) of CA03 clarifies that news means news in whatever form it is included in a service. Ofcom’s guidance to section 5 of the Broadcasting Code clarifies that news includes news bulletins, news flashes and daily news magazine programmes.
29. The impartiality and accuracy standards are therefore not limited to news when broadcast in a slot or segment designated by a broadcaster as news. However, the concept of news is not expressly defined in CA03 or the 1990 or 1996 Acts.
30. Importantly, the duty of special impartiality is **not limited** to news but applies to other programmes included in a licensed service by broadcasters regarding ‘matters of political or industrial controversy’ or ‘current public policy’. ³⁰

Relevant considerations in respect of the Broadcasting Code

31. Section 319(4) of CA03 makes clear that in ‘setting or revising’ standards set out in the Broadcasting Code, Ofcom ‘must have regard ... to such extent as appears to them to be relevant to the securing of the standards objectives’, to various particular matters specified in section 319(4) of CA03. These factors include:

³⁰ There are different impartiality requirements for different kinds of broadcasting licence.

(a) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description;

(b) the likely size and composition of the potential audience for programmes included in TV and radio services generally, or in TV and radio services of a particular description;

(c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience;

(d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content;

(e) the desirability of securing that the content of services identifies when there is a change affecting the nature of a service that is being watched or listened to and, in particular, a change that is relevant to the application of the standards set under this section; and

(f) the desirability of maintaining the independence of editorial control over programme content.

32. In practice, Ofcom take these contextual factors into account when applying the broadcasting standards.³¹

33. In drafting and enforcing the Broadcasting Code, Ofcom must also comply with the rights set out in the European Convention on Human Rights (ECHR) and, in particular, the right to private and family life (article 8) and the right to free expression (article 10).

The Broadcasting Code

34. The Broadcasting Code provides rules and principles as well as guidance concerning how broadcasters must comply with the broadcasting standards set in accordance with CA03. As well as the Broadcasting Code itself, Ofcom has published Guidance Notes on the Broadcasting Code (the Guidance Notes) as to how the Broadcasting Code will ordinarily be interpreted by Ofcom. The Broadcasting Code and supplementary Guidance Notes cover a range of matters including: protection for the under 18s; harm and offence;

³¹ [Broadcasting Code](#), page 5.

crime, disorder, hatred and abuse; religion, due impartiality and accuracy; elections and referendums; fairness; privacy; commercial references on TV and commercial communications on radio.

35. For the avoidance of any doubt, all of the standards objectives referred to above are relevant to our consideration of the broadcasting standards consideration in section 58 (2C)(c) of the Enterprise Act 2002 (the Act). However, in the next section we briefly describe the manner in which certain standards are implemented, namely those of due impartiality, special impartiality and due accuracy. These standards are not only relevant to the broadcasting standards consideration but are also relevant to the media plurality consideration in particular, given that it has been suggested to us that the Broadcasting Code would prevent or inhibit the extent to which increased editorial alignment could occur.

Due impartiality and due accuracy

36. The Broadcasting Code sets out the following principles as regards due impartiality and due accuracy.³² Broadcasters must:
- ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality;
 - ensure that the special impartiality requirements of CA03 are complied with.
37. Section 319(8) of CA03 clarifies that ‘news’ means ‘news in whatever form it is included in a service’. The Broadcasting Code clarifies that news includes news bulletins, news flashes and daily news magazine programmes. The requirement of due impartiality in respect of news does not prevent a broadcaster from adopting its own interpretation in respect of the news items it presents. Ofcom’s guidance on section 5 of the Broadcasting Code makes clear ‘[i]n accordance with a broadcaster’s right to freedom of expression, the broadcaster has the right to interpret news as it sees fit, as long as it complies with the Code’.
38. The Broadcasting Code requires that significant mistakes in news should normally be acknowledged and corrected on air quickly and such corrections appropriately scheduled.³³ In addition, no politician may be used as a

³² [Broadcasting Code](#), section five.

³³ [Broadcasting Code](#), section five, paragraph 5.2. Note that in the case of the BBC’s on-demand programme services the requirement is for any significant mistakes to be corrected quickly and appropriately signalled to viewers.

newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified (in that case, the political allegiance of the person must be made clear to the audience).³⁴

39. Ofcom provides the following guidance as regards the concept of ‘due’ impartiality in the Broadcasting Code, making clear that the requirements of impartiality are context dependent.

‘Due’ is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. ‘Due’ means adequate or appropriate to the subject and nature of the programme. So ‘due impartiality’ does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.³⁵

40. The concept of due accuracy is not expressly defined in the Broadcasting Code. However, in the supplementary Guidance Notes Ofcom makes clear that the reference to **due** accuracy indicates that, like impartiality, the degree of accuracy required in a particular instance may vary according to context (for example, the subject-matter of the programme or its intended audience).³⁶ Ofcom also makes clear that where a matter is of particular public interest, the requirement to present that matter with due accuracy will be correspondingly higher.³⁷
41. The concepts of due impartiality and due accuracy are interpreted and applied by Ofcom in line with the requirements of the right to freedom of expression set out in article 10, ECHR.³⁸ Ofcom explains that broadcasters have the right to interpret news events as they see fit, as long as they comply with the Broadcasting Code; but that broadcasters should take care before making any unequivocal interpretations or statements about contentious issues, which

³⁴ [Broadcasting Code](#), section five, paragraph 5.3.

³⁵ [Broadcasting Code](#) section five, p. 28.

³⁶ [Guidance notes: due impartiality and due accuracy and undue prominence of views and opinions: guidance notes on section 5](#), paragraph 1.7.

³⁷ [Guidance notes: due impartiality and due accuracy and undue prominence of views and opinions: guidance notes on section 5](#), paragraph 1.7.

³⁸ [Guidance notes: due impartiality and due accuracy and undue prominence of views and opinions: guidance notes on section 5](#), paragraph 1.9.

may be dependent on nuance and open to different interpretations: eg statistical findings or ambiguous statements made by politicians.³⁹

Special impartiality in respect of political, industrial and policy matters

42. As noted above, special impartiality requirements are also imposed by section 320 of CA03 in respect of matters of political and industrial controversy or matters relating to current public policy. These requirements are implemented by section 5 of the Broadcasting Code, where such matters are defined as:

Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations, relevant European institutions etc.⁴⁰

43. The person providing the broadcasting service must not, in general, adopt and express views in respect of any of these matters and must remain impartial in respect of them. This requirement is further explained in rules 5.4 and 5.5 of the Broadcasting Code, which explain:

Programmes ... must exclude all expressions of the views and opinions of the person providing the service on matters of political and industrial controversy and matters relating to current public policy (unless that person is speaking in a legislative forum or in a court of law). Views and opinions relating to the provision of programme services are also excluded from this requirement.

Due impartiality on matters of political or industrial controversy and current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole.

44. Rule 5.9 of the Broadcasting Code makes clear that - with the exception of news presenters and reporters in news programmes - presenters of 'personal view' or 'authored' programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial

³⁹ [Guidance notes: due impartiality and due accuracy and undue prominence of views and opinions: guidance notes on section 5](#), paragraph 1.9.

⁴⁰ [Broadcasting Code](#), section five, page 29.

controversy or matters relating to current public policy. The Broadcasting Code, however, also makes clear:

- (a) alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole;
- (b) in addition, ‘presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. Presenter phone-ins must encourage and must not exclude alternative views’.

45. The Broadcasting Code makes clear that ‘in dealing with matters of **major** political and industrial controversy and major matters relating to current public policy an appropriately wide range of **significant views** must be included and given due weight in each programme or in clearly linked and timely programmes’ (emphasis added).⁴¹ In practice, where a programme covers a ‘major’ matter, Ofcom will scrutinise the broadcast with a greater degree of intensity.

46. Ofcom’s Guidance Notes to section 5 explain:

Significant views could include the viewpoint of nation states whose policies are considered to be matters of major political and industrial controversy and major matters relating to current public policy.

As part of treating viewpoints with ‘due weight’ a broadcaster may debate and discuss such views. However, broadcasters must not dismiss or denigrate such viewpoints and include them in a programme simply as a means to put forward their own views.⁴²

47. Thus, a broadcaster is permitted to broadcast opinion based programmes which adopt a particular viewpoint. But where this is done, such programmes must be balanced with alternative viewpoints, either on that programme or in ‘a series of programmes taken as a whole’.

48. The concept of a ‘series of programmes’ is therefore particularly important as regards the duty of due impartiality since it is possible for a broadcaster to satisfy the requirements of impartiality by reference to a series of programmes and not just one. The concept is accorded a specific (and relatively narrow)

⁴¹ [Broadcasting Code](#), section five, paragraph 5.2.

⁴² [Guidance notes: due impartiality and due accuracy and undue prominence of views and opinions: guidance notes on section 5](#), paragraph 1.58-1.59.

meaning by the guidance. Rule 5.5 of the Broadcasting Code makes clear that:

[A] series of programmes taken as a whole is understood to mean 'more than one programme in the same service, **editorially linked**, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a 'cluster' or 'season' of programmes on the same subject. (emphasis added).

49. In addition, rule 5.6 makes clear that '[t]he broadcast of editorially linked programmes dealing with the same subject matter (as part of a series in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air'. It would not ordinarily be sufficient, therefore, to justify a programme presenting partial, opinionated content, by reference to a programme, at a quite different time, with no editorial link which happens to include alternative viewpoints. For an ostensibly partial programme to be justified by reference to other programming, there must be an editorial link between the programmes and the link between the programmes should be made clear on air to the audience.
50. When assessing due impartiality, Ofcom takes into account a range of factors – including whether the programme, channel or service is aimed at a UK audience. In particular, Ofcom considers that the likely expectation of the audience as to content and the extent to which the content is signalled to the audience is a key consideration in its assessment. In that regard, Ofcom considers that UK audiences would have different expectations of impartiality for an overseas channel which is aimed at a UK audience and for an overseas channel broadcast in the UK, but which is aimed at an overseas audience.
51. Ofcom has investigated and, on various occasions, recorded breaches of the requirement for due accuracy and for due impartiality and special impartiality against broadcasters including, for example, Channel 4 News,⁴³ Russia Today (RT),⁴⁴ and Fox News⁴⁵ among others.

⁴³ [Ofcom issue 336 broadcast on-demand bulletin](#).

⁴⁴ [Ofcom issue 213 broadcast on-demand bulletin](#). A more detailed list of Ofcom's Section 5 investigations (addressing inaccuracy, partiality or alleged breach of the duty of special impartiality).

⁴⁵ A more detailed list of Ofcom's Section 5 investigations (addressing inaccuracy, partiality or alleged breach of the duty of special impartiality).

Monitoring and enforcement

52. Ofcom investigates and, where appropriate, adjudicates upon complaints in respect of compliance by a broadcaster with the broadcast standards. Complaints are examined by a content standards case assessor. A decision is taken as to whether a complaint raises issues warranting the launch of a formal investigation. Investigations are undertaken by a case officer or case manager and, if Ofcom intends to publish the case (which it will do if there is a breach or if there is no breach but it is of public interest to publish a 'no breach decision'), a preliminary view is sent to the broadcaster. Submissions on Ofcom's preliminary view may be made by the broadcaster at this stage. A final decision is then taken by a senior member of Ofcom's executive with appropriate board-delegated authority, who will not have been involved in the investigation and/or the preparation of the preliminary view.
53. In 2016 to 2017, Ofcom received 15,922 complaints. Based on those complaints, Ofcom carried out 162 investigations, including 68 investigations into harm and offence, four investigations into due accuracy, and 11 investigations into due impartiality. In this period, Ofcom found 97 breaches of the Broadcasting Code.
54. As regards monitoring, Ofcom does not continuously monitor compliance with the Broadcasting Code and licensing requirements by all licensees given the resources required for monitoring. Ofcom takes a risk-based approach to identifying services which it considers should, from time to time, be monitored.
55. Where Ofcom finds that the Broadcasting Code has been breached it has a range of sanctioning powers at its disposal. Remedial measures can include on-air corrections as well as financial penalties, licence suspension and licence revocation, which may be appropriate in the case of more serious or repeated breaches.

Regulation of the press

56. The system for the regulation of the press is quite different from the system for the regulation of broadcasting. Crucially, whereas broadcasters are under a duty of impartiality there is no such duty on the press. Newspapers are, almost invariably, partisan in their approach to all manner of political or public policy issues. The nature of regulation is also quite different in the context of the press. In contrast to broadcasters, which are subject to a regime of compulsory regulation overseen by Ofcom, the press are self-regulating.

The Leveson Inquiry

57. The Leveson Inquiry was established in 2011 to investigate the culture, practices and ethics of the press following the phone hacking scandal. The Leveson Inquiry was divided into two parts, owing to ongoing police investigations into the phone hacking:
- (a) Part I considered the culture, practices and ethics of the press, including contacts between the press and politicians and the press and the police; it considered the extent to which the regulatory regime in place at the relevant time failed and whether there was a failure to act upon any previous warnings about media misconduct;
 - (b) Part II (which has not yet been held) is to consider the extent of unlawful or improper conduct within News International, other media organisations or other organisations. It will also consider the extent to which any relevant police force investigated allegations relating to News International, and whether the police received corrupt payments or were otherwise complicit in misconduct.⁴⁶
58. The Leveson Inquiry found that in the period prior to 2011, regulation of the press had failed. Lord Justice Leveson identified four key criticisms of the Press Complaints Commission (PCC) namely:
- (a) the PCC was not a regulator but a complaints handling body;
 - (b) the PCC was hamstrung by numerous structural deficiencies, in particular a lack of independence. The Editors' Code Committee which sets the Editors' Code of Practice (the Editors' Code)⁴⁷ was wholly made up of serving editors and was separate from the PCC and appointed by persons wholly within the industry. In addition, it had limited resources, insufficient to enable it to do all that it needed;
 - (c) the PCC had inadequate powers. In particular, it lacked power to conduct an effective investigation and was dependent on what it was told by the press organisation being investigated;

⁴⁶ At present, it is unclear whether part 2 of the Leveson Inquiry will be held. On 1 November 2016, the government opened a consultation process concerning the Leveson Inquiry and in particular whether to open part 2 of the Leveson Inquiry and whether to implement section 40 of the Crime and Courts Act 2013. This consultation closed on 10 January 2017. The government is presently considering [submissions received in the course of this consultation](#).

⁴⁷ The Editors' Code sets out a body of principles and rules concerning matters such as accuracy, the protection of privacy and a prohibition on harassment. These rules are drawn up by the Editors' Code Committee which is comprised, mostly, of editors. Prior to its dissolution, the Editors' Code was enforced by the PCC.

- (d) the powers it had were under-utilised. For example, the PCC did not monitor press compliance with the Editors' Code.
59. Based on its findings regarding these shortcomings, the Leveson Inquiry recommended:⁴⁸
- (a) an independent, self-regulatory regime be established to regulate the press going forward. The Leveson Inquiry made a series of recommendations as to the requirements that a self-regulatory body should fulfil in future on a range of matters. These included: the structural and financial independence of any regulatory body established by the press; a requirement that a recognised regulatory body should require its members to have an 'adequate and speedy' complaints handling mechanism; a greater range of remedial powers should be at the disposal of the regulator including the power to impose substantial fines (up to 1% of turnover up to a maximum of £1 million). As regards investigations, the Inquiry recommended that a recognised regulatory body should have authority to examine issues on its own initiative and have sufficient powers to carry out investigations both into suspected serious or systemic breaches of the code and failures to comply with directions of the board of the regulator in question.
 - (b) the Leveson Inquiry rejected the suggestion that regulation should be compulsory. Instead, it recommended that a recognition body be established with power to determine whether, upon application, a self-regulatory body adhered to the requirements identified by the Leveson Inquiry and, if so, to recognise such a body. The Leveson Inquiry recommended that recognition should confer a series of tangible benefits on the members of a recognised body to encourage membership and the adoption of higher standards of regulation. This included the possibility of exemplary damages payable by a publisher which was not member of the press recognition body and changes to the Civil Procedure Rules so that members of a non-recognised regulator would not necessarily obtain their legal costs, even if sued unsuccessfully by a claimant in respect of a publication.
60. Following consideration by parliament, many of the recommendations made by the Leveson Inquiry have now been implemented.

⁴⁸ [A summary of the Leveson Inquiry's findings and recommendations is available.](#)

Implementation of the Leveson Inquiry recommendations

61. The Press Recognition Panel (PRP) was established on 3 November 2014 by Royal Charter. The PRP is empowered to confer recognition upon a self-regulatory body established by the press where that body complies with the Charter Recognition Criteria laid down in schedule 3 of the Royal Charter. These criteria reflect those identified by the Leveson Inquiry including, the following:
- (a) requirements concerning appointments, financing and structures designed to ensure the independence of the regulatory body and its board;
 - (b) requirements concerning complaints processes;
 - (c) a requirement that a regulatory body 'should have authority to examine issues on its own initiative and have sufficient powers to carry out investigations both into suspected serious or systemic breaches of the code and failures to comply with directions of the board' as well as there being an obligation on those investigated to comply with the investigation;
 - (d) a requirement that the body have power to 'impose appropriate and proportionate sanctions (including but not limited to financial sanctions up to 1% of turnover attributable to the publication concerned with a maximum of £1 million) on any subscriber found to be responsible for serious or systemic breaches of the standards code or governance requirements of the body';
 - (e) a requirement that the body afford complaints an arbitral process for civil legal claims which complied with the Arbitration Act 1996.
62. Sections 34 and 40 of the Crime and Court's Act 2013 have been enacted (though neither has entered into force). As envisaged in the Leveson Inquiry's recommendations, section 34 permits the award of exemplary damages against a publisher for a tortious publication resulting in libel, slander, misuse of personal information or breach of confidence. Section 40 of the Crime and Court's Act 2013 generally precludes the award of costs against a member of an approved regulator even if that publisher is found liable for unlawful conduct (unless the court considers the award of costs to be just and equitable). No such protection is generally afforded to publishers who are not members of an approved regulator.
63. Since the Leveson Inquiry two self-regulatory bodies have been established to regulate the press, the independent press standards organisation (IPSO) and IMPRESS.

Independent Press Standards Organisation

64. IPSO was established on 8 September 2014 following the dissolution of the PCC. IPSO has not sought recognition from the PRP but, in practice, IPSO regulates the vast majority of the UK press. Indeed, IPSO regulates almost all major UK national daily titles (90% by circulation) including The Sun, The Times and The Sunday Times. However, not all major publications fall within its remit (for example, IPSO does not regulate The Guardian or The Observer, The Financial Times or The Evening Standard). IPSO is funded by the Regulatory Funding Company (RFC), which does this by raising a levy on the news media and magazine industries. Board members of RFC include Pia Sarma (Editorial Legal Director at The Times), and representatives from The Telegraph, Daily Mail and General Trust Group (DMGT), and Northern and Shell.
65. IPSO's board is responsible for the oversight, vision and strategic direction of IPSO. It monitors performance and through the IPSO Executive provide advice and support to member publishers. The board are also responsible for appointing the IPSO Complaints Committee. The Complaints Committee judges complaints relating to potential breaches of the Editors' Code and decides on what a newspaper or magazine should do if the Editors' Code has been breached - including whether or not to find that publication of a correction or critical ruling is needed to remedy a breach of the Editors' Code. IPSO has the power to determine the nature and extent of the ruling, on what page, in what font size, position and with a headline determined by the regulator.
66. IPSO's powers are set out in its regulations.
- (a) it has power to adjudicate upon complaints made to it regarding non-compliance with the Editors' Code. The Editors' Code deals with matters including accuracy, privacy, the protection of children and harassment. Publishers have a legally enforceable contractual duty to cooperate with IPSO in the resolution of complaints. IPSO publishes statistics regarding the number of complaints received and upheld against each regulated publisher on an annual basis;
 - (b) IPSO's remedial powers are set out in regulations 30 and 31 of the IPSO Regulations. Where IPSO finds that a publisher has breached the Editors' Code it may require the publication to publish a correction or critical adjudication in the place and size of IPSO's choosing. IPSO does not have power to fine a publisher where a complaint is upheld. However, a fine may be imposed following a standards investigation launched by IPSO;

(c) IPSO members are required to produce an annual statement addressing various matters including: details of the publisher's compliance processes, including, inter alia, how the publisher deals with compliance with the Editors' Code and editorial complaints;

(d) under regulation 53.1 of the IPSO Regulations, 'where [it] reasonably considers that there may have been serious and systemic breaches of the Editors' Code' it may commence a standards investigation. IPSO has the power to initiate a standards investigation for a variety of other reasons, including failure to comply with directions. As part of a standards investigation, IPSO may request disclosure of documents, answers to questions or access to persons. In the event of a dispute as to the permissibility of such a request, IPSO's board has the final decision under regulation. Following the decision of a standards investigation, IPSO may impose a range of measures including a fine, costs or termination of the membership of the publisher under regulation. Fines or costs may only be imposed where sufficiently serious. To date, IPSO has never launched a standards investigation.

e) IPSO operates an arbitration scheme to provide a cost effective, straightforward and quick method of solving legal disputes between claimants and participating members of the press, including claims for libel, slander, misuse of private information, breach of confidence, malicious falsehood, harassment and data protection. It is a voluntary scheme where in which both parties agree to binding arbitration overseen by specialist barristers. It is managed by Alternative Dispute Resolution provider, CEDR.

IMPRESS

67. IMPRESS was approved by the PRP as a recognised regulator on 25 October 2016. On 12 October 2017, the High Court upheld the recognition decision of IMPRESS following a challenge by the News Media Association (NMA), which represents media organisations in the UK. The NMA has said that it will be seeking leave to appeal the judgment to the Court of Appeal.
68. As a recognised regulatory body, the PRP has certified that IMPRESS has in place procedures which comply with all of the requirements identified in schedule 3 of the Royal Charter (set out above). As such, all members of IMPRESS will be entitled to the benefits of sections 34 and 40 of the Crime and Court's Act 2013, if and when this provision enters into force.

69. Presently, none of the main publishers in the UK are regulated by IMPRESS. In particular, none of News Corp's UK titles (such as The Sun, or The Times) are regulated by IMPRESS.
70. IMPRESS is funded by the Independent Press Regulation Trust (the IPRT) and by participating publisher subscriptions. The IPRT is a charity which seeks to promote independent press regulation. It can, in principle, award grants to any organisation which shares this charitable aim. The IPRT is, in turn, presently funded through the Alexander Mosley Charitable Trust. Until 24 July 2017, IMPRESS applied the Editors' Code of Practice (the same as IPSO). In 2017, IMPRESS published the IMPRESS Standards Code, which it now uses to judge the conduct of publishers. This Code covers similar issues to the Editors' Code of Practice albeit with some significant variations. Like the Editors' Code there is no duty of impartiality under the IMPRESS Standards Code.

The press codes of practice

71. As explained earlier, there are now two codes of practice for the self-regulation of the press in operation in the UK: The Editors' Code and the IMPRESS Standards Code. IPSO applies the Editors' Code. The Editors' Code sets out the rules that newspapers and magazines regulated by IPSO have agreed to follow. The Editors' Code is written and administered by the Editors' Code Committee and enforced by IPSO. The Editors' Code Committee is separate from IPSO (although the Chair of IPSO, Sir Alan Moses and the Chief Executive of IPSO Matt Tee, are also Code Committee Members).
72. The preamble to the Editors' Code emphasises:
- [I]t is essential that an agreed Code be honoured not only to the letter, but in the full spirit. It should be interpreted neither so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it infringes the fundamental right to freedom of expression – such as to inform, to be partisan, to challenge, shock, be satirical and to entertain – or prevents publication in the public interest.
73. The Editors' Code deals with issues such as accuracy, invasion of privacy, intrusion into grief or shock and harassment. In contrast to the Broadcasting Code, the Editors' Code does not impose any duty of impartiality.

74. Insofar as accuracy is concerned, the Editors' Code provides that '[t]he Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text'. It further provides:

A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

75. Although there is no impartiality requirement, the Editors' Code does provide that '[t]he Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact'. In other words, comment and editorialised comment must be distinguished from factual journalism. As well as publishing the Editors' Code, the Editors' Code Committee also publishes various guidance notes on the interpretation and application of the Editors' Code in practice. The guidance notes cover a range of specific issues including: coverage of mental health issues; court reporting; coverage concerning refugees and asylum seekers; persons accused of crime.
76. The IMPRESS Standards Code is owned and controlled by IMPRESS, independently of editors. It was developed following a comprehensive consultation exercise involving the general public, civil society groups and the news publishing industry. It addresses similar issues to the Editors' Code. Some of the obligations are, however, formulated slightly differently. For example, section 1.1 of the IMPRESS Code requires publishers to 'take all reasonable steps to ensure accuracy'. Although the IMPRESS Code makes no reference to the 'spirit' of the document it does make clear that the Code is meant to be '[a] practical working tool that enables journalists, editors and publishers to do their jobs'. However, the IMPRESS Code includes some significant variations to the Editors' Code. It includes a comprehensive definition of the public interest, a presumption that corrections will normally be made with equal prominence, a specific clause which prohibits hate speech. It also provides the opportunity for representative groups (not just affected individuals) to bring complaints to IMPRESS about news content that makes prejudicial, pejorative or irrelevant references to a person's protected characteristics, if the complaint is in the public interest.

Appendix C: The Broadcasting Code

Details of the sections of the Broadcasting Code

1. Ofcom is required under the Communications Act 2003 (CA03) and the Broadcasting Act 1996 (the 1996 Act) to draw up a code for television and radio, covering standards in programmes, sponsorship, product placement in television programmes, fairness and privacy. This code is referred to as the Broadcasting Code.
2. The Broadcasting Code is set out in terms of principles, meanings and rules and is there to help readers understand the standards objectives and to apply to rules. All broadcasters must ensure they comply with the rules as set out in the Broadcasting Code. It is the responsibility of the broadcaster to ensure compliance with the Broadcasting Code.
3. The Broadcasting Code is divided into ten sections. sections one to nine of the Broadcasting Code (except sections seven and eight) relate to the content the general public sees and/or hears as viewers and listeners. Our assessment of breaches by broadcasters in chapter 15 does not consider section seven, eight or ten of the Broadcasting Code. This is because section seven and section eight are different from the other sections of the Broadcasting Code, as they apply to how broadcasters treat the individuals or organisations directly affected by programmes and do not relate to the standards objectives under section 319 of CA03; section ten applies to radio only. All sections of the Broadcasting Code are summarised here.

Section one: Protecting the under 18s

4. This section outlines the rules around scheduling and content information in programmes with regard to protecting children under the age of 18.

Section two: Harm and offence

5. This section outlines standards for broadcast content so as to provide adequate protection for members of the public from harmful and/or offensive material.

Section three: Crime, disorder, hatred and abuse

6. This section of the Broadcasting Code covers material that is likely to incite crime or disorder, reflecting Ofcom's duty to prohibit the broadcast of this type of programming.

Section four: Religion

7. This section relates to the responsibility of broadcasters with respect to the content of religious programmes.

Section five: Due impartiality and due accuracy

8. This section is to ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality, and to ensure that the special impartiality requirements of CA03 are complied with.

Section six: Elections and referendums

9. This section covers the special impartiality requirements and other legislation that must be applied at the time of elections and referendums.

Section seven: Fairness

10. This section is to ensure that broadcasters avoid unjust or unfair treatment of individuals or organisations in programmes.

Section eight: Privacy

11. This section is to ensure that broadcasters avoid any unwarranted infringement of privacy in programmes and in connection with obtaining material included in programmes.

Section nine: Commercial references on TV

12. This section relates to broadcasters' editorial independence and control over programming with a distinction between editorial content and advertising.

Section ten: Commercial communications on radio

13. This section relates to radio broadcast only and is to ensure the transparency of commercial communications as a means to secure consumer protection

Appendix D: Background to the media plurality consideration

Introduction

1. In undertaking our analysis of the media plurality consideration we have taken account of its background. In particular this appendix sets out:
 - (a) the context in which the media plurality consideration was adopted in 2003 and current rules on cross-media ownership;
 - (b) how the concept of media plurality has been interpreted and applied since 2003; and
 - (c) Lord Justice Leveson's consideration of media plurality in the Leveson Inquiry and subsequent developments.
2. Our assessment of the media plurality public interest consideration has drawn on a range of sources:
 - (a) the [Explanatory note](#) to CA03 (in particular, paragraphs 802 to 811);
 - (b) the [Hansard report of 5 June 2003](#) in which the amendment that inserted section 58(2C) of the Act was moved (in particular from column 1431) and subsequent debates in parliament (in particular the [Hansard report of 8 July 2003](#));
 - (c) Department of Trade and Industry (DTI) May 2004 guidance '[Enterprise Act 2002: Public Interest Intervention in Media Merger: Guidance on the operation of the public interest merger provisions relating to newspaper and other](#)' (the DTI Guidance);
 - (d) the Competition Commission's (CC) 14 December 2007 [report on the acquisition by British Sky Broadcasting Group Plc of 17.5% of the shares of ITV](#) (BSkyB/ITV report);
 - (e) the Court of Appeal's decision in [British Sky Broadcasting Group plc v The Competition Commission \[2010\] EWCA Civ 2 \(Court of Appeal BSkyB/ITV judgment\)](#) and the earlier Competition Appeal Tribunal (CAT) judgment ([2008 CAT 25](#)) (CAT [BSkyB/ITV judgment](#));
 - (f) Ofcom's December 2010 [report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation](#) (News Corp/BSkyB);

- (g) Ofcom's June 2012 advice to the Secretary of State: [Measuring media plurality](#);
- (h) Ofcom's October 2012 [report on public interest test on the acquisition of Guardian Media Group's radio stations \(Real and Smooth\) by Global Radio](#) (Global/GMG);
- (i) Lord Justice Leveson's November 2012 report [An Inquiry into the Culture, Practices and Ethics of the Press](#) (the Leveson Report) (in particular part 3 chapter 4 'Plurality' on page 180);
- (j) the House of Lords Select Committee on Communication February 2014 [Report on Media Plurality](#) (House of Lords media plurality report) and the government's August 2014 [response](#);
- (k) Ofcom's November 2015, [Measurement Framework for Media Plurality](#); and
- (l) Ofcom's November 2015 [Report to the Secretary of State on the operation of the media ownership rules listed under Section 391 of CA03](#) (2015 Media Ownership Report).

The context in which the media plurality consideration was adopted in 2003 and current rules on cross-media ownership

Protection of media plurality before the Communications Act 2003

3. The Broadcasting Act 1990 (the 1990 Act) introduced a new licensing regime for commercial TV and radio broadcast services. Specific controls were introduced to ensure plurality in the provision of broadcast news. Specifically, the 1990 Act restricted the maximum ownership of a nominated news provider⁴⁹ to 20% and each nominated news provider was only permitted to own up to 50% of a regional Channel 3 licence. The Broadcasting Act 1996 (the 1996 Act) then made further provision for all holders of regional Channel 3 licences to, as far as possible, appoint the same (single) news provider. The purpose of this was to ensure that high quality national and international news was carried across all Channel 3 regions.
4. The 1990 Act placed ownership (and other) restrictions on direct satellite services holding UK licences. National newspapers could not hold more than a 20% stake in a UK licensed broadcasting satellite channel. However, no

⁴⁹ The Independent Television Commission nominated news providers who would be eligible to provide news programmes for holders of regional Channel 3 licences.

such restriction was placed on newspapers owning non-UK licensed direct satellite services (eg Sky). The 1990 Act imposed specific prohibitions on the holding of broadcasting licences by certain classes of owners, for example religious bodies, local authorities, political parties, advertising agencies. Restrictions were also imposed on those outside the European Economic Area (EEA). These were expanded by the 1996 Act but did not apply to cable and satellite services.

5. The position in relation to cross-media ownership before the Communications Act 2003 (CA03) was as follows⁵⁰:
 - (a) national newspaper owners were tightly limited in their holdings in terrestrial TV and radio, and in domestic satellite broadcasters. Within each category they could hold up to 20% of one licence, and then up to 5% of any others. They were allowed full control of non-domestic satellite broadcasters 'in order to encourage investment in an uncertain and high-risk enterprise';
 - (b) local newspaper owners were less tightly controlled, being allowed to own regional TV or local radio broadcasters, provided there was no significant overlap between the licence area and the paper's circulation area;
 - (c) national TV and radio (and regional Channel 3) broadcasters were limited to a 20% stake in national newspapers and non-domestic satellite licences; and
 - (d) there were no cross-media restrictions on ownership cable services (other than that satellite providers could not own more than 20% of a terrestrial TV or national radio licence).

The development of the media plurality consideration in the CA03

6. The CA03 is a wide-ranging piece of legislation and, in relation to media ownership, its purpose was deregulatory while maintaining sufficient protections for the plurality of media ownership. According to Tessa Jowell MP, at that time Secretary of State for Culture, Media and Sport, the policy objective of the CA03 was to: 'preserve plurality of media ownership while not placing unnecessary and unreasonable restrictions on growth and the workings of the market.'⁵¹ A government briefing note captures this intention,

⁵⁰ This was summarised in the [Leveson Report](#), Volume 1, Part C, Chapter 4, paragraph 3.15.

⁵¹ [Leveson Report](#), Volume 3, Part I, Chapter C, paragraph 5.11 (page 1,280).

and emphasises the importance of a diversity of media content from a plurality of sources:

Our democracy and our cultural vitality depend on the availability of a range of different media voices, views and styles. The ownership of our newspapers, TV and radio is therefore of the utmost importance. That is why the government is concerned to ensure that citizens can receive a diversity of media content from a plurality of sources.

Diversity is about having a wide range of content and in the White Paper, a New Future for Communications, we set out the commitments to public service broadcasting and positive content regulation that we believe will be sufficient to ensure this diversity. 'Plurality is not about content but the source of that content, the 'voice' behind it – the owner. A plurality of voices should: –

- ensure no individual has excessive control over the democratic process;
- provide a plurality of sources of news and editorial opinion, preserving the culture of dissent and argument on which our democracy rests;
- prevent the emergence of any one source able to control the news agenda by the inclusion / omission of particular stories;
- maintain our cultural vitality by ensuring that different companies exist to produce different styles of programming and publishing, each with a different look and feel.

We therefore need regulation that is specifically directed to ensure plurality and that is why we have imposed rules on media ownership.⁵²

7. While restrictions on foreign ownership, among other restrictions, were removed at that time, the current law (as set out in CA03) retains specific restrictions on cross-media ownership relating to ownership of Channel 3.⁵³ Of particular importance are the rules concerning national cross-media

⁵² [Leveson Report](#), Volume 3, Part I, Chapter C, paragraph 5.12 (page 1,281).

⁵³ The chronology of events which resulted in them not applying to Channel 5 is set out in paragraph 5.24 of Chapter 5 of Part I of the [Leveson Report](#).

ownership between newspapers and ITV, ie the 20/20 rule. See paragraph 1.1(a).

8. The government initially considered that given these quantitative restrictions their policy objective could be met without introducing a media plurality consideration into the Act. Lord Puttnam, disagreed and introduced an amendment to the Communication Bill.⁵⁴ When introducing the amendment, Lord Puttnam emphasised its consistency with the government's policy objective by quoting the ministerial statement made at the introduction of the Communications Bill:

Our key aim is to ensure that there is a range of competing voices available to citizens so that they are free to form their own opinions... I believe that such a concentration in one voice would also be harmful to politics, because it could create a media owner so powerful that they could exercise direct influence over political decisions.⁵⁵

9. Support for Lord Puttnam's amendment saw the government accepting the benefit of a media plurality public interest test alongside the 20/20 rule. The government, however, introduced its own amendment, which is now contained in section 58(2C) and 58A of the Act. In doing so Lord McIntosh, speaking for the government, addressed the question of the practical effect of these provisions and emphasised the fact that it would allow judgments to be made in the particular circumstances of the case at hand, thereby being flexible enough to deal with changes taking place in the market over time:

The noble Lord, Lord Puttnam, asked whether this test would 'effectively rule out' a major national newspaper owning Channel 5. The answer is that the test will ensure that the Secretary of State can investigate any merger which threatens plurality. It will

⁵⁴ The text of the amendment initially debated was:

MEDIA PLURALITY PUBLIC INTEREST CONSIDERATION

(1) section 58 of the Enterprise Act 2002 (c. 40) (specified considerations) shall be amended as follows.

(2) After subsection (2) there shall be inserted—

'(2C) The public interest in—

(a) the maintenance of a range of media owners and voices sufficient to satisfy a variety of tastes and interests;

(b) the promotion and maintenance of a plurality of broadcast media owners, each of whom demonstrates a commitment to the impartial presentation of news and factual broadcast programming; and

(c) the promotion and maintenance, in all media including newspapers, of a balanced and accurate presentation of news, the free expression of opinion and a clear differentiation between the two; is specified in this section.'

(3) In subsection (3), after the words 'any consideration', there shall be inserted '(other than the consideration specified in subsection (2C))'.

⁵⁵ [Hansard report of 5 June 2003](#) in which the amendment that inserted section 58(2C) of the Act was moved (see from column 1,431).

clearly prevent unacceptable levels of cross-media dominance. But it is inherent in the nature of a test that one cannot predict the outcome in advance of any individual case. It will be necessary to analyse and consider all the relevant circumstances at the time on a case-by-case basis.⁵⁶

The current rules on cross-media ownership

10. The current rules on cross-media ownership are set out in section 391 of CA03. They are as follows:
 - (a) the national cross-media ownership rule: which prohibits a newspaper operator with a market share of 20% or more of newspaper circulation from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20% (the 20/20 rule);
 - (b) the Channel 3 appointed news provider rule: which acts so as to require regional Channel 3 licensees to appoint a single news provider among them. Individuals or organisations disqualified from holding a Channel 3 licence are also disqualified from being the Channel 3 appointed news provider;
 - (c) the media public interest considerations: which allow the Secretary of State to intervene in a merger involving a broadcaster and/or a newspaper enterprise if certain conditions are met;
 - (d) the disqualified persons restrictions: which prevent certain bodies or persons from holding any broadcast licences, others from holding certain kinds of broadcast licences, and still others from holding broadcast licences unless Ofcom has determined that it is appropriate for them to do so.
11. Following its 2015 review of these rules primarily related to plurality, Ofcom concluded that:
 - (a) the national cross-media ownership rule still plays an important role within the current framework, as it secures a certain level of plurality beyond the BBC and limits the potential for a consolidated entity to exert undue influence;

⁵⁶ House of Lords [Hansard](#), Vol 650, col 915, 2 July, 2003.

- (b) the appointed news provider rule also remains necessary as it guarantees a degree of plurality in wholesale news provision and ensures that the appointed Channel 3 news provider is of sufficient scale to compete; and
 - (c) the media public interest considerations serve as an important backstop, allowing intervention in media mergers (at the discretion of the Secretary of State) and has the benefit of being a targeted rather than a blanket intervention.⁵⁷
12. Ofcom therefore recommended that each of the rules should be retained, although noted that the longer term justification for the rules may become less clear if the use and importance of TV news and newspapers continues to decline.⁵⁸

Previous application of the media plurality consideration

13. Both the Explanatory Notes to the CA03 and the DTI Guidance explain that the media plurality consideration contained in section 58(2C)(a) of the Act is 'concerned primarily with ensuring that ownership of media enterprises is not overly concentrated in the hands of a limited number of persons'⁵⁹. The DTI Guidance expands on this, echoing the policy objective of the CA03:

It would be a concern for any one person to control too much of the media because of their ability to influence opinions and control the agenda. This broadcasting and cross-media public interest consideration, therefore, is intended to prevent unacceptable levels of media and cross-media dominance and ensure a minimum level of plurality.⁶⁰

14. Our interpretation of these statements in terms of our assessment of the media plurality consideration is set out further in chapter 7.

Application by the CC

15. The first and only time the media plurality consideration has been considered in a phase 2 merger inquiry was by the CC in relation to the BSkyB/ITV merger in 2007. This involved the acquisition by Sky (then BSkyB) of a 17.9% stake in ITV plc, in circumstances where the 20/20 rule prevented any significant further acquisition of shares. In its report, the CC noted the

⁵⁷ [2015 Media Ownership Report](#), paragraph 1.11.

⁵⁸ [2015 Media Ownership Report](#), paragraph 1.12.

⁵⁹ Paragraph 802 of the [Explanatory note](#) to CA03 (see in general paragraphs 802 to 811)

⁶⁰ Paragraph 802 of the [Explanatory note](#) to CA03, paragraph 7.7.

Explanatory Notes, DTI Guidance, and statements in the House of Lords during the debates relating to the Communications Bill in 2003.

16. The CC concluded that plurality of control within the media is a matter of public interest because it may affect the range of information and views provided to different audiences. The CC also considered the interaction between the regulation of broadcasters and plurality:

We note that the regulation of media enterprises in relation to plurality and impartiality are distinct. Impartiality relates to the fair and balanced treatment of differing viewpoints in relation to particular news stories. However, it does not address the relative prominence given to each story. In our view, it is a matter of public interest that decisions about the relative importance of different news stories should be made by a range of independent people and reflect diverse perspectives.⁶¹

17. Ultimately the CC, while finding a substantial lessening of competition, concluded in relation to plurality that:

Given the extent of the influence conferred on BSkyB by its acquisition of a 17.9 per cent shareholding in ITV, we concluded that the regulatory mechanisms, combined with a strong culture of editorial independence within TV news production, were likely to be effective in preventing any prejudice to the independence of ITV news. We did not therefore expect BSkyB's ability materially to influence ITV to have an adverse effect on the plurality of news relative to the position absent the acquisition. We therefore concluded that the acquisition would not materially affect the sufficiency of plurality of persons with control of media enterprises servicing audiences for news.^{62,63}

18. The CC was not, therefore, required to reach a conclusion on the sufficiency of plurality following the acquisition by BSkyB.
19. The CAT subsequently overturned the CC's decision on plurality,⁶⁴ but the CAT's judgment was then itself overturned on appeal in relation to the

⁶¹ While the Court of Appeal considered the interpretation of section 58A it did not consider the interpretation of plurality in general. The CAT similarly focused on the interpretation of section 58A.

⁶² [Paragraph 41](#).

⁶³ This conclusion was upheld on appeal to the Court of Appeal

⁶⁴ [Virgin Media, Inc v \(1\) Competition Commission \(2\) Secretary of State for Business, Enterprise and Regulatory Reform \[2008\] CAT 25](#).

interpretation and application of section 58A of the Act by the Court of Appeal⁶⁵.

Application by Ofcom (prior to the Transaction)

20. The media plurality public interest test was considered at phase 1 by Ofcom in 2011 in relation to News Corp's bid to acquire the shares of Sky it did not own (News Corp/Sky), and in 2012 in relation to the acquisition of Guardian Media Group's radio stations (Real and Smooth) by Global Radio (Global/GMG).⁶⁶
21. In News Corp/Sky Ofcom discussed both the 'static effects' of the proposed acquisition on plurality immediately after the transaction and the 'dynamic effects' of the proposed acquisition. Ofcom's advice taking account of the static effects was for the Secretary of State to make a reference to the CC for a phase 2 review.⁶⁷ Ofcom's report also expressed concerns about the statutory framework, in particular that it only applies in relation to specific corporate transactions. Ofcom highlighted that if a transaction is found not to operate against the public interest in relation to plurality, there is no subsequent opportunity or mechanism to address or consider any plurality concerns that may emerge in the future. It recommended the government consider undertaking a wider review of the statutory framework.⁶⁸
22. In Global/GMG, Ofcom concluded that as the parties' sourced their UK-wide news content from the same wholesale provider the transaction would have only a limited effect in relation to UK-wide news. In relation to local news Ofcom did identify concerns in North Wales and Cardiff, but while there was a reduction in number of media owners there was a variety of other platforms including TV and newspapers.⁶⁹ The Secretary of State, following Ofcom's advice, decided not to make a reference for a phase 2 review on media plurality grounds. In conducting its assessment Ofcom applied three factors: availability, consumption and impact. These form a key part of the measurement framework subsequently developed by Ofcom, discussed at paragraph 30.

⁶⁵ *Virgin Media, Inc v (1) Competition Commission (2) Secretary of State for Business, Enterprise and Regulatory Reform* [2010] EWCA Civ 2.

⁶⁶ *Ofcom, Report on public interest test on the acquisition of Guardian Media Group's radio stations (Real and Smooth) by Global Radio*.

⁶⁷ *Ofcom, Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation*, paragraph 1.57

⁶⁸ *Ofcom, Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation*, paragraph 1.64.

⁶⁹ *Ofcom, Report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation*, paragraphs 127 to 138.

Consideration of media plurality by Lord Justice Leveson and subsequent developments

The Leveson Inquiry

23. In July 2011 the Prime Minister announced a two part inquiry investigating the role of the press and police in the phone hacking scandal. Lord Justice Leveson was appointed as Chairman of the inquiry (the Leveson Inquiry). The Leveson Inquiry examined the culture, practices and ethics of the press and, in particular, the relationship of the press with the public, police and politicians. Of particular importance in relation to the media plurality consideration, the inquiry terms of reference required Lord Justice Leveson to make recommendations for:

- (a) a new more effective policy and regulatory regime which supports the integrity and freedom of the press, the plurality of the media, and its independence, including from government, while encouraging the highest ethical and professional standards; and
- (b) how future concerns about press behaviour, media policy, regulation and cross-media ownership should be dealt with by all the relevant authorities, including parliament, government, the prosecuting authorities and the police.⁷⁰

24. Lord Justice Leveson set out in his report a number of conclusions and recommendations in relation to media plurality and cross-media ownership.⁷¹ These included:

- (a) affirming and noting the broad consensus around Ofcom's definition of the desired outcome of a plural market as:
 - (i) ensuring there is a diversity of viewpoints available and consumed across and within media enterprises;
 - (ii) preventing any one media owner or voice having too much influence over public opinion and the political agenda⁷².
- (b) concluding that online distribution should be included in any market assessment and that the BBC should also be included in any measure of

⁷⁰ [Leveson Report](#), Volume 1, Part A, Chapter 1, paragraph 1.3 (page 5).

⁷¹ See, in particular, [Leveson Report](#), Volume 3, Part I, Chapter 9.

⁷² [Leveson Report](#), Volume 3, Part I, Chapter 9, paragraph 1.3

plurality, but noting the high degree of editorial independence within the BBC arising from its governance arrangements;⁷³

- (c) concluding that there is no single measure that will provide an adequate picture of plurality. Lord Justice Leveson noted the complexity of the Ofcom model and recommended Ofcom and the government should work with industry on a measurement framework in order to achieve as great a measure of consensus as is possible on the theory of how media plurality should be measured before the measuring system is deployed;⁷⁴
- (d) recommending that Ofcom carry out a consultative process designed to identify indicative levels of the various metrics that it was proposing to use that would give rise to plurality concerns. In doing so, Lord Justice Leveson recommended that the levels of influence that would give rise to concerns in relation to plurality must be lower, and probably considerably lower, than the levels of concentration that would give rise to competition concerns (noting that he was not qualified or required to give a view on what those levels should be).⁷⁵

25. As to the circumstances where a problematic loss of plurality could occur Lord Justice Leveson concluded:

There are very few existing mechanisms to protect that plurality. Obviously competition law applies in media markets, which should prevent any abuse of a monopoly position. But it must be the case that a problematic loss of plurality could occur without necessarily giving rise to competition concerns.⁷⁶

26. As to the relationship between the press and politicians, Lord Justice Leveson concluded:

Taken as a whole, the evidence clearly demonstrates that, over the last 30 to 35 years and probably much longer, the political parties of UK national government and of UK official Opposition, have had or developed too close a relationship with the press in a way which has not been in the public interest. In part, this has simply been a matter of spending a disproportionate amount of time, attention and resource on this relationship in comparison to, and at the expense of, other legitimate claims in relation to the conduct of public affairs. In part, it has been a matter of going too

⁷³ [Leveson Report](#), Volume 3, Part I, Chapter 9, paragraphs 2.11 and 2.12.

⁷⁴ [Leveson Report](#), Volume 3, Part I, Chapter 9, paragraphs 3.8 and 3.9.

⁷⁵ [Leveson Report](#), Volume 3, Part I, Chapter 9, paragraph, paragraph 4.19.

⁷⁶ [Leveson Report](#), [Executive Summary](#), paragraph 140.

far in trying to control the supply of news and information to the public in return for the hope of favourable treatment by sections of the press, to a degree and by means beyond what might be considered to be the fair and reasonable (albeit partisan) conduct of public debate.⁷⁷

27. Lord Justice Leveson also made observations and recommendations in relation to the content which should be considered relevant to media plurality and sufficiency. We address and consider in more detail a number of the observations and recommendations made by Lord Justice Leveson where relevant in our provisional findings report.

Developments following the Leveson Inquiry

28. Following the Leveson Inquiry, the government issued a consultation on media ownership and plurality in July 2013.⁷⁸ The consultation took Lord Justice Leveson's recommendations as a starting point. In advance of the government's response to this consultation the House of Lords Select Committee on Communications published a report on media plurality in February 2014. (the House of Lords report)⁷⁹. The government's response to its consultation also included a response to the House of Lords report. This was published in August 2014⁸⁰ (the Media Ownership and Plurality Report).
29. The government's Media Ownership and Plurality Report commissioned Ofcom to develop:
- a suitable set of indicators to inform the measurement framework for media plurality. These indicators will subsequently allow for the first ever baseline market assessment of media plurality in the UK to be conducted.
30. This led to the publication by Ofcom of its measurement framework for media plurality (the Ofcom measurement framework) in November 2015.⁸¹ This is discussed in detail chapter 7 of our provisional findings. There has not, to date, been a 'baseline' market assessment of media plurality in the UK.
31. The difficulties of undertaking an assessment of the sufficiency of plurality were described by Ofcom in its Media Plurality Advice from 2012:

⁷⁷ Leveson Report, [Executive Summary](#), paragraph 117.

⁷⁸ [Government Media Ownership and Plurality consultation](#).

⁷⁹ [House of Lords Select Committee on Communications report on media plurality](#).

⁸⁰ [Government Media Ownership and Plurality Report](#).

⁸¹ [Ofcom measurement framework](#).

5.117 An assessment of sufficiency at **any point in time** is challenging as it requires a subjective judgement. Further:

- **There is neither UK case law nor international precedent:** UK case law does not relate to non-merger situations. Most countries that regulate plurality use mergers as a trigger for regulatory action.
- **There is no analytic test analogous to the economic criteria used to assess market power:** Whereas market power can be assessed by reference to the ability to price independently of competition (the SSNIP test⁴⁵), there is no comparable analytic test for levels of influence.
- **There is no single, accepted measure for plurality nor consensus as to where the level should be set.** There are challenges in setting metric thresholds to quantify sufficiency (akin to our discussion of metrics-based triggers). Given the importance of contextual factors, and the associated exercise of judgement, there is unlikely ever to be a crisp and unambiguous definition of sufficiency.

5.118 Looking ahead, it is unrealistic to seek an absolute statutory definition of sufficiency, as the market is dynamic and unpredictable. What is considered sufficient or not will vary with time and needs to be considered in reference to the broad market and political context of the times. Notions of sufficiency today are likely to be somewhat different from those of ten years ago, or ten years hence. As testimony to the pace of change, in 2002 Google News and Facebook had yet to launch, and now they are two of the three most-used online sources for news.

32. Ofcom concluded that it was ultimately for parliament to consider whether it can provide guidance on how sufficiency should be defined and that, absent such guidance, it would have to be left to the discretion of the reviewing body to reach a judgement on sufficiency and whether the status quo was sufficient or not.⁸²

⁸² [Ofcom Media Plurality Advice](#), paragraphs 5.121 and 5.122.

Appendix E: Online news

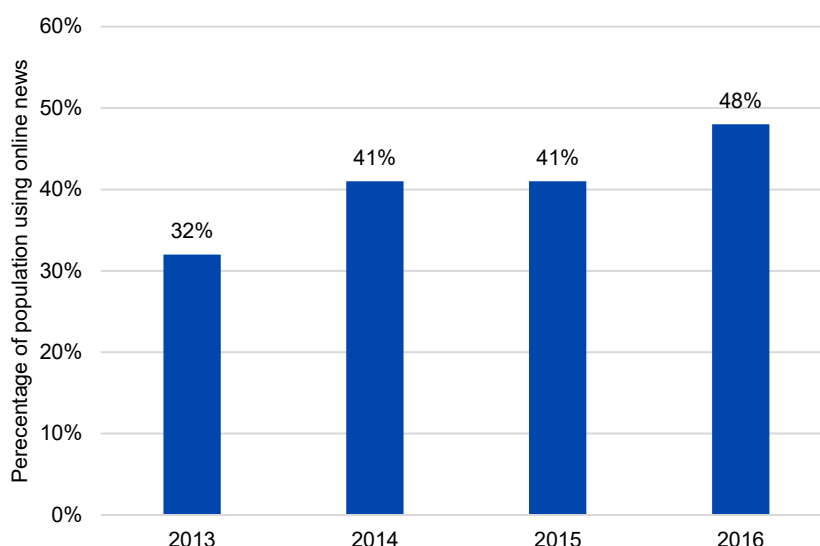
Introduction

1. This appendix provides an overview of online news consumption in the UK. It focuses on whether the growth of online news is likely to dilute the influence of traditional media outlets, notably those owned by the Parties. To address this question, we have considered the key factors that are likely to drive the impact of online news on audiences, and the extent to which the distribution of news online can dilute the effect of traditional media outlets. These are:
 - the proportion of the population who uses online news;
 - the share of traditional news providers in news consumption online;
 - the extent of multi-sourcing by online news users;
 - the growth and positioning of online-only news sources;
 - the impact of politicians and commentators on news discussions online;
 - the ability of news outlets to set the agenda online;
 - the way users engage with online news.
2. We have assessed the first three factors mostly through quantitative analysis based on various sources, and we have explored the last four factors using a combination of quantitative and qualitative analysis.

The proportion of the population who use online news

3. Ofcom's News Consumption Survey (NCS) shows that, in 2016:
 - 48% of UK consumers used online news in 2016, up from 32% in 2013 when Ofcom's NCS began (Figure 1).

Figure 1: Proportion of UK consumers who use online news



Source: Ofcom NCS reports.

- The people who did not use online news (the remaining 52%) tended to be older (see Figure 2) and to belong to lower social grades (see Figure 3).

Figure 2: Share of respondents who use at least one online source, by age group

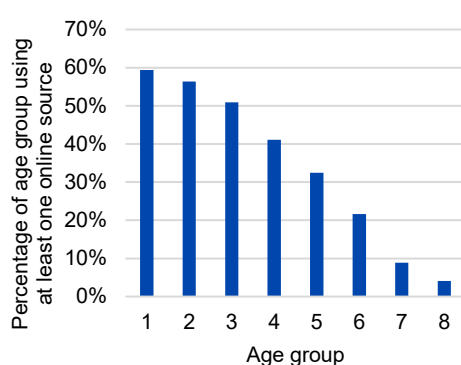
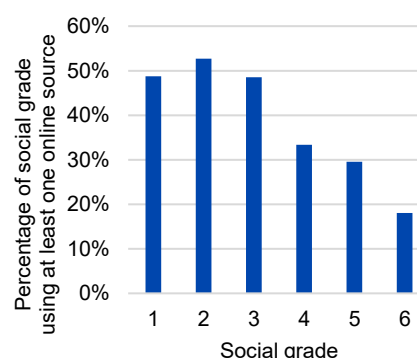


Figure 3: Share of respondents who use at least one online source, by social grade



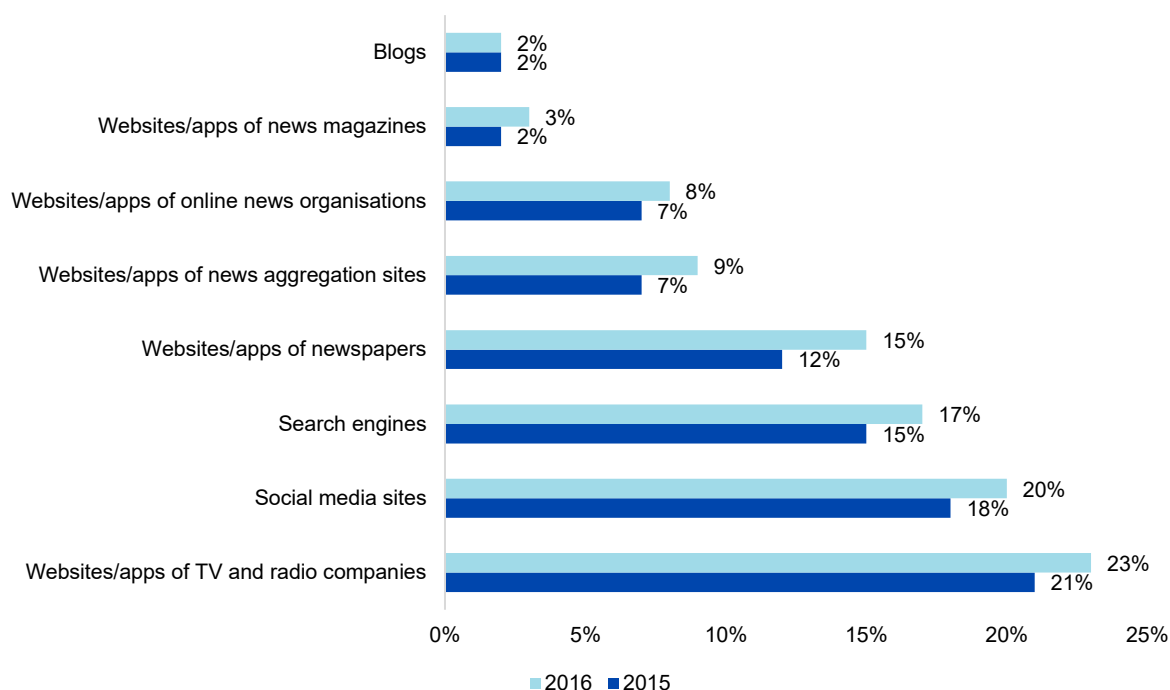
Source: NCS data, CMA analysis.

- 30% of UK consumers use an intermediary to access online news⁸³ (that is around two thirds of people who use online news). More specifically, 20% of UK consumers use social media, and 17% use a search engine (Figure 4).⁸⁴ The remainder of online news users access specific news sources directly.

⁸³ In 2016, question 3b of NCS: *You said you use the internet or apps or alerts (on any device) for news nowadays. Which of the following do you use to get news?* Reporting results for respondents who stated they used social media or a search engine or an aggregator (785 respondents). Base: all who consume news (2,659).

⁸⁴ There is some overlap between the set of people who use social media and the set of people who use a search engine, with the implication that the proportion of people who use an intermediary is less than the sum of the proportions who use social media and a search engine, respectively.

Figure 4: Types of news sources used online among all adults



Source: Ofcom NCS 2016.

- Readers of the print versions of News Corp titles use online news to the same extent as the population average, and viewers of Sky News TV use online news to a greater extent. More specifically: 40% of survey respondents who said they read News Corp titles also said they use at least one online source for news; and 58% of survey respondents who said they use Sky News also said they use at least one online source for news. By way of comparison, the proportion of survey respondents in the whole sample who said they use at least one source of online source is 40%.⁸⁵
4. Overall, these results show a mixed picture in terms of the penetration of online news. While online penetration is growing, in 2016 roughly half of the population still did not use online news at all. Also, roughly one third of those who used online news do not use any intermediaries and continue to access the websites or apps of specific news organisations directly, implying that they engage with news organisations online in much the same way as on more traditional platforms. For example, this was noted by the Daily Mail and General Trust Group (DMGT):

⁸⁵ Ofcom estimates that the proportion of the **population** who uses online news is 48%, but this includes the effect of reweighting in the survey sample. Before reweighting, the proportion of **survey respondents** who use online news is 40%.

We find our online audience falls into two different behaviour categories. First, online readers who come direct to our sites... and engage in similar ways as with a newspaper with equivalent interactions per month and for comparable amounts of time per day. There is a second category of visitors – those who come to us or engage with our content via search, social media and third parties. Such readers engage less frequently, visiting the site less often and for shorter duration per interaction.

5. As such, it is important not to conflate the use of online news with the use of intermediaries. The potential effects of intermediaries on news consumption – in terms of facilitating multi-sourcing or the disintermediation of news production – concern less than a third of all UK consumers.

The share of traditional news organisations in news consumption online

6. We have used two sources of data on news consumption online: the MMX database of comScore, and information from intermediaries.

comScore data

The comScore methodology

7. comScore delivers online audience measurement across different devices (PC, tablet, mobile) and for different types of content (including page content, apps, video). comScore is endorsed by UKOM, the body that sets and governs the UK standard for the online industry.
8. comScore uses a hybrid approach measuring both panel data and census data:
 - The panel are recruited respondents who install metered software on their devices. The panel size in the UK is 90,000 desktop users and 8,000 mobile users (as of November 2017);
 - Census data is from comScore 'tags' that media owners apply to their content.
9. The panel and census data are unified by comScore and then deduplicated (so a user using both desktop and mobile is not counted twice) to produce an overall view of individual consumer behaviour online. We have used comScore's MMX Multi-Platform data (this comprises of data from desktop, smartphone and tablet data sources).

10. We have considered the extent to which we can place weight on comScore data and identified the following limitations:
- the methodology is very complex and combines modelling and direct measurement. We consider that the modelling relies on assumptions (based on insights coming from panel and enumeration data sources) which we consider as less robust than direct measurement;
 - the panel based methodology could suffer from the same limitations as online panels in general. In particular, results may not be not representative of the target population as online panellists tend to be heavier internet and technology users;
 - not all web entities are measured through census data as publishers may choose not to tag all of their web pages, apps and videos. In addition, the tags applied are at the discretion of the publisher making direct comparisons between sites difficult.
11. comScore has commented on these limitations:
- in relation to the modelling and panel based methodology issues we identified, comScore stated that it integrates census data with sample projections to obtain the most robust estimates of digital audiences for each media entity reported in comScore results. comScore noted that if solely used, both the census and the panel data suffer from limitations which are overcome by an integration of the panel and census data into a consistent outcome. For example:
 - panel (projected sample) data- this provides cookie-to-person conversion factors at the site level; it allows for identifying and quantifying the extent of coverage gaps; and it provides demography;
 - census data- this introduces increased granularity and stability for smaller media entities; it can quickly cover new platforms and deliver platform de-duplication insights; it assures that all activity is credited and provides an opportunity for calibration.
 - comScore also noted that, in relation to the possibility that panels are not representative, it applies intensity weighting to panel data desktop use to align the desktop panel intensity with the actual intensity observed in the population through census data in the given month. The intensity of internet usage observed in the UK desktop panel is lower than is the population average obtained from the UK census data.

- In relation to content tagging, comScore noted that ideally all content would be tagged, such that audience estimates can be based on both census and panel data. However, comScore noted that there are many reasons that content is not fully tagged or not tagged at all. In these instances, comScore works with available information about the audience of the sites and apps (panel and census data feeds) and uses its Unified Digital Measurement (UDM) methodology to provide a complete and consistent picture about the digital audiences on these sites. In instances where the content is not fully tagged, comScore states that it calculates the census tag coverage for each individual media entity reported in the results to overcome the challenge of different levels of tagging among publishers. comScore states that its industry approved UDM methodology then works with the tagging coverage information to account for the non-tagged part of publisher's content and through it can report on the complete audience of the entity in the final results. comScore also states that it closely collaborates with UKOM (see paragraph 12) and PAMCo⁸⁶ to help publishers get their content completely tagged. The websites or apps that are not tagged at all are measured through panel only (weighted sample projections) which, for sites with lower traffic, can be less robust than unified measurement based on both panel and census.
12. comScore is seen as the industry currency for measuring online activity. UKOM is the body that sets and governs the UK industry standard for online audience measurement.⁸⁷ UKOM told us that it hired statistical consultants to test that the algorithms used by comScore were appropriate and worked appropriately. UKOM stated that it chose comScore out of four tools to measure online activity and stated that comScore was the most consistent, robust and future proof method, whilst noting the limitations described above. UKOM stated that comScore will not return the same results as a publisher's inhouse measures, but noted that when publishers compared their inhouse measures with comScore the difference was 'tolerable.'⁸⁸
 13. Given these points, we consider that comScore is a useful tool for measuring online activity.

⁸⁶ PAMCo (The Publishers Audience Measurement Company), is the governing body which oversees audience measurement for the published media industry.

⁸⁷ UKOM.

⁸⁸ comScore stated the reason why the same results may not be returned is because the main goal of comScore/UKOM data are to provide an estimate of live users, volume, and behaviour, and not digital traffic statistics that are obtained from inhouse measures.

The level of measurement

14. Publishers have the option of segmenting their ‘digital domains’ on comScore to obtain audience metrics for specific sections and levels. The hierarchy typically starts at the level of a publisher (eg News Corp) through to media titles (The Sun Online), down to individual channels (The Sun UK) and sub channels (The Sun News). Most media outlets in the UK identify a specific news section in this hierarchy, and this is the level our analysis focuses on as it is most relevant for our assessment of media plurality. In cases where this level of disaggregation is not available, we report consumption figures at the closest level available (usually the whole title). We note that this approach may overstate the relative position of the titles who do not provide a detailed segmentation of their domain as all of their content will be included in our analysis. Conversely, websites that split content over many channels may have ‘news’ channels that do not include items such as business news, opinion and comment that other news sites include within a news tag. In Table 1 we have provided details of the content included in the level we selected for each news provider, and an indicative estimate of the direction of the bias (ie if the level chosen is likely to include either more than just news content or not include a narrower range of news content compared to other sites)
15. Table 1 provides more information on the levels we have considered for the news providers for which we have undertaken analysis. We have selected 20 news providers based on the largest news providers identified by Ofcom in its share of reference analysis, as well as smaller, alternative, online only sources.⁸⁹ We note the number of providers listed in comScore’s ‘News/Information’ category is much larger than the number of sources listed, and includes a number of sites not relevant to our analysis (eg weather websites).⁹⁰ Table 1 also reports on the level of unification. The degree of unification relates to the extent to which data collected from the panel can be unified with census data. In relation to the level of unification we consider that fully unified data is likely to be more reliable than more granular ununified data.
16. We note that Ofcom’s analysis looked at the top five providers only, because these providers had a generally consistent and comparable methodology.⁹¹ Our analysis considers a wider range of providers, but may be less reliable

⁸⁹ We have ensured that where a single wholesale provider (for example Northern and Shell) owns several websites and/or apps in our analysis (for example, Daily Star and Express) statistics for these websites/apps are not double counted (for example, if The Daily Star were the media title and The Express a channel below that). In the case of The Star and Express both are media titles and are not nested within one another.

⁹⁰ In particular, comScore notes that the total minutes of recorded use for our selection of websites accounts for only around 25% of the total minutes measured in its ‘News/Information’ category.

⁹¹ Ofcom [Public Interest Report](#), Figure 6.4.

given the two issues discussed above (inability to make direct comparisons at narrower levels of segmentation and incomplete unification).

Table 1: Level of unification of comScore data used by the CMA

<i>News provider</i>	<i>Publishers (P)/Media title (M)/channel (C)/subchannel analysed (S)</i>	<i>Nature of the content analysed</i>	<i>Direction of bias (i.e. does the level selected by CMA appear to have more than news content?)</i>	<i>Level of unification</i>
BBC	BBC News (C)	BBC News category includes (but not limited to): News Business, News Education, local news in the UK, News Entertainment, News in Pictures, News Politics, regional UK news, world news. Does not include Sports.	Assumed accurate. Includes news app.	Web: fully unified Web video: panel only Smartphone apps: fully unified Tablet apps: fully unified
ITV	ITV News (M)	No further information	Assumed accurate. Includes news app.	Web: fully unified Web video: not measured Smartphone apps: panel only Tablet apps: not measured
Sky	Sky News (C)	Includes news.sky.com, Sky News App, Sky News mobile, Sky News streaming. Also includes Sky News Arabia. Does not include Sports.	Potential slight overstatement- the inclusion of Sky News Arabia may include non-news content for a UK audience. Includes news app.	Web: Fully unified Web video: panel only Smartphone apps: fully unified Tablet apps: fully unified
Daily Mail	Mail Online- News (C)	No further splits. Does not include 'Mail Online- Debate' which is separate	Understatement- excludes debate and as such may exclude commentary and opinion pieces that may be included on other news websites. Does not include app.	Web: fully unified Web video: panel only Smartphone apps: not measured Tablet apps: not measured
Metro	Metro.co.uk News (C)	No further splits or information on content	Understatement- does not include app	Web: fully unified Web video: not measured Smartphone apps: not measured Tablet apps: not measured
The Sun	The Sun News (S)	Includes opinion, politics, UK and World	Understatement- does not include app.	Web: fully unified Web video: panel only Smartphone apps: not measured Tablet apps: not measured
The Times	Thetimes.co.uk (C)	No information or further splits	Overstatement- assumed to include all content on Times website, including non-news content such as sports. Includes app.	Web: fully unified Web video: panel only Smartphone apps: fully unified Tablet apps: fully unified

Guardian	Guardian News (C)	Includes home news, UK news, US news, world news. Does not include business news.	Understatement- does not appear to include business news like other news websites. May also not include comment/opinion pieces. Does not include app.	Web: partially unified Web video: not measured Smartphone apps: not measured Tablet apps: not measured Web:fully unified Web video: panel only
Mirror	Mirror Online- News (S)	No further splits	Understatement- does include app.	Smartphone apps: not measured Tablet apps: not measured Web:fully unified Web video: panel only
Independent	Independent.co.uk-news (C)	No meaningful information included.	Understatement- does not appear to include comment and opinion pieces, or the app.	Smartphone apps: not measured Tablet apps: not measured Web:fully unified Web video: panel only
Evening Standard	Evening Standard News (C)	No further splits. A separate category not included (ES Comment is not reportable- too few users)	Understatement- does not appear to include business, comment and opinion pieces, or app.	Smartphone apps: not measured Tablet apps: not measured Web:fully unified Web video: panel only
Telegraph	Telegraph News (C)	No further splits. A separate category not included (Opinion- not reportable- too few users)	Understatement- does not appear to include business or comment and opinion pieces.	Smartphone apps: not measured Tablet apps: not measured Web:fully unified Web video: panel only
Express	Express.co.uk (M)	No meaningful splits. Appears to include a jobs section.	Overstatement- appears to include all content on the site (for example, sports). Includes app.	Smartphone apps: fully unified Tablet apps: fully unified Web:fully unified Web video: panel only
Star	Dailystar.co.uk (M)	No meaningful splits. Appears to include a jobs section.	Overstatement- appears to include all content on the site (for example, travel, style). Includes app.	Smartphone apps: fully unified Tablet apps: fully unified Web:fully unified Web video: fully unified
BuzzFeed	BuzzFeed.com (P)	Appears to include all content	Overstatement- appears to include all content on the site (for example, quizzes), includes app.	Smartphone apps: fully unified Tablet apps: fully unified Web:fully unified Web video: fully unified
Vice	Vice.com (M)	Appears to include all content	Overstatement- appears to include all content on the site , includes app.	Smartphone apps: fully unified Tablet apps: fully unified Web:fully unified Web video: fully unified
Financial Times	FT.com (M)	No meaningful further splits or information	Assumed accurate	No information
HuffPost UK	Huffingtonpost.co.uk (S)	Appears to include all content	Overstatement- appears to include all content on the site (for example, lifestyle)	Web:fully unified Web video: partially unified Smartphone apps: panel only

The Canary	Thecanary.co (P)	Appears to include all content	Assumed accurate	Tablet apps: panel only No information
Breitbart	Breitbart.com (P)	Appears to include all content	Assumed accurate. Includes app.	Web: fully unified Web video: panel only Smartphone apps: not measured Tablet apps: not measured

17. Based on comScore data we considered three different measures of the relative importance of different news sources: their reach, their share of consumption (measured based on the time spent by consumers on the different websites, mobile apps and desktop video), and the relative increase in their reach during major political events (such as the recent elections and the EU referendum).

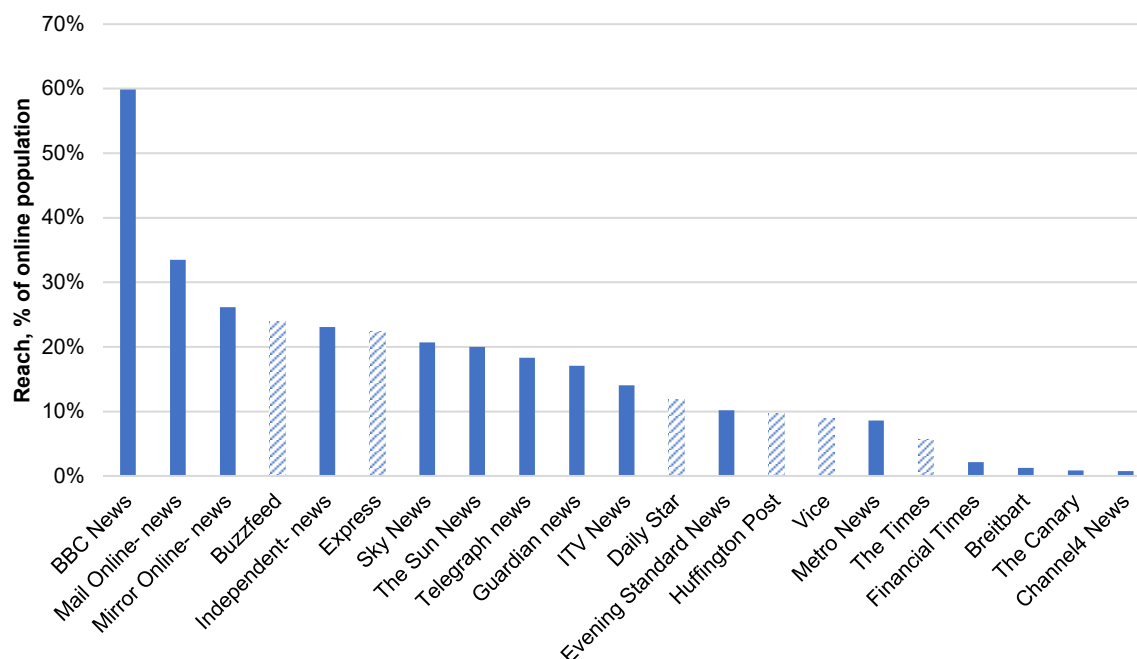
Reach

18. Figure 5 shows the average online reach of the news section of the major UK news providers (analysed at the level reported in Table 1) for the period January to August 2017 (the hatched bars mean that data is only available at the level of the title).⁹² The Sun and Sky News have a reach of roughly 20% each, and The Times has a reach of 7%.⁹³

⁹² We note that more recent comScore data is available but does not consider there have been material changes in terms of reach since August 2017.

⁹³ We note that the results are sensitive to the level of comScore data chosen- for example, The Sun Online (media title) had 29 million unique users in September 2017, a reach of 60%.

Figure 5: Online reach of selected news providers (January to August 2017)



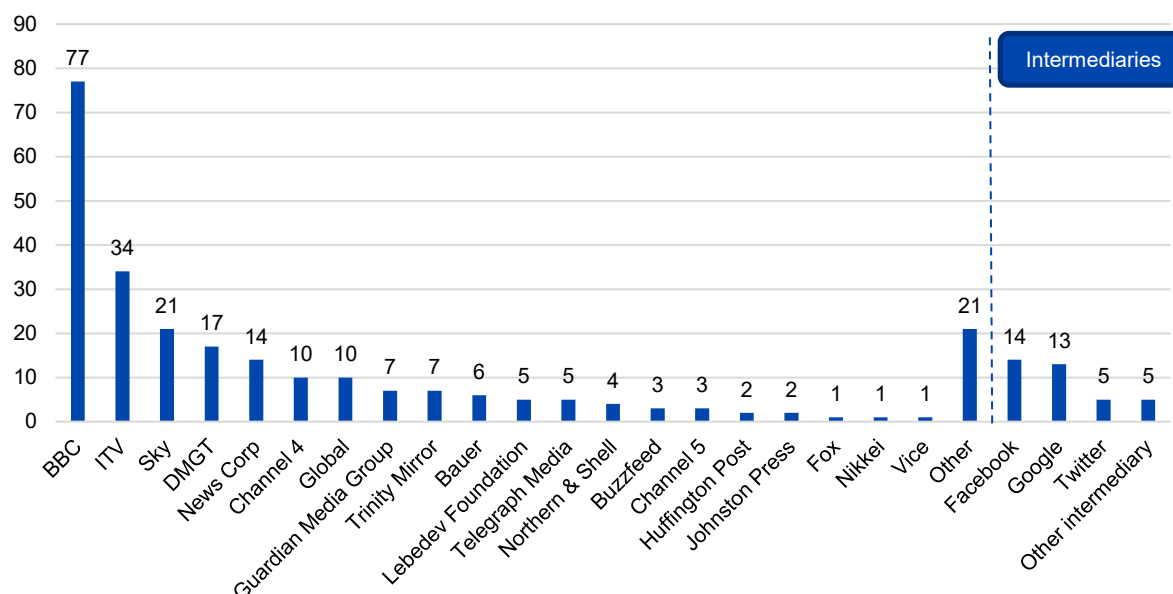
Source: CMA analysis of comScore MMX Multi-Platform.

Note: hatched bars mean that information is only available at the level of the title.

Data for each news title relates to the media title/channel/sub-channel specified in Table 1.

19. For comparison, Figure 6 shows the cross-platform reach of UK news providers as measured by Ofcom based on the NCS. This comparison shows that newspapers tend to reach a larger share of the audience online than in the general population. Part of this difference may stem from differences in definition and measurement between the two sources: the NCS asks respondents to recall 'which sources they use for news nowadays' which may imply a regular engagement with news sources, whereas comScore registers a unique user for a website even if that user visits that website only once in a given month and for a brief period of time. Nevertheless, it is likely that part of that difference is 'real' in the sense that the distribution of news online tends to increase the relative reach of newspapers.
20. This is consistent with the finding that online news users tend to multisource more (see later). A number of news organisation also told us that this was the case: DMGT told us that it has been able to significantly expand its readership and brand through its successful operations in the online news arena; Trinity Mirror told us that its publishing reach had increased with the addition of online users, albeit it faced competition from other providers; the BBC pointed out that its broadcast content is more widely available and easier to access than ever before; The Guardian said that digital technology has enabled it to become a global news brand, reaching news audiences around the world.

Figure 6: Retail cross-platform audience reach of providers used ‘nowadays’ for news: 2016



Source: Ofcom NCS 2016.

Base: All adults 16+ who use TV, Printed Newspapers, Radio, Internet, or Magazines for news nowadays (2659)

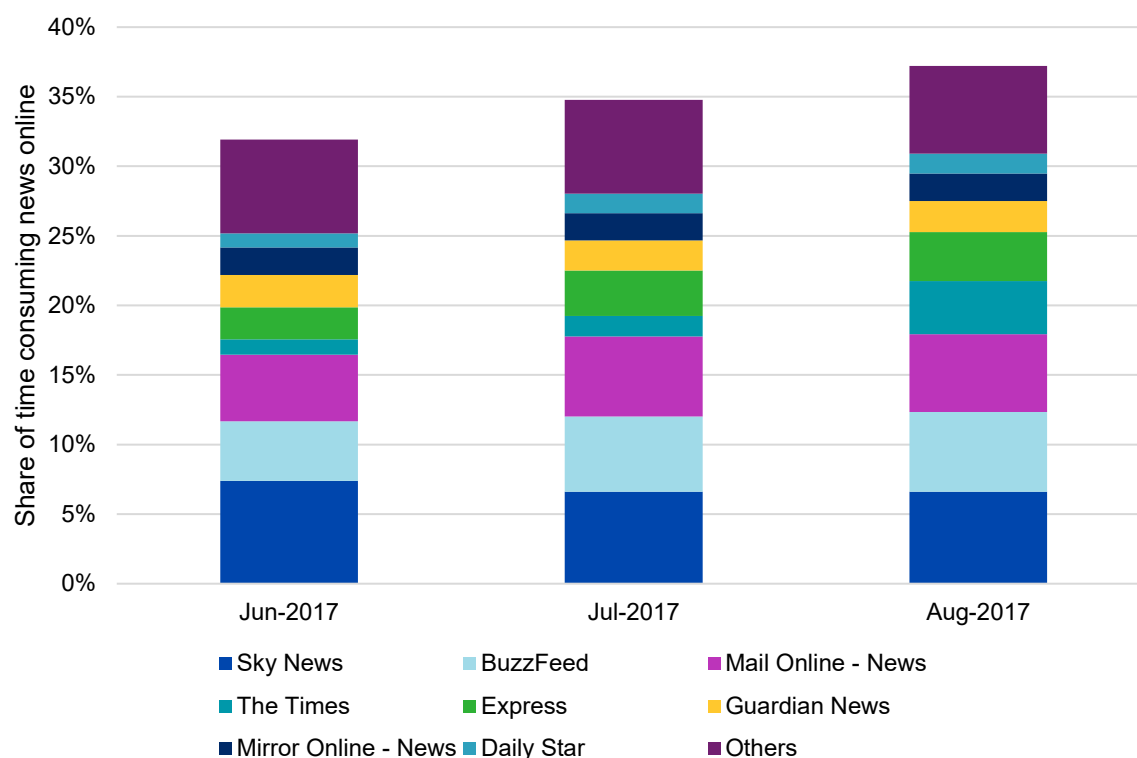
Notes: 'Google' contains all Google-named entities plus YouTube. 'Other intermediary' includes MSN, Yahoo, Feedly, Flipboard, News Now

Share of consumption by time spent

21. We have considered shares of time spent online for the news providers at the level listed in Table 1. In August 2017, BBC News accounted for approximately 60% of news consumption online (measured by time spent for the 20 providers listed in Table 1). Figure 7 shows the shares of other news providers (provided their share exceeds 1%). Based on this metric, Sky News has the largest share of consumption online behind the BBC News, followed by The Mail Online, BuzzFeed and The Times. The relatively strong performance of Sky News on this metric is driven by the fact that users tend to use Sky News' services for longer periods of time compared to competitors (around 20 minutes per month, compared to around 10 to 15 minutes per month for titles such as The Times,⁹⁴ The Daily Mail, and The Guardian, and around five minutes per month for The Sun).

⁹⁴ We note that the monthly usage of the Times increased significantly from August 2017, due to the inclusion of The Times mobile app under the TIMES.CO.UK channel.

Figure 7: share of time spent consuming news online



Source: CMA analysis of comScore MMX Multi-platform.

Notes: the remainder of the share of time consuming news online in each month is attributable to BBC News.

Data for each news title relates to the media title/channel/sub-channel specified in Table 1.

The CMA notes that more recent comScore data is available but does not consider there have been material changes in terms of consumption since August 2017.

Reach 'uplift' during major political events

22. We have sought to measure the extent to which the reach of news organisations varied during major political events such as the 2017 general election and the EU referendum. We could interpret an increase in reach during such periods as indicative that a news organisation is seen as politically relevant outside its core audience.
23. Doing this analysis with comScore data is difficult because comScore only reports data on a monthly basis and therefore does not allow for the identification of short-term variations in reach or consumption. Nevertheless, we would expect significant changes over short periods of time to be reflected in monthly data. Table 2 reports the results of this analysis for selected providers. This shows that the majority of news sources see an increase in reach during major political events, with the exception of BuzzFeed and The Sun. Sky News saw the most significant uplift during the election period of the providers considered. The Independent and the BBC both saw a significant uplift in both periods.

Table 2: Change in reach during major political events

	<i>Average reach in Mar-May 2016</i>	<i>Reach in June 2016</i>	<i>Difference (percentage points)</i>	<i>Average reach in Mar-May 2017</i>	<i>Reach in June 2017</i>	<i>Difference (percentage points)</i>
BBC News	55%	61%	7%	60%	67%	6%
Mail Online - News	33%	34%	1%	34%	36%	2%
Mirror Online - News	23%	26%	3%	27%	32%	5%
Sky News	18%	23%	5%	19%	31%	12%
EXPRESS.CO.UK	20%	26%	5%	24%	25%	2%
BUZZFEED.COM	26%	23%	-3%	25%	23%	-2%
Independent.co.uk - News	20%	31%	11%	23%	31%	8%
The Sun News	4%	1%	-3%	27%	16%	-11%
THETIMES.CO.UK	2%	2%	0%	6%	6%	0%
THECANARY.CO	1%	1%	0%	1%	1%	0%
BREITBART.COM	1%	3%	2%	1%	1%	0%

Source: comScore data, CMA analysis.

Notes: Data for each news title relates to the media title/channel/sub-channel specified in Table 1.

24. News Corp provided daily data on unique visitors to The Sun website for sample periods in 2016 and 2017, which allows for a more granular analysis of short-term variations in reach. This data indicates that the audience of the news section of The Sun online was broadly stable between the two weeks of the referendum and the elections and the weeks before.⁹⁵

Shares of news consumptions on intermediaries

25. Measuring reach and consumption on intermediaries is difficult because intermediaries distribute news in different ways and collect different metrics of reach and consumption. For this reason we present results separately for the three most popular intermediaries for news: Facebook, Google (including YouTube), and Twitter.

Facebook

26. The NCS indicates that Facebook is used for news consumption by 27% of those who use the internet for news (implying that it is used for news consumption by 13% of all news users in the UK). Measuring news consumption and engagement on Facebook is not straightforward because various metrics are available, with different interpretations. Also it is not possible to distinguish the news content from the other content posted by publishers, which means that our analysis may overstate the relative position of publishers who post a high share of non-news content. Finally, it is not possible to identify UK-based users with sufficient reliability for the period

⁹⁵ [X].

considered, which means that our analysis may overestimate the relative position of titles with an international profile.

27. Notwithstanding these limitations, we considered the following metrics:

- (a) **Followers.** We used the number of followers of news organisations as a proxy for their reach. Figure 8 shows that as 1 October 2017 [X] has the largest number of followers by far, followed by [X], [X] and [X].

Figure 8: Number of followers for news organisations (October 2017)

[X]

Source: Facebook data, CMA analysis.

- (b) **Click throughs and impressions.** We used two proxies for the consumption of news through Facebook: the number of click throughs on links provided in original posts, and the number of impressions of posts on users' newsfeeds.⁹⁶

Figure 9 shows that the ranking between news organisations according to click throughs is very different from that presented for the number of followers. In general, [X]. This is both because [X] generate more posts relative to other news organisations, and because their posts attract more click throughs. [X] is the third most popular news organisation on Facebook according to this metric, while [X] and [X] generate low levels of click throughs.

Figure 9: Number of click-throughs on links posted on Facebook (12/07/17 to 31/08/17)

[X]

Source: Facebook data, CMA analysis.

- (c) Figure 10 shows the same figure for impressions. The ranking is topped by [X].

Figure 10: Number of impressions of posts on Facebook (October 2017)

[X]

Source: Facebook data, CMA analysis.

- (d) **Likes and shares.** Finally, we considered the engagement metrics available on Facebook – likes and shares – as a proxy measure for the impact of the content on audiences. Figure 11 shows that newspaper

⁹⁶ An 'impression' of a post is recorded each time a user scrolls down his newsfeed and sees the post. If a user sees a post three times, this is counted as three impressions.

publishers do relatively well on this metric, although the gap between them and the broadcasters is not as large as for click throughs.

Figure 11: Engagement metrics for news organisations (12/07/17 to 31/08/17)

[X]

Source: Facebook data, CMA analysis.

28. Overall, these different metrics provide a complex picture of the relative weight of news organisations on Facebook. [X] has the largest audience measured by followers, but [X]. [X] is particularly good at making its followers click on its posts, whereas its performance in terms of other engagement metrics (likes and shares) is similar to that of other [X] publishers. [X] has a relatively large audience, but attracts low levels of click throughs and engagement. [X] plays a relatively minor role in news diffusion on Facebook. This might be because [X], or because its audience does not use Facebook to a significant extent.

Google

29. The NCS shows that, of the people who use the internet for news, 15% use the Google search engine for news, and 6% use Google News. That is, in the general population, 7% use the Google search engine for news, and 3% use Google News.
30. Google ranks results related to news based on signals specific to measuring the relevance of news articles. These news-specific signals include: 'freshness' (ie how recent and timely a given article is); measures of the website's overall quality with respect to news content; user activity (measures of user satisfaction with the results); and 'PageRank' (ie the number and quality of links that a page receives from other pages).⁹⁷ The results may also take account of the user's location.
31. The analysis of news consumption on Google is made difficult by the fact that there is no easy way of distinguishing searches related to news and current affairs from other searches. This is because many search terms are ambiguous and Google is not always able to determine the original intent of the user. However, to assist with our Inquiry, Google has taken a sample of searches initiated by UK users over 2017 and, within that sample, has identified the subset of searches that involved impressions of domains listed in the Google News corpus (which is a list of sites that are included in Google News). Google has then calculated a percentage of impressions for news

⁹⁷ Google told us that PageRank was less important for news-related searches than for other searches.

organisations by calculating the number of impressions displayed on a search result page for a particular domain, divided by the number of impressions of all domains in the Google News corpus in the sample. Likewise, Google calculated a percentage of clicks by calculating the number of clicks on a search result page for a particular domain, divided by the number of clicks on all domains in the News corpus in the sample.

32. Table 3 shows the result of this analysis for the ten sites with the largest shares of impressions. The shares of impressions and clicks are low. This might be because there are tens of thousands of sites listed on the Google News Corpus, including some sites that have only a weak association with news (eg nme.com, comicbook.com, skysports.com, etc). For this reason the subset of searches identified by Google is likely to include many searches that are only remotely related to news and current affairs. Nevertheless, the relative position of news organisations should be less affected.
33. Based on this analysis, nine out of the ten publishers in the sample that had the most impressions and clicks were newspaper publishers, with The Sun being [X]. The domains of broadcasters did not account for as many impressions or clicks in the sample, bbc.co.uk is [X] most popular news source on Google, in terms of number of clicks in the sample, but Sky.com is only [X] most popular provider by share of clicks and ITV is in [X] position.

Table 3: Estimated percentage of impressions for, and clicks on links to different domains in Google search results by UK users

	Share of impressions (%)	Share of clicks (%)
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]

Source: Google.

34. Table 4 shows the share of impressions of different domains listed in the Google news corpus for specific, news-related search terms (in response to a sample of news-related searches requested by us). The majority of the highest ranking publishers are UK newspapers publishers, although some US

publishers also rank high on the two search terms related to international news. The Sun is the [✂] most frequently impressed publisher for people searching for results on 'jeremy corbyn', and the [✂] for 'theresa may' and 'terror attack'. This indicates that, even though the online version of The Sun has a large share of non-news content, its content remains popular for important news-related topics (in response to a sample of news-related searches requested by us). Sky is the [✂] most frequently impressed publisher for the terms 'election' and 'grenfell fire'. However, the share of impressions of Sky and The Sun are [✂] for all search terms (in both cases, in response to a sample of news-related searches requested by us.) This is because a long tail of small publishers contribute a significant share of the content impressed by Google for these searches.

Table 4: Estimated percentage of impressions for different domains in Google search results for news-related search terms

[illegible]

Source: Google.

YouTube

35. The NCS indicates that 10% of those who use the internet for news use YouTube. Users may consume news on YouTube by following the channels of particular news organisation, visiting the news page of YouTube, or searching YouTube or another search engine.
36. Table 5 shows the number of videos posted on the YouTube channels of news organisations and the number of views by UK users since 1 January 2017 (the table only reports results for those of the 32 channels identified by us with more than one million views). [X] has the largest number of views but is followed closely by [X] and [X]. [X] has a share of [X] of views in the sample of 32 news organisations we had data for. [X] also has a significant number of views in the UK (corresponding to [X] of views in the sample). Perhaps unsurprisingly, newspaper publishers attract a lower number of views than broadcasters, with the exception of [X].⁹⁸

Table 5: Videos posted to YouTube channels and views by UK users

[illegible]

Note: the table only shows data for channels with more than 1 million views.
Source: YouTube.

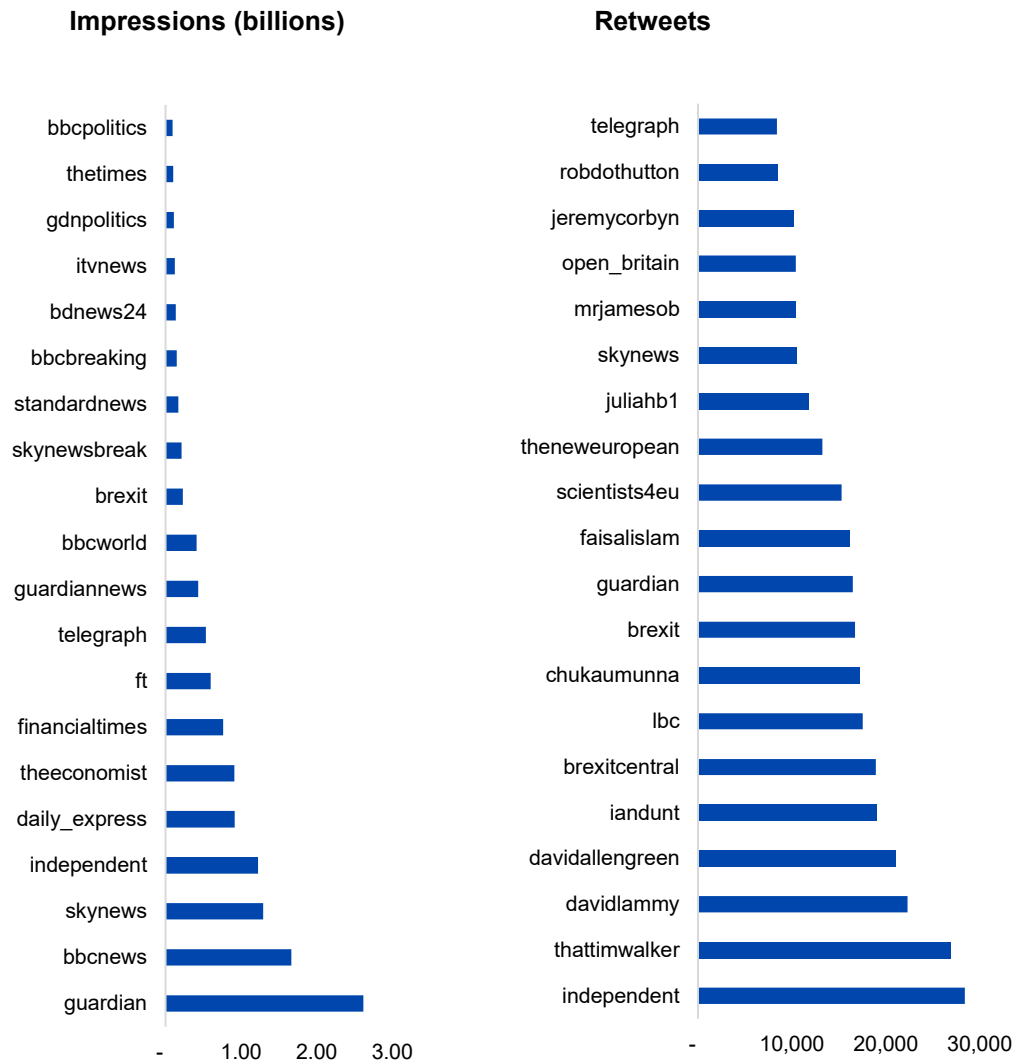
98 [✂].

Twitter

37. We have gathered information on the number of impressions and retweets of Twitter posts related to certain news topics using Brandwatch. The news topics we have researched fall into four broad categories: Brexit, UK politics, social news, and economic news (the notes at the end of this appendix provides the detailed search terms and queries used for this analysis). We have also assessed results for specific search terms within these categories.
38. Due to data protection issues and the large amount of data that needed to be exported, we were not able to export every single relevant tweet. Instead, we used comprehensive author lists created by the Department for Communities and Local government in our analysis. The total number of authors used in the analysis is 10,674.⁹⁹
39. The relative ranking of news organisations and individuals vary depending on the topic, the period and the type of indicator considered. Figure 12 shows the number of impressions and retweets for posts related to Brexit in October 2017. Considering the number of impressions, all bar two of the top tweeters are large UK-based news organisations. Sky News was the third most frequently impressed author for that query (The Times is in 19th position and The Sun in 157th position). Considering the number of retweets, a large number of the top authors are individuals or collectives. Sky News is the 15th most frequently retweeted author on that metric (The Times is in 91st position and The Sun is in 432nd position).

⁹⁹ The lists we used were: advocacy groups (1561 authors), journalists (4977), MPs – Conservatives (250), MPs – Labour (240), MPs – Other (67), national media (786), parliament (not members) (55) and regional media (2761). There is some overlap between these lists, so the total does not add up to 10,674.

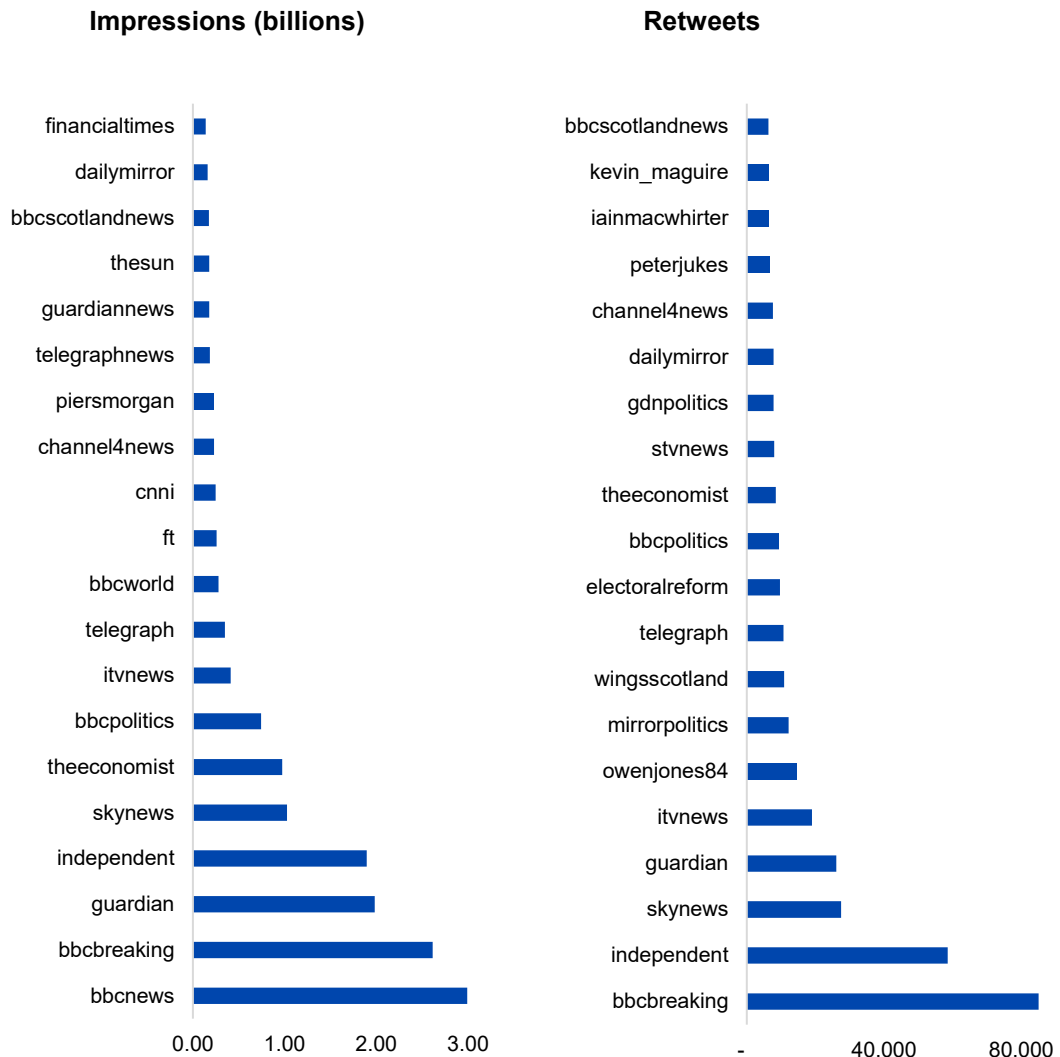
Figure 12 Number of impressions and retweets for Twitter posts related to Brexit news (October 2017, top 20 authors)



Source: Brandwatch, CMA analysis.

40. Figure 13 shows the results of this analysis for tweets related to UK politics at the time of the 2015 general election. As for the Brexit query, the ranking by impressions is dominated by news organisations. The ranking by retweets features a larger number of individuals and commentators, although the largest contributors are also news organisations. Sky News is the fifth most important contributors by impressions and the third by number of retweets.

Figure 13: Number of impressions and retweets for Twitter posts related to UK Politics news (01/05/15-14/05/15, top 20 authors)



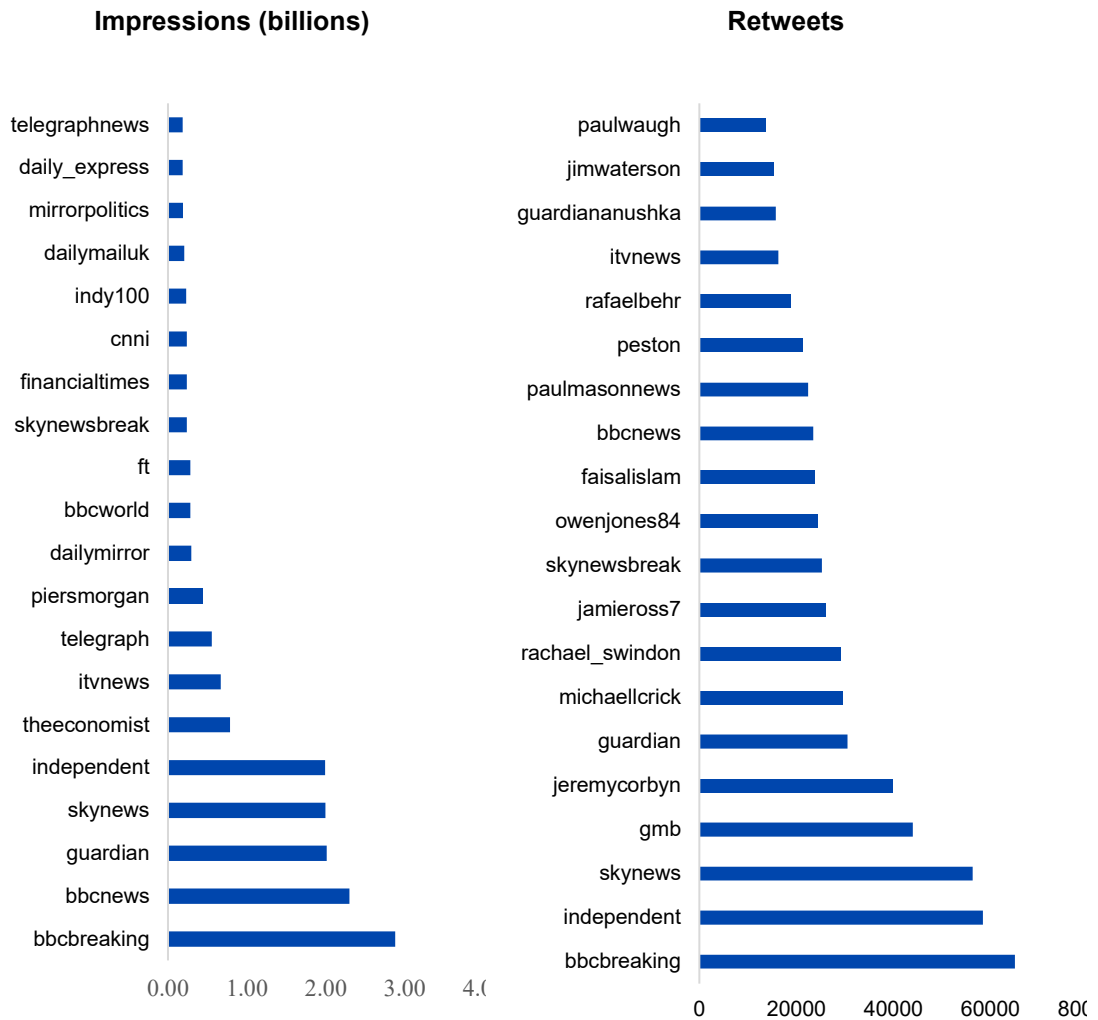
Source: Brandwatch, CMA analysis.

41. Figures 14 to 18 provide additional results for different topics and different periods. There are variations in the relative ranking of different authors across these sensitivities, but some broad patterns appear to be robust:

- news organisations generate the largest numbers of impressions;
- Sky News is usually among the top five tweeters by number of impressions;
- individual politicians and commentators generate significant number of retweets;

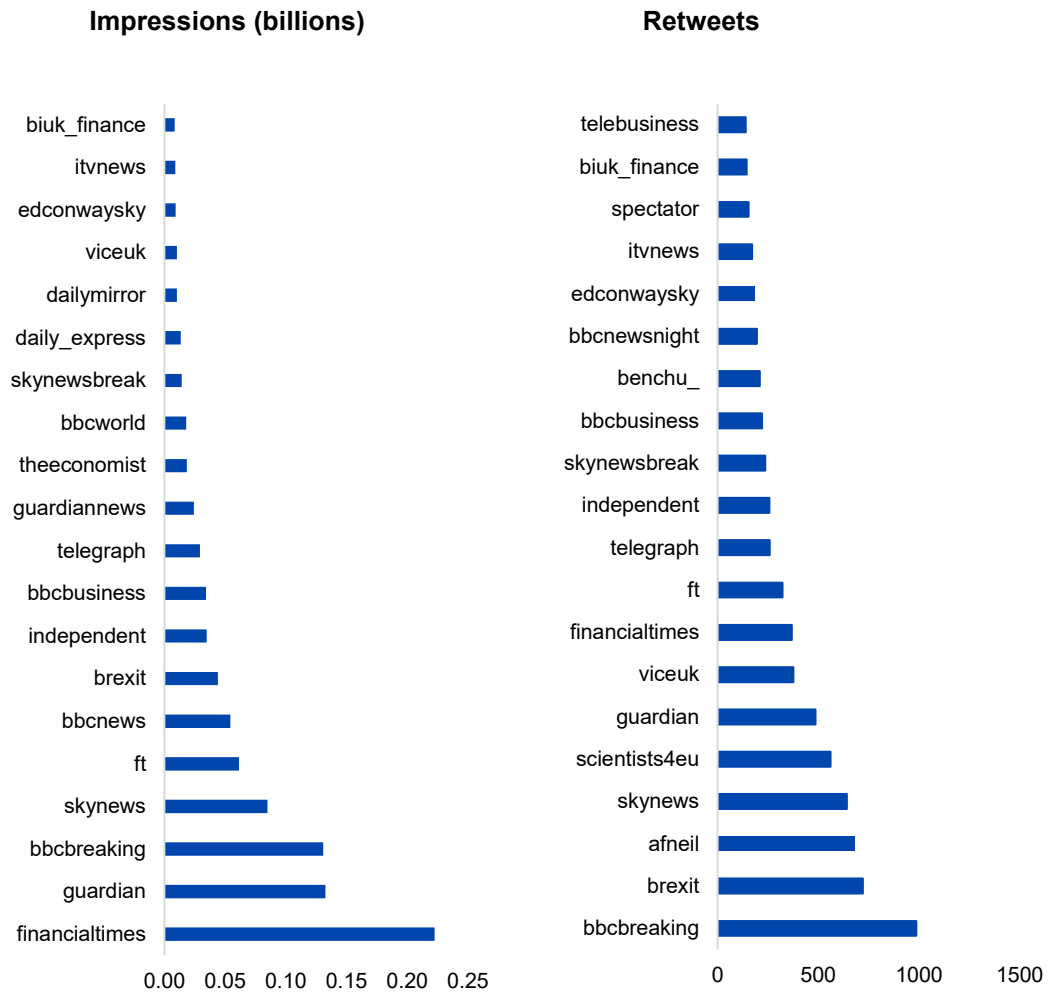
- The Sun and The Times generate relatively small volumes of impressions and retweets across most topics and most periods, with some exceptions (eg The Sun on UK politics at the time of the Manchester bombing).

Figure 14: Number of impressions and retweets for Twitter posts related to UK politics news at the time of the EU referendum (17/06/16-30/06/16, top 20 authors)



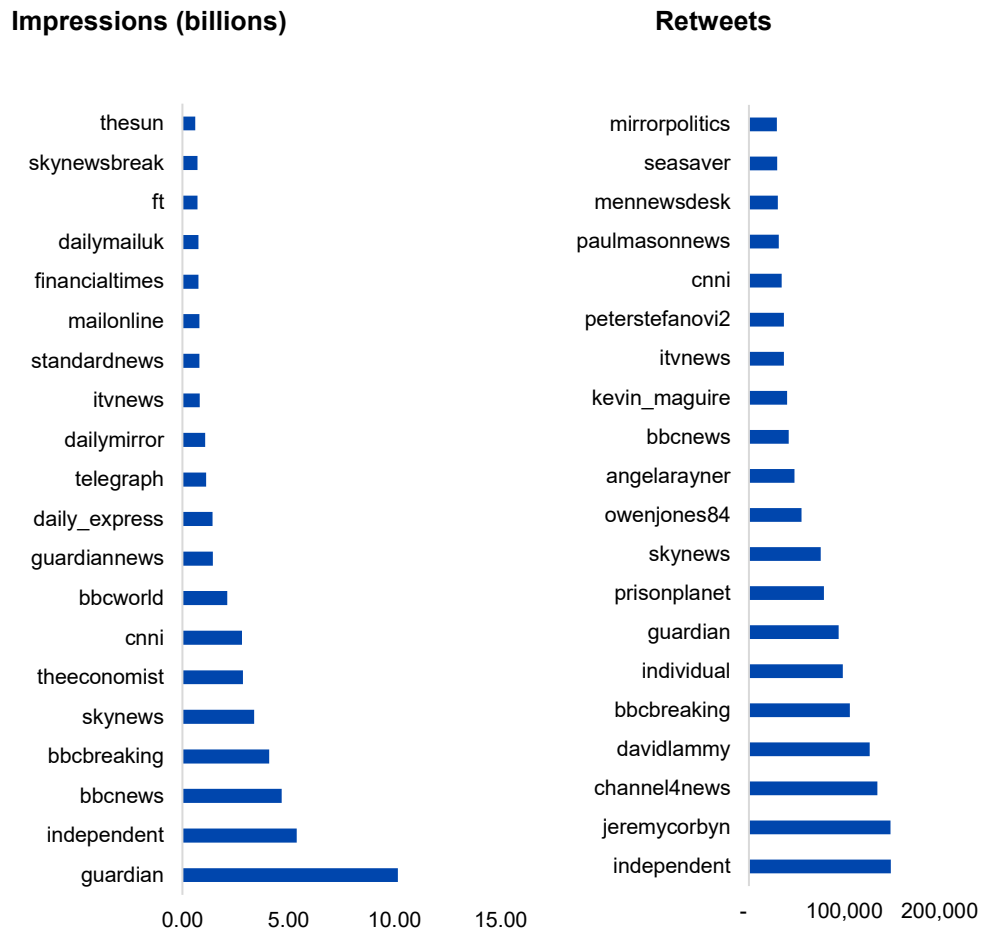
Source: Brandwatch, CMA analysis.

Figure 15: Number of impressions and retweets for Twitter posts related to economics news (01/02/17-28/02/17, top 20 authors)



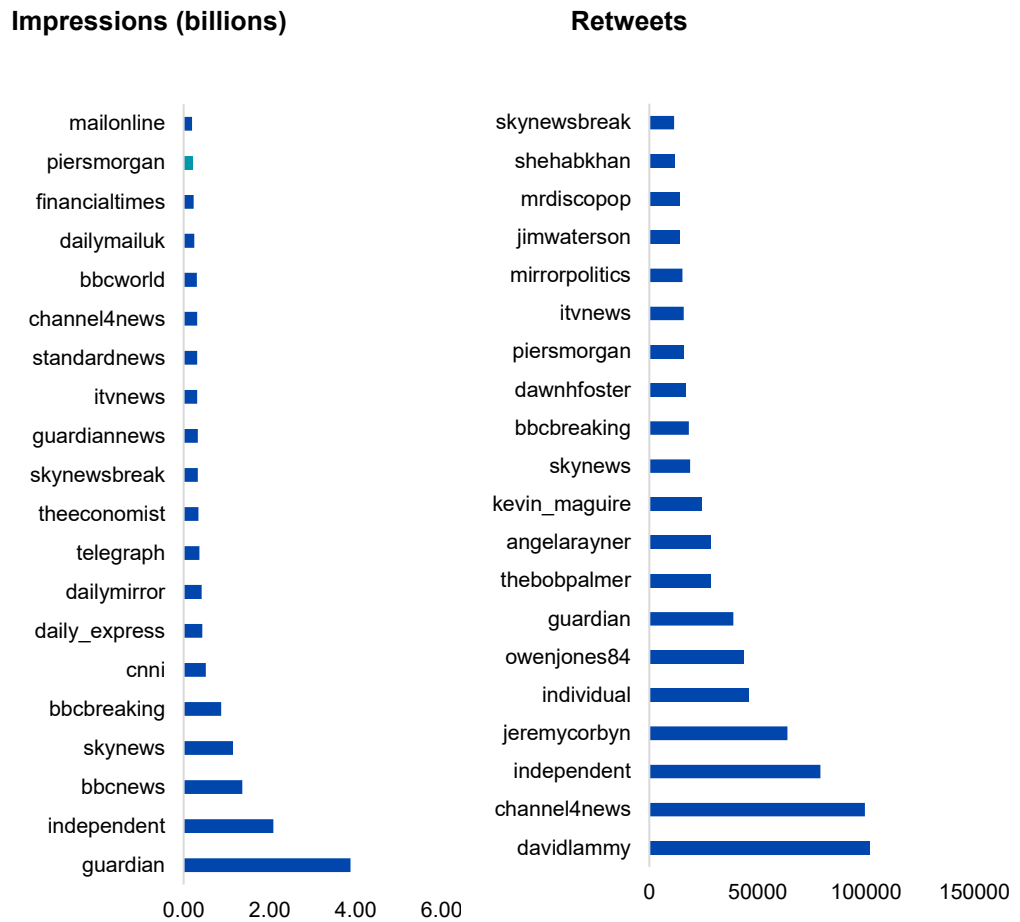
Source: Brandwatch, CMA analysis.

Figure 16: Number of impressions and retweets for Twitter posts related to social news for the past 12 months (29/10/16-28/10/17, top 20 authors)



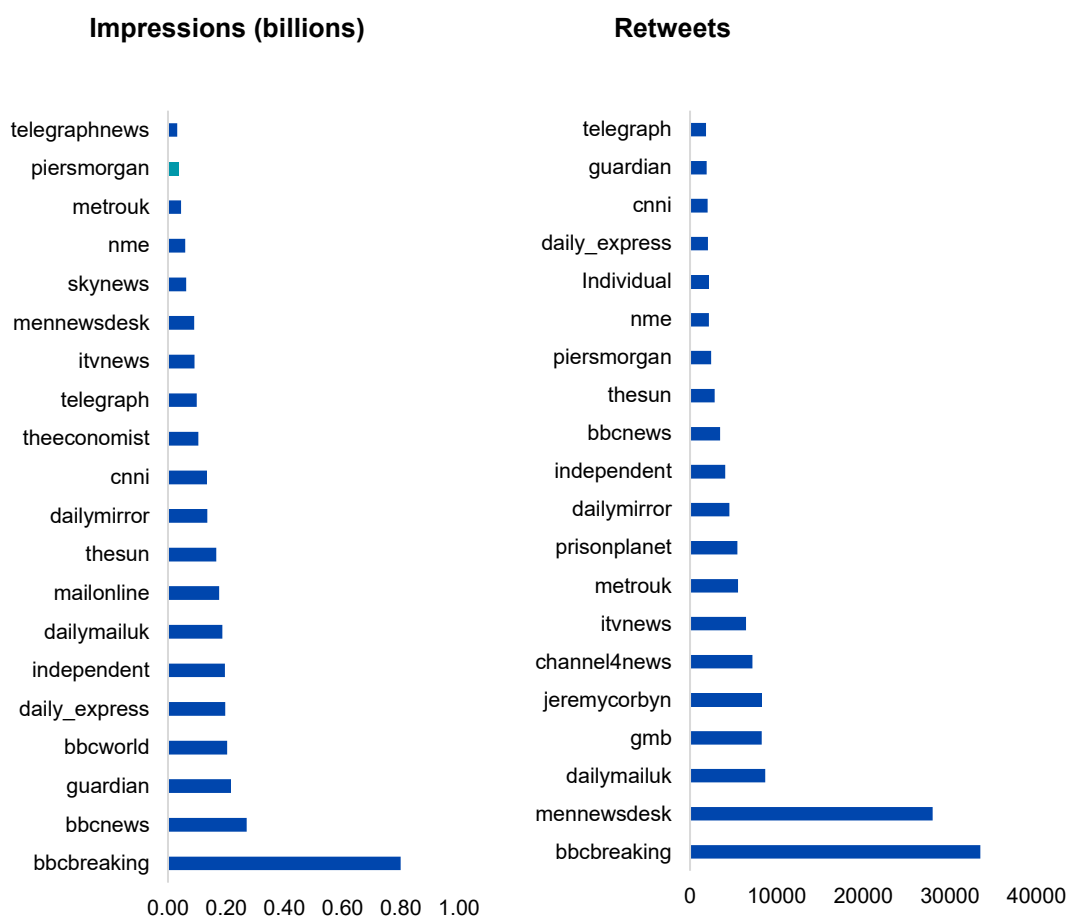
Source: Brandwatch, CMA analysis.

Figure 17: Number of impressions and retweets for Twitter posts related to social news at the time of the Grenfell tower fire (14/06/17-13/07/17, top 20 authors)



Source: Brandwatch, CMA analysis.

Figure 18: Number of impressions and retweets for Twitter posts related to social news at the time of the Manchester bombing (22/5/17-28/5/17, top 20 authors)



Source: Brandwatch, CMA analysis.

42. In summary, this analysis indicates that while some individuals manage to achieve significant levels of engagement for the news content they post on Twitter, news organisations are still the most widely read contributors on the platform. Broadcasters and broadsheet publishers appear to do particularly well, and Sky News has a significant presence on Twitter relative to other news sources.

Conclusion on the share of news consumption of traditional news organisations online

43. This analysis provides a complex picture of news consumption online, where the relative significance of different news organisations vary depending on the platform and the type of news considered. The [X] are relatively popular on Facebook, while [X] are more successful on Twitter. Sky News is a significant contributor on most platforms with the possible exception of [X].

The extent of multi-sourcing by online news users

44. As for reach and consumption, we have used two sources of data to evaluate the extent of multi-sourcing online: the MMX database of comScore, and information from Facebook.

comScore data

45. Table 6 summarises information on ‘cross-usage’ of different selected news sources online based on comScore. The level of the data analysed for each provider is the level reported in Table 1. The number reported in each cell of the table is the percentage of users of the ‘row title’ who have also used the ‘column title’ in the period between January and August 2017. In some cases, the results of this analysis are counterintuitive in the sense that they show a very high proportion of cross-usage for titles that are traditionally perceived as having very different positioning and editorial outlooks (for example 86% of The Sun users also using The Guardian, and 100% of The Guardian users also using The Times). It should be noted that, in this analysis, a user is counted as a multi-sourcer between two publishers as soon as they visit two websites in a given month, even if they visits these websites only once (eg if they read one article from a provider posted on social media). This is much looser measure of multi-sourcing than that provided by the NCS. For this reason, we have only used this analysis to consider broad patterns in the extent of multi-sourcing.
46. Notwithstanding these measurement issues, the extent of multi-sourcing appears to vary significantly between different titles. For example, users of The Sun, the BBC, and The Telegraph appear to use other sources to a large extent; in contrast, users of Sky News and The Times use other sources to a lower extent.

Table 6: Analysis of cross-usage online

	<i>Sky News</i>	<i>The Sun</i>	<i>The Times</i>	<i>BBC</i>	<i>Mail Online</i>	<i>Guardian</i>	<i>Telegraph</i>	<i>Independent</i>	<i>BuzzFeed</i>	<i>Huffington Post</i>
Sky News	100%	69%	38%	27%	28%	64%	27%	27%	22%	32%
The Sun	67%	100%	95%	30%	50%	86%	37%	64%	58%	92%
The Times	11%	27%	100%	8%	10%	33%	9%	11%	8%	16%
BBC	77%	88%	79%	100%	74%	87%	74%	80%	68%	75%
Mail Online	45%	84%	60%	41%	100%	78%	47%	54%	47%	56%
Guardian	52%	73%	100%	25%	40%	100%	31%	53%	44%	94%
Telegraph	60%	84%	71%	56%	64%	83%	100%	70%	62%	70%
Independent	30%	73%	43%	31%	37%	72%	35%	100%	32%	38%
BuzzFeed	25%	70%	34%	27%	34%	62%	33%	33%	100%	36%
Huffington Post	15%	45%	27%	12%	16%	53%	15%	16%	15%	100%

Source: comScore data, CMA analysis.

Notes: Data for each news title relates to the media title/channel/sub-channel specified in Table 1.

47. By way of comparison, Table 7 shows information on multi-sourcing for general news users (ie, not just online users) based on data from the NCS for a selection of news organisations with sufficiently large sample sizes. The comparison is not straightforward because the news organisations are not always the same, and the NCS sample sizes only allow reporting for a selection of 'pairs' of news sources. Also, as explained above the measurement of multi-sourcing relies on different definitions of usage in the two data sets. Notwithstanding these issues, this comparison indicates that multi-sourcing is slightly higher online than in the general population. For example, a greater share of The Sun Online users use other sources compared to readers of the print edition of The Sun.

Table 7: Analysis of cross-usage on other platforms


































































	BBC 1	ITV	Sun on Sunday	Other weekly paper	Sky TV	BBC News TV	BBC website	Daily Mirror	Daily Mail	BBC 1 Radio
BBC One	100%	45%	4%	16%	17%	15%	21%	6%	11%	6%
Daily Mail	75%	43%		33%	22%	20%	19%		100%	
ITV	71%	100%	6%	17%	17%	12%	15%	8%	10%	6%
Sky TV	66%	41%		16%	100%	33%	27%	7%	12%	8%
The Sun	60%	55%	40%	30%	20%	14%	13%	12%	11%	10%

Note: Information is omitted when fewer than 100 respondents used news from both sources.
Source: NCS data, CMA analysis.

Multisourcing on Facebook

48. Table 8 provides some information on multi-sourcing for the followers of the parties' profiles on Facebook. The number reported in each cell of the table is the percentage of followers of the row profile who also follow the column profile on Facebook (for example, 42% of followers of The Sun also follow [X]). These figures suggest a lower extent of multi-sourcing than based on the comScore data. Followers of The Times are the most frequent multi-sourcers: two thirds also follow [X], and significant proportions follow a broad range of newspapers. In contrast, followers of Sky News multi-source to a much lesser extent: 57% follow the [X] but relatively few follow other titles. Followers of The Sun fall in between these two patterns: 42% follow [X], and significant proportions follow other publishers, especially other tabloids.

Table 8: Multisourcing for the Parties' Facebook followers

	thesun				skynews										times		
thesun																	
skynews																	
times																	

49. This analysis focuses on patterns of multi-sourcing on one specific platform, Facebook, so it is difficult to draw comparisons with multi-sourcing in the more general population.

Conclusion on multi-sourcing

50. We have found it difficult to measure the exact extent of multi-sourcing online, and even more difficult to make comparisons with multi-sourcing in the general population. The comScore data indicates that multi-sourcing is more prevalent online than on other platforms. The Facebook data shows [X]. On balance, it is plausible that online users use a greater range of news sources on average. It is also consistent with the observation that most publishers achieve a broader reach online than on more traditional platforms.

The growth and positioning of online-only news sources

51. We considered whether online-only news sources such as BuzzFeed, HuffPost UK or The Independent were likely to grow and provide significant alternatives to traditional media for online news consumers. We considered the following evidence as part of our assessment.
- (a) **reach and consumption:** the information presented earlier indicates that online-only providers have been relatively successful at developing their audiences online, although there are significant differences between them. BuzzFeed has a broad reach (Figure 5) and a relatively high share of consumption relative to other commercial providers (Figure 7), although these figures are for all of its content rather than just news. It is very successful on [X] (Figure 8 to Figure 11) though not on [X] (Table 4). The Independent also does relatively well on these metrics, although its share of news consumption is lower according to comScore data (it does not appear among the top news providers in Figure 7). The HuffPost UK has a much smaller reach and accounts for less consumption and engagement.
- (b) **resources:** online-only providers tend to have much smaller resources to produce journalism than publishers on other platforms. BuzzFeed has [X] editorial staff; The Independent has [X] editorial staff; and HuffPost UK has [X] editorial staff. By way of comparison, the majority of other news organisations active in the UK employ more than 400 editorial staff (see Appendix H). This indicates that online-only producers have significantly lower resources at their disposal to produce original content, compared to traditional media organisations.

(c) **positioning:** we considered the positioning and focus of online-only providers, based on their representations.

- (i) BuzzFeed started in the US as an entertainment online site and later developed a news arm in the UK, which is seen as important as its news arm.¹⁰⁰ BuzzFeed told us that it saw itself as ‘a relatively small UK news organisation’ which tended to focus resources on covering stories that are not part of the ‘big media’ news agenda, or which will bring something distinctive to a big rolling story, as well as investigative journalism. BuzzFeed also added that it tends to focus on news that is likely to appeal to consumers under the age of 35.
- (ii) HuffPost UK told us that it had ‘defined editorial pillars’ which set out its strategic priorities. These include politics, inequality, and lifestyle issues such as health and wellbeing. HuffPost UK added that it saw itself ‘at the apex of the traditional broadsheets and tabloids - inspired by the tabloids because of their instinctive understanding of their audiences’ cares and interests, and by the broadsheets’ depth of exclusive, serious and revelatory journalism’.
- (iii) The Independent told us that its editorial outlook is ‘liberal, international, positive and passionate’. It sought to cover a broad range of stories, and was well-known for international news, notably its coverage of Middle East topics.¹⁰¹

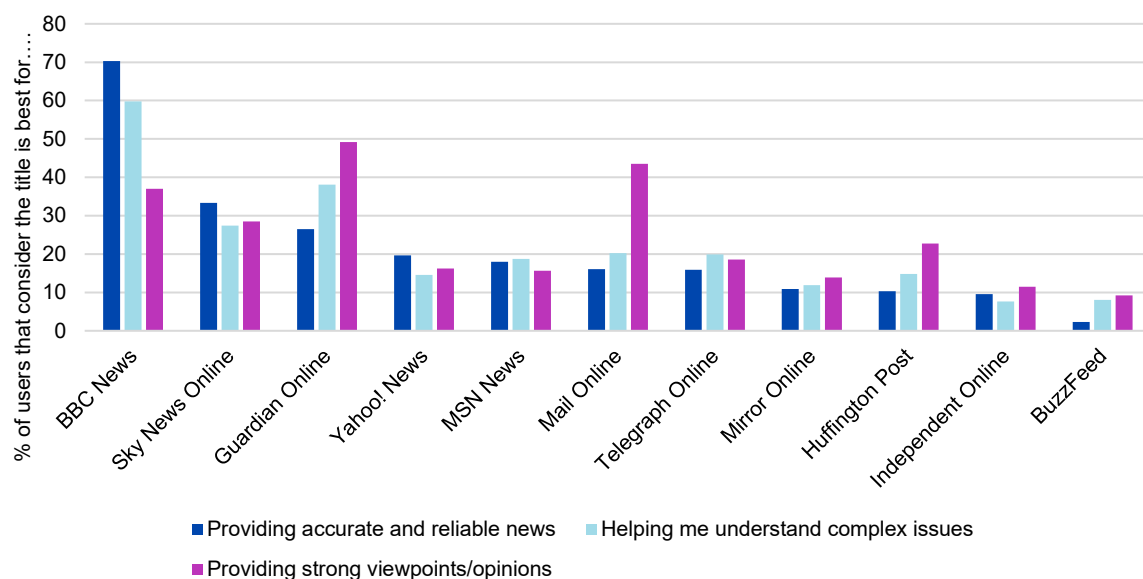
Overall, while The Independent appears to have a broad coverage, similar to that of traditional news organisations, BuzzFeed and HuffPost UK appear to have slightly narrower focuses compared to traditional newspapers.

- (d) **consumer perceptions:** the Reuters Institute survey on digital news ask respondents to state which news source they think is best for certain purposes, namely: ‘providing accurate and reliable news’; ‘helping me understand complex issues’; and ‘providing strong viewpoints/opinions’. Figure 19 shows that few respondents rate online-only sources as the best source for accurate and reliable news. HuffPost UK is perceived by more respondents as best for proving strong viewpoints and opinions.

¹⁰⁰ [BuzzFeed hearing](#).

¹⁰¹ [The Independent hearing](#).

Figure 19: Proportion of users who said the title was best for accuracy / understanding/opinion



Note: the chart shows data for all publishers for which the sample size was larger than 100.
Source: Reuters Institute data, CMA analysis.

52. In summary, while online-only providers have been successful at growing their audiences and generating engagement on social media, they still have more limited resources than more traditional media, and also narrower sets of editorial priorities. There is also some evidence that their users do not consider them to be as accurate or reliable as more traditional providers.

The impact of politicians and commentators on news discussions online

53. We considered the relative importance of individual politicians and commentators in current affairs debates on social media, compared to news organisations.
54. The analysis of Twitter data summarised above indicates that, while some individuals manage to achieve significant degrees of engagement for the news content they post on Twitter, news organisations are still the most widely read contributors on the platform.
55. We also collected some indicators of engagements on Facebook for a small sample of individual politicians (the leaders of the four largest parties) and two political blogs (Evolve Politics and The Canary). These are summarised in Figure 20. The data on likes, click throughs, and shares is for the period surrounding the 2017 elections (29 May 2017 to 11 June 2017). The information reported for 'news organisations' is a simple average for the UK

news organisation for which we have engagement data (ie those shown in Figure 11 earlier).

56. Figure 20 shows that Jeremy Corbyn achieved a significant level of engagement on Facebook at the time of the 2017 elections (as measured by likes and shares). The other politicians in the sample achieved much lower level of engagements. The political blogs also recorded significant numbers of shares at around that time, but very low levels of click throughs.

Figure 20: Facebook engagement data for a sample of politicians and blogs

[✂]

Source: Facebook data, CMA analysis.

57. Overall, this analysis indicates that news organisations continue to play a major role in debates on news and current affairs on social media. While some individuals generate significant levels of engagement with their content on social media, news organisation continue to be the largest contributors by number of impressions and click throughs.

The ability of news outlets to set the agenda online

58. Fox argued that the consumption of news online, including through social media gives media outlets the ability and incentive to select stories based on indicators of popularity or the requirements of social media platforms rather than based on a political agenda (a process sometimes referred to as ‘reverse agenda-setting’).¹⁰² Fox further argued that the consumption of news through intermediaries reduces the ability of media outlets to influence the selection and prominence of different stories, mainly because usage is not mediated through a front page structured by editors.¹⁰³ We considered these two arguments based on representations from third parties.

Reverse agenda-setting

59. All news organisations told us that they use engagement metrics to inform their editorial process to some degree. But they also emphasised that this did not mechanistically determine their decisions. For example, The Guardian told us that social media was not in itself a driver of its journalism. Similarly, HuffPost UK said:

Social media is an important way of reaching our audiences. But we balance that with what we know HuffPost audiences are

¹⁰² Fox initial submission, paragraphs 4.38(i) and (ii).

¹⁰³ Fox initial submission, paragraph 4.38(iii).

looking for on social media, rather than chasing hits indiscriminately.

60. The Independent told us that there was a constant tension between what was 'important' and what was 'urgent' to create audience, but this tension was not always resolved in favour of the urgent:

[we] are constantly in debate and often in disagreement as to what is important versus what is urgent to create audience. At the end of the day, that is a continuously dynamic tension and a healthy one because it keeps things going.¹⁰⁴

61. The Independent added that, considering the list of the 20 most popular articles it published this year, only a minority would have been driven by considerations of popularity on social media. The majority of articles related to important news topics such as about President Donald Trump and Brexit.¹⁰⁵

62. Some news organisations also pointed out that even if they source stories from social media, they will seek to add dimensions to such stories instead of just 'playing back' discussions heard on social media. For example, ITV told us:

Part of the reason to do this [using leads from social media] is to ensure that our audiences do not miss important stories but also because we can often add additional dimensions to such stories.

63. Other titles also emphasised that a 'click bait' strategy could backfire:

Modern technology has allowed The FT and other news organisation to better understand reader habits. (...) None of the above implies that The FT is pursuing a 'click bait' strategy aimed at maximising the number of readers per story. To chase readers for readers sake would damage our brand and our business strategy.

We obviously put up material that we think is of interest but we do not tailor it for the Internet because we hope the credibility of The Times and the seriousness of its reporting and content is attractive enough of itself so we would not twist it at all. You might change headlines to make it more attractive digitally because they search for certain words but the content we would not change.

¹⁰⁴ The [Independent hearing](#).

¹⁰⁵ The [Independent hearing](#).

64. In summary, there is no evidence that engagement metrics dictate the news coverage of their publications. News organisations take account of such metrics to assess the relevance of the content they publish, but this does not mechanistically drive their editorial choices.

Diminished ability to influence the prominence of stories

65. We received different views on the extent to which media outlets faced an incentive to choose the prominence of stories in response to their popularity online. At one end of the spectrum, an online news provider told us that its news editors did not control the positioning of stories on its website as this was automatically controlled by an algorithm based on information about what people were sharing and reading.¹⁰⁶ At the other end of the spectrum, The Times told us that the running order and the position of the stories were broadly the same in its print and online version.¹⁰⁷
66. Several news organisations agreed with the proposition that online audiences could be more ‘topic-driven’, particularly when accessing content through intermediaries. For example, the BBC said that online audiences could be more ‘selective’ than those listening to news bulletins or programmes on the radio, or watching on TV.
67. However, several news organisations said that the distribution of news online had also enhanced their ability to draw audiences to certain stories, for example by using different formats to make stories more compelling, or by writing the material in such a way that it would be easier to find and consume on social media or search engine. For example, The Financial Times (FT) said:
- Online news has enhanced our ability to tell stories and reach new audiences by removing the pressure and costs of printing and distribution. It has also allowed us to tell stories in other formats, be it video, audio, or interactive graphics. ... It is paradoxical but true that long-form journalism can do very well online, especially if tagged with a catchy headline.
68. Furthermore, roughly one third of those who use the internet for news do not use intermediaries and as such access the websites and apps of specific providers directly, in which case they are exposed to the hierarchy of stories selected by the publisher. Even those who access content through intermediaries may be drawn to certain stories and topics initially, but if they

¹⁰⁶ Hearing with online news provider.

¹⁰⁷ [The Times hearing](#).

click on the links to go on to the publishers' website, they might see a further selection of stories picked by the publisher.

69. Independent research has also shown that the ranking or placing of an article on a given website affects its sharing probability, in the sense that articles that are placed more prominently have a higher chance of being shared.¹⁰⁸ So the causality may be going both ways: the popularity of articles online may incentivise some news organisations to make such articles more prominent on their websites, but conversely the prominence of an article on a website may increase its propensity to be shared.
70. Overall, while the distribution of news online has reduced the salience of newspapers' front pages, it has not completely eliminated the ability of news organisations to make choices on the prominence of news stories.

The way users engage with online news

71. In general, news organisations considered that their audiences tended to engage with their content differently depending on whether they accessed it on traditional platforms or online (especially when accessing it through intermediaries). Online users tended to access fewer articles, for shorter durations, and tended to be more topic-driven. One news provider also pointed out that its most popular articles online tended to be live blogs or interactive pieces combining breaking news, comment, and reader reactions, rather than more traditional article. Similarly, ITV told us that people tended to use online news mostly to 'stay in touch' in the course of the day, while TV programmes were more carefully curated overviews of the news of the day, with more emphasis on comment and analysis.
72. There is a nascent literature on this topic, which also indicates that online users, especially social media users, engage with news differently. For example, social media users tend to read articles with more emotional content, or more individual perspectives.¹⁰⁹ They also tend to share news content that elicits positive or pleasant feelings rather than negative and neutral content.¹¹⁰ However, during periods of heightened political activity, public affairs content (featuring politics, government, or economics) is shared

¹⁰⁸ Berger, J., & Milkman, K. L. (2012). What makes online content viral? *Journal of Marketing Research*, 49, pages 192 to 205.

¹⁰⁹ Susan Athey, Markus Mobius, Jeno Pal; *Social Media and News Consumption Working Paper*, Stanford business school.

¹¹⁰ Berger, J., & Milkman, K. L. (2010). *Social transmission and viral culture*, Working paper.

more often than non-public affairs content (featuring entertainment, sports, or crime).¹¹¹

73. However, while online users engage with news in different ways, it is more difficult to see any clear implications in terms of whether they are more or less impacted by the news they consume. Some news organisations have argued that online users may be less trustful of news. For example, the BBC said:

The volume of information available online also makes it harder for audiences to understand, and therefore trust, news and information sources.

74. Similarly, The Independent told us that:

The rise of less reliable outlets online (in the UK and elsewhere), which are not bound by traditional codes of practice and ethics, may pose challenges to mainstream brands.

75. However, neither of these news organisations said that this was fatal to their own brand. The BBC emphasised that in that context ‘the role of the BBC as a trusted source of news is more important than ever’. And The Independent told us that its own experience showed that ‘traditional news values can transition effectively to an online-only operation’. This might indicate that established news brands may have an advantage online. The views of HuffPost UK were consistent with this proposition:

With people finding their news increasingly through social media, traditional outlets have had to work hard to find their voice in the digital sphere to maintain their influence. People are less trustful of the media. That said there is still huge political heft in being a newspaper or broadcaster.

¹¹¹ Boczkowski, P. J., & Mitchelstein, E. (2012). *How users take advantage of different forms of interactivity on online news sites: Clicking, e-mailing, and commenting*, Human Communication Research.

Queries used for the analysis of news consumption on Twitter

UK politics

```
(  
( 'general election' NOT (US OR USA OR America OR American OR German OR Germany  
OR France OR French))  
OR 'UK election'  
OR ('2017 election' NOT (France OR French OR German OR Germany))  
OR ('snap election' OR 'hung parliament' OR 'minority government')  
OR (((Scotland OR Scottish) AND (referendum OR independence) NOT (Spain OR Catalan  
OR Catalonia)) OR 'Indy2')  
OR ((coalition AND government) OR 'Coalition government' OR 'Tory led government' OR  
'Conservative led coalition' OR 'Tory led coalition' OR 'Conservative led government')  
OR (manifesto AND (Tory OR conservative OR Labour OR LibDems OR 'Liberal  
Democrats'))  
OR (Tories OR Tory OR Conservatives OR (raw:Labour) OR ('Momentum' AND Labour) OR  
'SNP' OR UKIP OR Libdems OR 'Liberal Democrats' OR 'Ukipers')  
OR ('Leadership contest' AND ((Tories OR Tory OR Conservative OR Labour OR UKIP OR  
Libdems OR 'Liberal Democrats')))  
OR ('Prime Minister' OR 'Theresa May' OR 'Jeremy Corbyn' OR Corbyn OR 'Vince Cable'  
OR 'Nicola Sturgeon' OR 'David Cameron' OR 'George Osborne' OR 'Dianne Abbott' OR  
'Ed Miliband' OR ('Ed Balls' NOT (Strictly))OR 'Tim Farron' OR 'Nick Clegg' OR 'Nigel  
Farage' OR 'Alex Salmond' OR 'Boris Johnson' OR 'BoJo' OR 'BoJo' OR (Boris NOT (Becker  
OR Tennis)) OR borisjohnson OR 'Sadiq Khan')  
)  
AND country:uk
```

Brexit

```
(  
(Brexit OR Brexiter OR Brexiteer)  
OR (((Remain OR Remainer OR Remaining) AND (EU OR Europe OR Vote)) OR Remoan  
OR Remoaner OR ((Leave OR Leaver OR Leaving) AND (Vote OR EU)))  
OR ((Hard OR Soft) AND Brexit)  
OR (UK AND immigration)  
OR (((raw:EU) AND (UK OR Britain) NOT (hashtags:ForSale)) OR 'European Union' OR  
'European Commission' OR ECJ OR 'European Court of Justice' OR ECHR OR 'European  
Court of Human Rights' OR Brussels)  
OR (Brexit AND (Negotiate OR Negotiation OR Transition))  
OR ((Junker OR 'Prime Minister' OR 'Theresa May' OR 'Boris Johnson' OR 'BoJo' OR 'BoJo'  
OR (Boris NOT (Becker OR Tennis)) OR borisjohnson OR 'David Davis' OR Davis OR 'Liam  
Fox' OR Barnier OR Verhofstadt)  
AND ((Brexit OR Brexiter OR Brexiteer) OR (((Remain OR Remainer OR Remaining) AND  
(EU OR Europe OR Vote)) OR Remoan OR Remoaner OR ((Leave OR Leaver OR Leaving)  
AND (Vote OR EU)))  
OR ((Hard OR Soft) AND Brexit)  
OR (UK AND immigration)  
OR (((raw:EU) AND (UK OR Britain) NOT (hashtags:ForSale) ) OR 'European Union' OR  
'European Commission' OR ECJ OR 'European Court of Justice' OR ECHR OR 'European  
Court of Human Rights' OR Brussels)  
OR (Brexit AND (Negotiate OR Negotiation OR Transition))  
)  
OR 'Greek Debt Crisis'
```

)
AND country:uk

Economic news

(
(UK AND (inflation OR MPC OR 'Monetary Policy Committee' OR 'interest rates' OR GDP))
OR (((labour OR UK) AND productivity) OR (raw:FTSE100) OR FTSE OR footsie OR
(Pound AND (Up OR Down OR depreciate OR depreciation)) OR 'Bank of England')
OR ('zero hour contract' OR 'zero hours contract' OR (UK AND ('wage growth' OR
(statistics OR stats) AND (employment OR unemployment)))))
OR (UK AND ('consumer confidence' OR 'House prices' OR 'energy prices' OR 'big 6'))
OR ('Hinckley Point' OR (UK AND ((Nuclear AND Power) OR 'green energy' OR 'wind
power'))))
)
AND country:uk

Social news

(
(((attack AND (terror OR terrorist)) AND (london OR manchester OR 'Parsons Green' OR
'Parson's Green' OR Westminster))
OR ('public sector' AND pay AND cap) OR ('Universal Credit') OR ('Benefit cuts') OR 'Food
bank' OR 'Food banks' OR Austerity
OR ('Rotherham abuse' AND (scandal OR victim))
OR (Grenfell)
OR (NHS AND (budget OR spend OR spending OR (Waiting AND (list OR lists)))) NOT
'Search Results')
OR (Junior AND (doctor OR doctors OR 'doctor's') AND strike)
OR ('fox hunting' AND ban)
OR (((Climate AND change) OR Pollution) NOT (America OR American))
OR ('Sexual Abuse' AND (Inquiry OR 'Public Inquiry'))
OR ('data privacy' AND (Facebook OR Apple OR Uber OR Twitter OR Google))
OR ('Fat Cat' AND Salaries)
) NOT raw:marketwatch.com)
AND country:uk

Appendix F: Sensitivity adjustments to share of reference

Introduction

1. Third parties raised several criticisms of the share of reference calculations presented by Ofcom at phase 1, including:
 - (a) the share of reference does not allocate the use of news providers via an intermediary to the news provider (for example, news read from the Sky News website via Facebook will not be attributed to Sky News if Facebook is reported as the source of news in the survey response);
 - (b) the wholesale share of reference of Global and Bauer radio stations should be attributed to Sky as Sky is the sole provider of news to Independent Radio Network (IRN), which supplies Global and Bauer with news content;¹¹²
 - (c) share of reference does not account for intensity or duration of use. As such, someone who reads a newspaper article in-depth is weighted the same as someone who reports having read news online who may have glanced at a story briefly.¹¹³
2. This appendix considers the validity of these criticisms, and outlines the sensitivity adjustments made by us to reflect these criticisms.

Allocation of news providers' consumption through intermediaries

3. A first possible adjustment to the share of reference calculation relates to the treatment of news consumed through intermediaries. In Ofcom's phase 1 findings, intermediaries such as Facebook and Google are treated as having their own share of reference, with a total share of around 15% across all intermediaries. In practice however, intermediaries typically do not produce original news content, but instead provide a channel for users to access other news providers' content. This means that Ofcom's unadjusted figures will underestimate, to some extent, the total share of reference for any news provider with online content that can be accessed through intermediaries.
4. We considered allocating intermediary shares of reference to providers based on their share of reference.¹¹⁴ This is likely to over-weight those providers with limited online offerings (for example, radio stations or some TV broadcasters)

¹¹² For example, submission from [Media Reform Coalition and Avaaz](#), page 13.

¹¹³ For example, submission from [Ed Miliband et al](#) page 19.

¹¹⁴ This approach was based on internal Ofcom analysis supplied to us.

and underweight online only news providers or those providers strong on social media (for example, BuzzFeed). We found that this approach increases the Fox, News Corp and Sky share of reference from 10% to 11%.

5. We note that there are other ways of allocating intermediaries' share of reference. Fox supplied analysis in which intermediaries' share of reference was allocated based on the number of 'likes' that a news provider received on Facebook.¹¹⁵ This analysis showed the share of reference of Sky increasing by 0.5 percentage points and News Corp by 0.8 percentage points.
6. We summarised our own analysis of consumption via intermediaries in paragraphs 9.42 and 9.43 of the provisional findings report. The analysis suggests that the degree of success of different news providers differed across platforms. The analysis provides only limited evidence as to which reallocation methodology is the most appropriate. Given that the analysis suggests that no provider (either a traditional provider or online only provider) performs consistently better or worse on intermediaries, a reallocation by overall share of reference would appear appropriate, while noting that this will likely over-weight providers with a weak online presence (such as radio stations). This adjustment gives an adjusted share of reference for the Parties and News Corp at 11%.

Allocation of wholesale supply to IRN

7. Sky News supplies news content to radio stations through IRN for whom Sky is the current supplier of content. IRN currently provides services to the commercial stations controlled by Bauer and Global, as well as a number of local independent radio stations such as Hallam FM and Signal 1.¹¹⁶
8. Ofcom's share of reference calculations do not attribute any of the consumption of IRN radio news to Sky. Third parties have argued¹¹⁷ that the wholesale supply of news to IRN should be attributed – at least partially – to Sky at the wholesale level, thus increasing Sky's wholesale share of reference.¹¹⁸
9. Ofcom previously decided that content supplied by Sky to IRN should not be attributed to Sky at the wholesale level. This is because individual stations

¹¹⁵ [Plurality implications of the Fox/Sky Transaction](#), CRA, 8 November 2017.

¹¹⁶ See [IRN website](#).

¹¹⁷ For example, submission from [Media Reform Coalition & Avaaz](#), page 13.

¹¹⁸ Given a lack of data for the smaller local providers, a reallocation of share of reference for these stations is not possible. Given the relatively small number of these stations that are [clients of IRN](#) and the relatively low share of reference these stations are likely to have, their exclusion should not be material.

can choose how much IRN content they use. Bauer and Global told Ofcom that they had significant editorial control and were able to source information from other providers.¹¹⁹

10. We requested information from Bauer and Global to better understand how they used IRN content in their news bulletins. Both companies stated that they have editorial control over the extent to which IRN content is used. Both Bauer and Global have inhouse news teams, with Bauer stating that it employs [redacted] broadcast journalists and Global stating that it employs [redacted] people over its LBC, LBC News, Group News and Regional News functions. Bauer states that it 'is common for none of the Sky News Radio supplied content to be used across the Bauer Radio portfolio' and notes that Bauer has influence through its position on the IRN editorial board. Bauer has stated that it uses Sky News Radio for its national news bulletins overnight. Global estimated that at LBC only [redacted] of content is from IRN and at other brands (Heart, Capital, Classic FM, Smooth, Gold and Radio X) approximately [redacted] of content is from IRN (with the rest coming from news agencies or self-produced content).
11. Third parties provided evidence in support of attributing 50% of Global and Bauer's consumption to Sky.¹²⁰ The MRC provided research suggesting that bulletins from Global and Bauer often cover the same stories,¹²¹ and often use the same audio clips to illustrate the story (eg of politicians/royalty/celebrities making statements).¹²²
12. Further analysis was provided to us by Fox comparing the stories covered in Global, Bauer, and BBC radio stations over a week.¹²³ This analysis found that on certain days some stories were covered by all outlets given their high profile (such as the New York Terror Attack), while on other days there was a high degree of variation in the stories ran and the ordering of these stories.
13. Given the analysis conducted by Ofcom, and comments from Fox, Bauer and Global, we have provisionally found that it is unlikely that Sky has a high degree of control at the wholesale level over the news content provided by Bauer and Global to listeners. However, we consider that there is some control given that these stations tend to [redacted], and, as such, it is appropriate to allocate some wholesale supply to Sky.

¹¹⁹ Ofcom Public Interest Report, paragraph 6.23.

¹²⁰ See for example [MRC/Avaaz submission to CMA, page 13](#).

¹²¹ [MRC and Avaaz submission](#).

¹²² Appendix 3 to [MRC submission to CMA](#), 30 November 2017.

¹²³ [A critique of MRC/Avaaz's submission to the CMA, Communications Chambers](#).

14. Global estimated that the percentage of news content it used from IRN was [REDACTED]. We consider that this is an appropriate point at which to start an adjustment taking share of reference from Global and Bauer and allocating it to Sky. However, the Parties have noted [REDACTED]. We have no evidence to quantify precisely [REDACTED] is likely to be. Nevertheless, we consider that there will be some bias upwards in Sky's share of reference as a result of its supply of news to IRN, and the [REDACTED] provides an upper estimate of what this bias could be. This allocation would add an upper bound of [REDACTED] percentage points to Sky's wholesale share of reference, increasing it to an upper bound of over [REDACTED].¹²⁴ Our provisional view is that this is an upper limit on any adjustment to reflect Sky's input via IRN.

Intensity and duration of use

15. Submissions from third parties have noted that Ofcom's share of reference measure does not take account of the average duration and intensity of use. It is based purely on a measure of frequency of use (for example, the number of times in a given month that someone watches Sky News). As such, someone who responds to the NCS stating that they read The Sunday Times in-depth once a week is accorded the same weight as someone who looks on The Sun website (however briefly) once a week. Since the impact and influence of a particular source might be expected to depend in part on the total amount of time during which it is viewed or read, we have considered how we might test the sensitivity of the share of reference results to adjustments to reflect duration of use.
16. We considered weighting shares of reference by duration of use, so that those news sources that are used for longer periods of time are weighted accordingly. It is important to note that, due to data limitations and the assumptions required to undertake such an exercise, the results reported are solely indicative and should be seen in the context of providing the direction of any bias caused by differences in the duration of use of different types of news. As such, the discussion of this adjustment is the last of the adjustments as it is the adjustment with the potential for being the least precise.
17. We used the Ofcom estimates of shares of reference and adjusted for duration of use.

¹²⁴ Global and Bauer's combined share of reference is [REDACTED]. [REDACTED] of this is [REDACTED].

18. Ofcom's share of reference calculation is based on whether a respondent uses a news source¹²⁵ and the frequency¹²⁶ with which the news source is used. Therefore, if a user uses, for example, online news more often than a newspaper, this will be included in the share of reference estimate.¹²⁷
19. As frequency is already considered in share of reference, our adjustment takes **each time** that the news source is used and weights **each use** by duration of use.
20. We first gathered evidence on the duration that each news source (TV, newspaper, radio and internet) is used.
21. Many sources of evidence give only the average use over the course of, for example, a week. The average use (over, say, a week) will be influenced by the frequency of use (ie total use divided by frequency of use). The share of reference calculation is already weighted by frequency of use, so it is necessary to strip any measures of frequency out when calculating duration. We have done this by calculating total use over a week and dividing by frequency of use per week to give a duration per use:
 - (a) in relation to viewing of news on TV, we estimated that the average viewer watches 15 minutes of news per sitting;¹²⁸

¹²⁵ We have noted previously that due to problems with recall the reach of online news providers as measured by the NCS tends to be lower than as measured by comScore. The result of this, other things being equal, is a lower share of reference for online sources.

¹²⁶ We have also attempted to assess whether the frequency measures (the other component of share of reference) in relation to online sources in the NCS correspond to frequency measures as captured by comScore. We have used the frequency of use measure in the NCS, weighted it, and scaled up to a monthly measure to estimate usage of the BBC, Sky, Daily Mail, and The Guardian websites at between 35 to 40 times a month (respectively). comScore reports the average minutes per visitor in a month and the average minutes per visit. Dividing the former by the latter gives the average number of visits. In August 2017 the average number of visits tended to be lower than the NCS estimates for the sites listed above (using the comScore data level as outlined in Table 1 of Appendix E) with the exception of the BBC which was almost equal. comScore data therefore suggests that respondents to the NCS could be overstating the number of times they use a website.

¹²⁷ We note that online sources may be understated in their use but overstated in the frequency of their use. These two measures are the basis of the share of reference. It is not clear the extent to which these biases cancel one another out. However, we consider that the share of reference remains a suitable starting point (see discussion on the suitability of the Ofcom measurement framework in paragraphs 5.45 and 5.46 of the provisional report).

¹²⁸ Broadcasters' Audience Research Board (BARB) reports that in September 2017 the average weekly viewing of TV was 22 hours and 45 minutes, and 9.05% of viewing was of news and weather. This gives average weekly viewing of 2 hours and 4 minutes of news viewing a week. A weighted average of the frequency of which TV channels were viewed for news in the 2016 NCS shows that viewers watch the TV news, on average, just over once a day (a score of 8.07 in the NCS' weighting system, which means that a user watches TV 8.1 times a week). 15 minutes is therefore total viewing of news (just over 2 hours a week) divided by frequency (8 times a week).

- (b) in relation to reading of newspapers we estimate that the average time reading a newspaper per sitting is 64 minutes;^{129,130}
 - (c) in relation to radio we estimate that the average consumption of news is six minutes per sitting;¹³¹
 - (d) in relation to online we estimate that the average consumption of news is two minutes per sitting.¹³²
22. We do not have complete data that would allow us to calculate measures for each individual source in the NCS. As this is an indicative exercise, we have decided to apply an average duration per sitting uniformly across sources on a platform (ie all TV channels are weighted at 15 minutes per sitting). The estimates of duration are therefore 15 minutes for each time news is watched on TV, 64 minutes for each time news is read in a newspaper, six minutes for radio listening and two minutes for online use.¹³³ These estimates correspond, in terms of relativity, to third party comments on the nature of use of the different channels (with TV and newspapers being deeper forms of engagement and internet being a shallow form of engagement).
23. We note that the calculation in relation to average time spent reading a newspaper is high compared to the other duration estimates. We have made an estimate based on the information available. We note that if respondents to the NCS underestimate the frequency with which they use a newspaper the estimated time per use will be an overstatement.¹³⁴ We restate that this

¹²⁹ NRS data in [Thurman \(2016\)](#) suggests that the average time spent reading a newspaper per day is 40 minutes. The NCS average frequency measure for reading a newspaper is 4.4 times a week. If the average time reading a newspaper per day is 40 minutes, this suggests that readers are spending 280 minutes a week reading the paper (40 minutes multiplied by 7). We estimate that the average duration per sitting is 64 minutes when reading a newspaper (40*7)/4.4. We note that the estimate for newspapers is likely to be an overstatement given newspapers may contain a range of non-news content.

¹³⁰ The NCS also asks about magazine usage. Due to lack of data on duration, the same time has been applied to magazines as newspapers.

¹³¹ RAJAR reports the average hours (across all radio stations) spent in September 2017 as 21.3 hours a week. The NCS reports that users listen to the radio on average 10.1 times a week. Per sitting we calculate this to equate to 2.1 hours per sitting (21.3/10.1). RAJAR does not separate news from other radio content so we have assumed that radio stations carry a three minute bulletin per hour. This will understate the position of stations such as Radio 4 and LBC that are more news focused.

¹³² Analysis of comScore data shows a weighted average of two minutes' use per visit across the 20 news sites listed in Table 1, Appendix E. We have not needed to use frequency measures from the NCS to calculate this as comScore provides a measure of duration per visit. We note that if the NCS underestimates the frequency with which people visit news websites, the base share of reference as calculated by Ofcom will be an underestimate for news sources online.

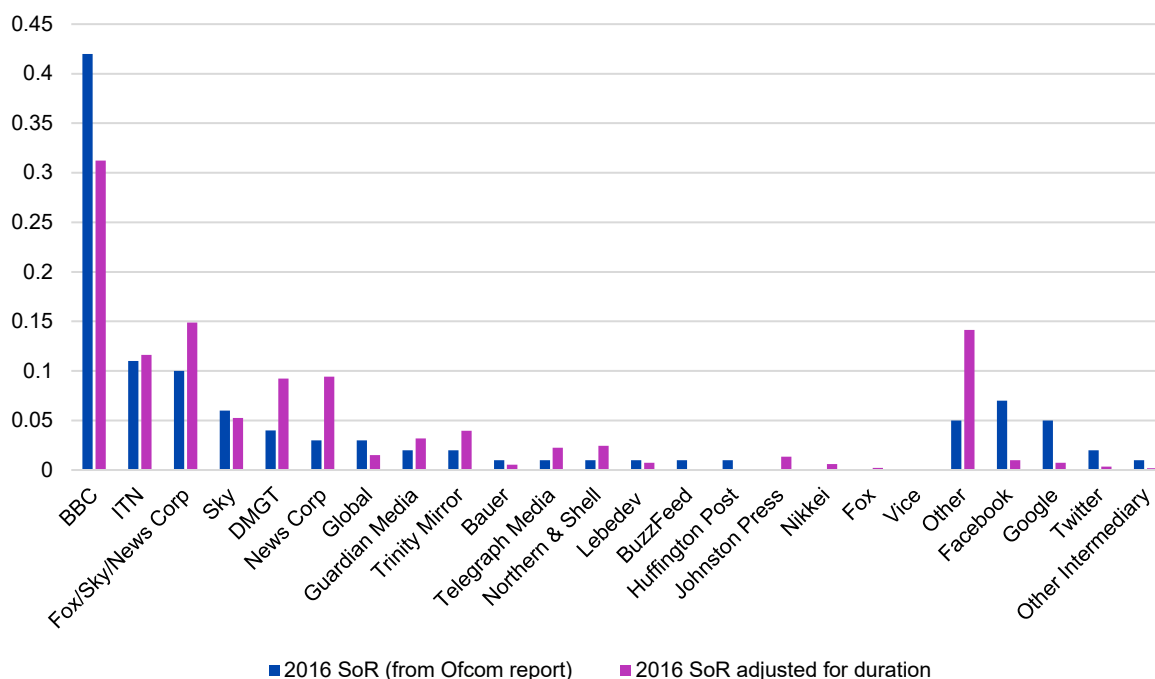
¹³³ We do not have complete data that would allow us to calculate measures for each individual source in the NCS. As this is an indicative exercise, we have decided to apply an average duration per sitting uniformly across sources on a platform (ie all TV channels are weighted at 15 minutes per sitting).

¹³⁴ We note that this bias will affect the results in two different directions. First, the base share of reference as calculated by Ofcom will be lower, as more frequently used sources will have a higher share of reference (all other things being equal). Secondly, the duration adjustment will be lower as the average use per duration will be lower, reducing the adjusted share of reference.

exercise is an indicative exercise to show the direction of any bias caused by different durations of use for different sources of news.

24. Furthermore, Fox has argued that our approach underweights the importance of online sources with its duration adjustment. Fox notes that 28% of NCS respondents stated that online was their most important source of news, which is inconsistent with the duration adjustments. We do not consider there is any reason why a respondent cannot identify online news as being important to them while using it for only short periods of time. The adjustments are made for duration and as such we have used the information available to it in relation to duration. Furthermore, we have no evidence on any relationship between duration and importance.
25. The results of weighting the share of reference calculation for 2016 to include duration of use per sitting are shown in Figure 21. Generally, those providing printed newspapers increase their share of reference, while radio stations and online-only providers are sharply reduced (Global and Facebook are the largest providers of online and radio news, with shares of reference of 2% and 1% respectively).
26. Key points to note are:
 - (a) the BBC's share of reference is lower on this revised basis than for Ofcom's central estimate. This is due to the number of people using the BBC's website and radio services which are weighted relatively lower than newspapers and TV;
 - (b) ITN's share of reference is higher than the central estimate due to the majority of its users being TV viewers (and a relatively less important online service);
 - (c) Sky's share of reference is slightly lower (due to the large number of online users)
 - (d) News Corp's share of reference sees a large increase, due to the long duration of reading a newspaper;
 - (e) DMGT's share of reference also increases for the same reason;
 - (f) the joint share of reference for Fox, Sky, and News Corp is higher than in Ofcom's central cases (we estimate its share of reference increasing from 10% to 15%). The increase is due to the increased presence of the News Corp newspaper titles.

Figure 21: Wholesale share of reference, 2016, base version and adjusted for duration of use



Source: CMA analysis of NCS data.

Outcome of sensitivity adjustments

27. We have calculated a range of share of reference estimates for the Parties and News Corp based on the adjustments discussed above. These are:
- (a) an allocation of intermediary share of reference to the Parties and News Corp, with intermediary share allocated as a proportion of all non-intermediary share;
 - (b) an allocation of up to [X] of Global and Bauer's wholesale share of reference to Sky; and
 - (c) an adjustment to take account of duration of use.
28. Making the first adjustment, the share of reference of the Parties will increase to 11% (with Sky having a share of reference of 8% and Fox/News Corp having a share of reference of 3%). If the second condition holds (in addition to the first), the Parties and News Corp's share of reference increases up to between [11 and 13%]¹³⁵.

¹³⁵ We have placed the true figure within a range as the percentage allocation of Bauer and Global to Sky is confidential information. The range represents an allocation of between [0 and the 50%] allocation suggested by third parties.

29. We note, in particular, the assumptions required to estimate the share of reference when adjusting for duration. We have therefore made this adjustment last. Making this adjustment will increase the Parties and News Corp's share of reference up to [13 to 14%].¹³⁶
30. In summary, Ofcom's current share of reference estimate for the Parties and News Corp is 10% (with Sky on over 6% and Fox/News Corp over 3%). Given the adjustments discussed, we consider that this share of reference is an underestimate of cross platform consumption of the Parties and News Corp. Adjustments for allocation of intermediaries, wholesale supply of news to IRN, and duration of use will all tend to increase the share of reference. We acknowledge that any estimate of the share of reference after adjustments relies on a number of assumptions. We have provisionally concluded that the share of reference should be higher than the 10% estimated by Ofcom, and is likely to be between [10 to 14%].

¹³⁶ We note that once a duration adjustment is made, the allocation of Global/Bauer content chosen does not significantly affect the final share of reference because the duration methodology significantly down weights radio.

Appendix G: Age and social groups reached by news providers

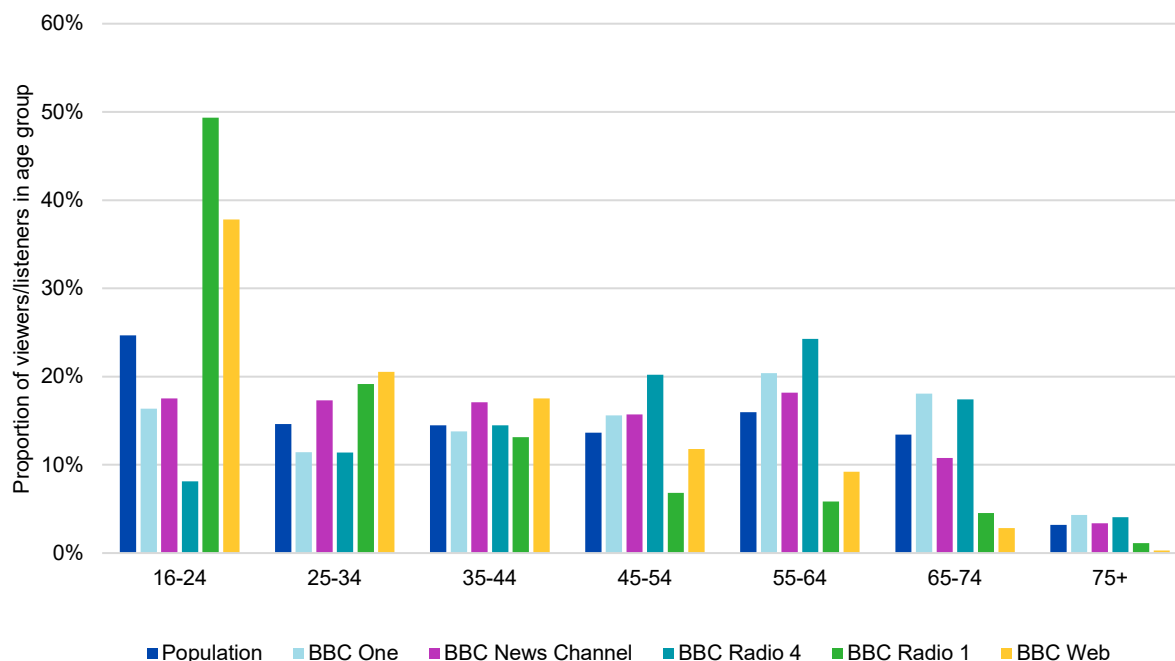
Introduction

1. In chapter 11, we found that Sky News appears to have a more balanced social demographic audience than News Corp titles (with a younger online age profile), indicating that acquiring Sky News will provide the MFT with a broader demographic audience profile.
2. This appendix uses data from the Ofcom News Consumption Survey (NCS) to assess the ages and social groups reached by other news providers to understand their demographic reach. We have focused on the BBC, DMGT, Guardian Media Group and Telegraph Group as these are some of the largest remaining news providers by share of reference. We find that, with the exception of the BBC, their demographic reach is not as broad as that of the MFT following the Transaction.

BBC

3. Figure 22 and Figure 23 show that the BBC draws its audience from a relatively diverse range of ages and social grades depending on the title. Younger audiences are more likely to receive news from the BBC website or BBC Radio 1 compared to older audiences, and higher social grades more likely to listen to BBC Radio 4.

Figure 22: Proportion of BBC viewers/listeners in each age group

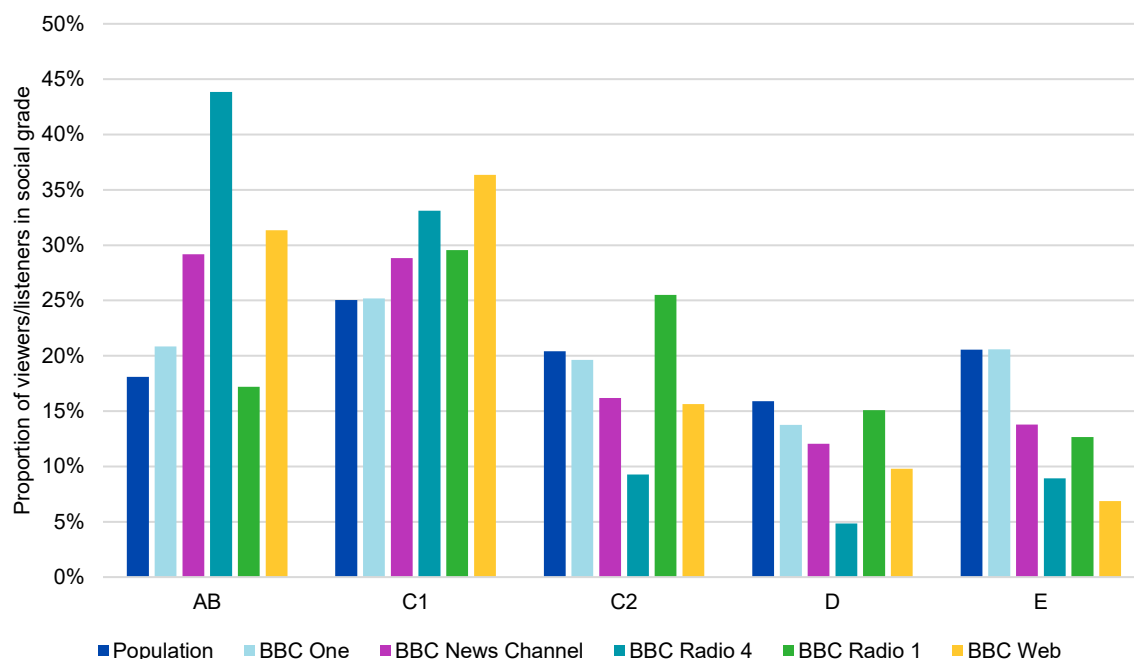


Source: CMA analysis of NCS data.

Base: all respondents (11,408), BBC One (6,294), BBC News Channel (1,502), BBC Radio 4 (885), BBC Radio 1 (616), BBC Website (2,339).

Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?* and question S2: *What was your age last birthday?*

Figure 23: Proportion of BBC viewers/listeners in each social group



Source: CMA analysis of NCS data.

Base: all respondents (11,408), BBC One (6,294), BBC News Channel (1,502), BBC Radio 4 (885), BBC Radio 1 (616), BBC Website (2,339).

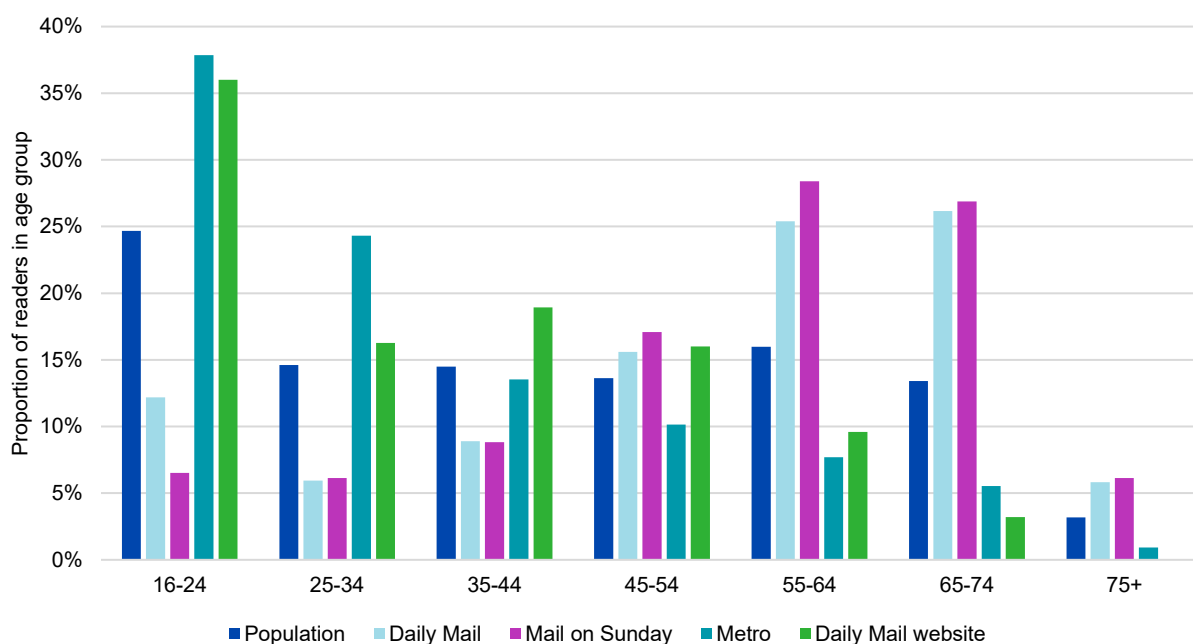
Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?*

Social grade ascribed by interviewer.

DMGT

4. Figure 24 and Figure 25 show that readers of The Daily Mail and The Mail on Sunday are similar in terms of the makeup of their age and social grades. We note that the Daily Mail website and The Metro have a higher proportion of their audience drawn from younger age groups compared to The Daily Mail and The Mail on Sunday.

Figure 24: Proportion of DMGT readers in each age group

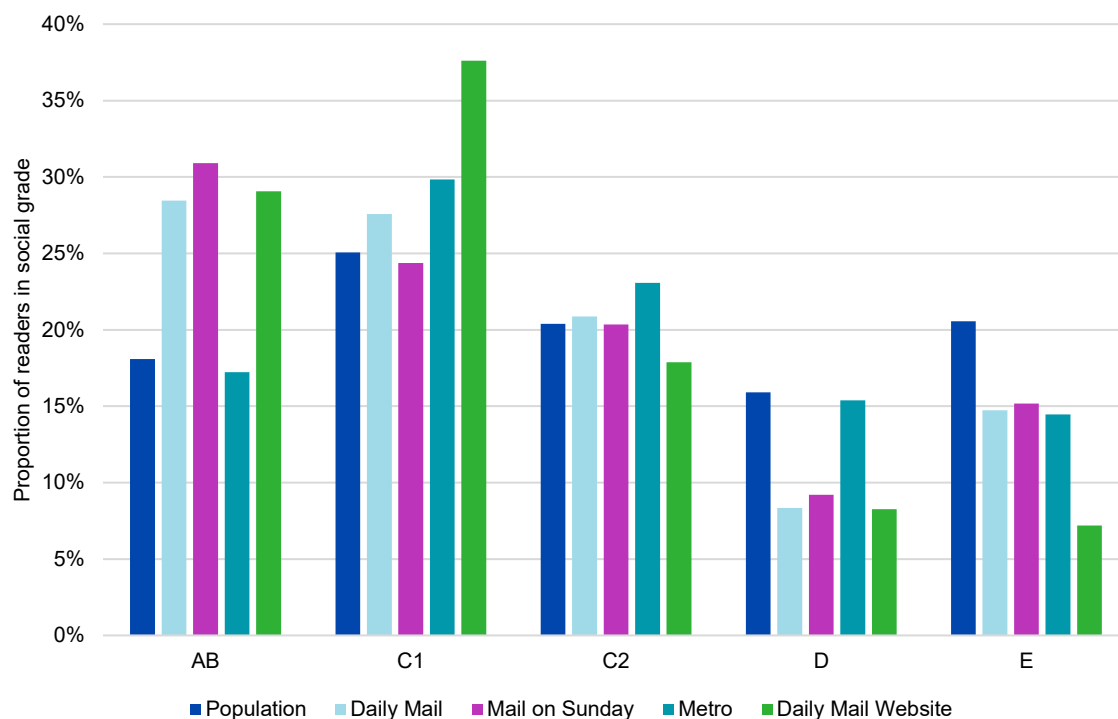


Source: CMA analysis of NCS data.

Base: all respondents (11,408), Daily Mail (910), Sunday Mail (521), Metro (325), Daily Mail Website (375).

Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?* and question S2: *What was your age last birthday?*

Figure 25: Proportion of DMGT readers in each social group



Source: CMA analysis of NCS data.

Base: all respondents (11,408), Daily Mail (910), Sunday Mail (521), Metro (325), Daily Mail Website (375).

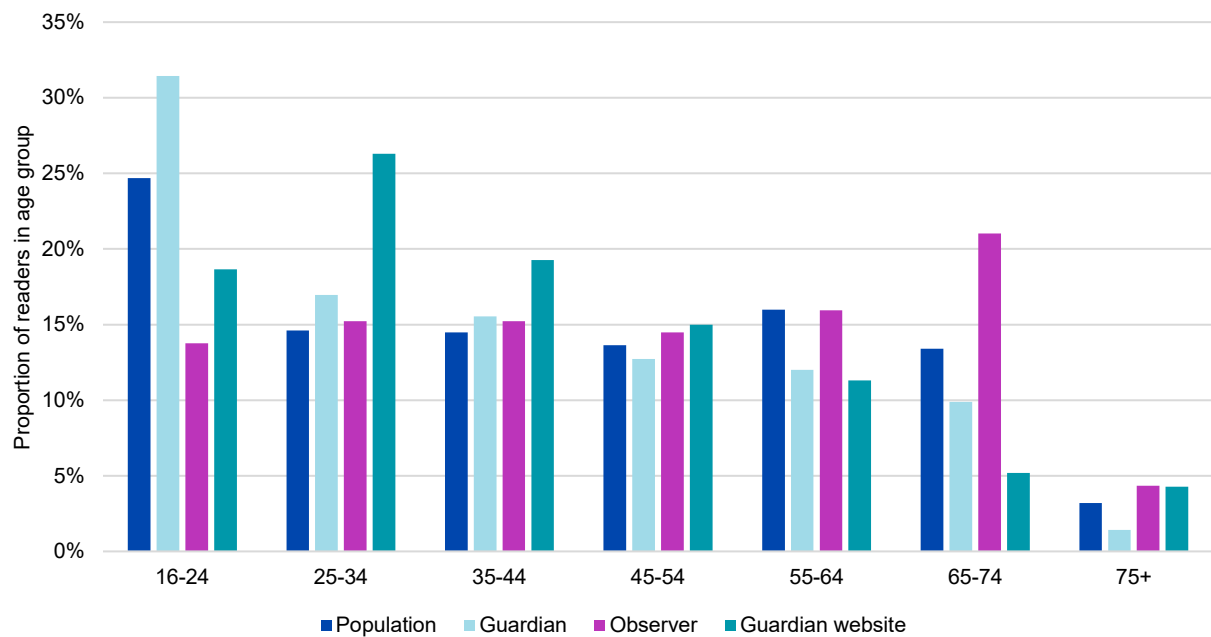
Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?*

Social grade ascribed by interviewer.

Guardian Media Group

- Figure 26 and Figure 27 show that readers of The Guardian, The Observer, and the Guardian website are similar in terms of the makeup of their age and social grades. There are some differences with a higher proportion of usage of the website among those 25 to 44 compared to newspaper readership, and higher readership of The Observer among older age groups compared to other titles.

Figure 26: Proportion of GMG readers in each age group

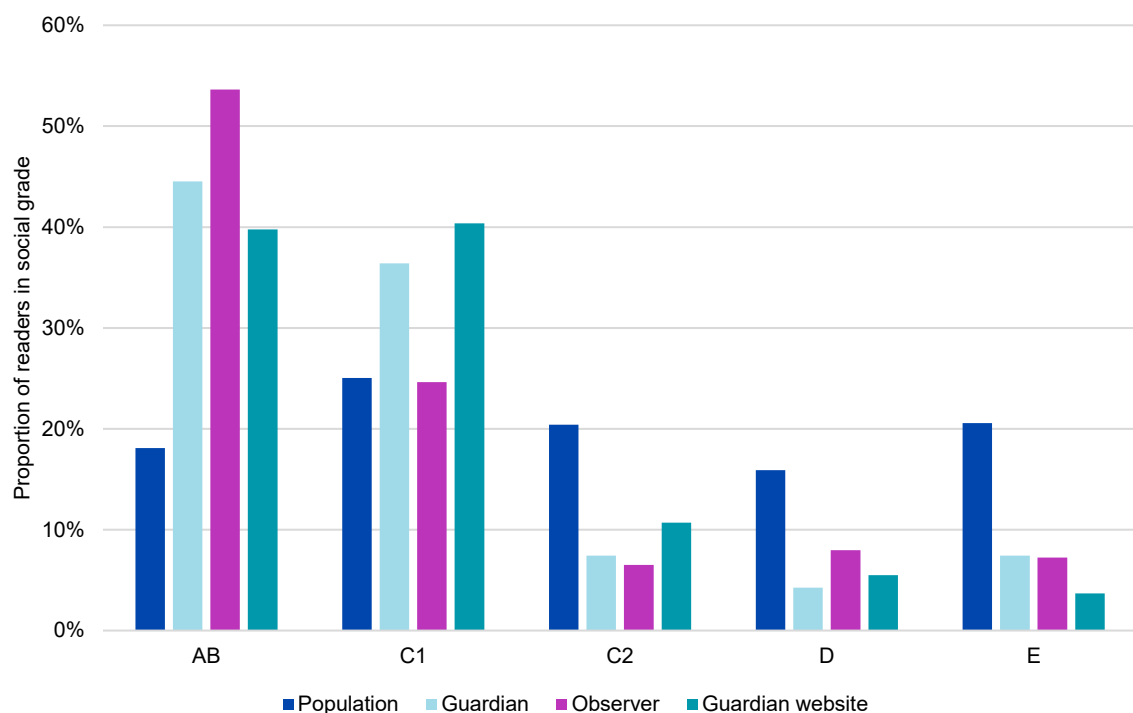


Source: CMA analysis of NCS data.

Base: all respondents (11,408), Guardian (283), Observer (138), Guardian website (327).

Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?* and question S2: *What was your age last birthday?*

Figure 27: Proportion of GMG readers in each social group



Source: CMA analysis of NCS data.

Base: all respondents (11,408), Guardian (283), Observer (138), Guardian website (327).

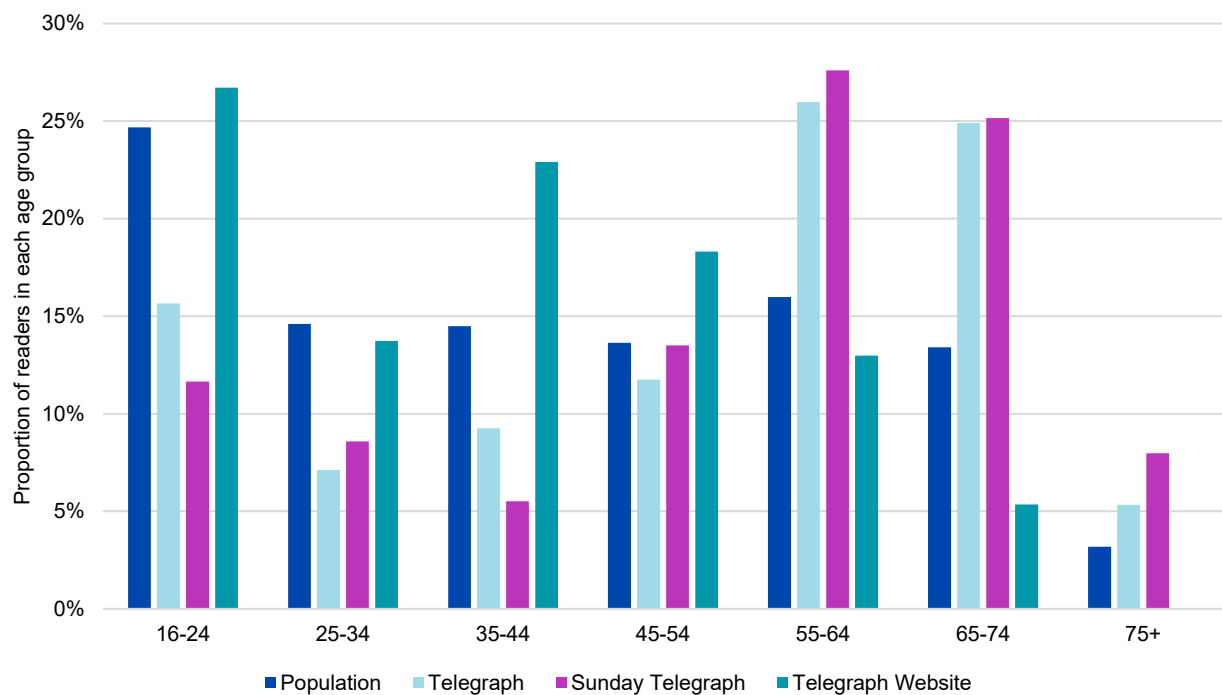
Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?*

Social grade ascribed by interviewer.

Telegraph Group

6. Figure 28 and Figure 29 show that readers of The Telegraph, The Sunday Telegraph, and the Telegraph website are made up of similar proportions of age groups and social grades (this is particularly the case in relation to social grade). The Telegraph website is made up a younger audience compared to the other Telegraph titles.

Figure 28: Proportion of Telegraph Group readers in each age group

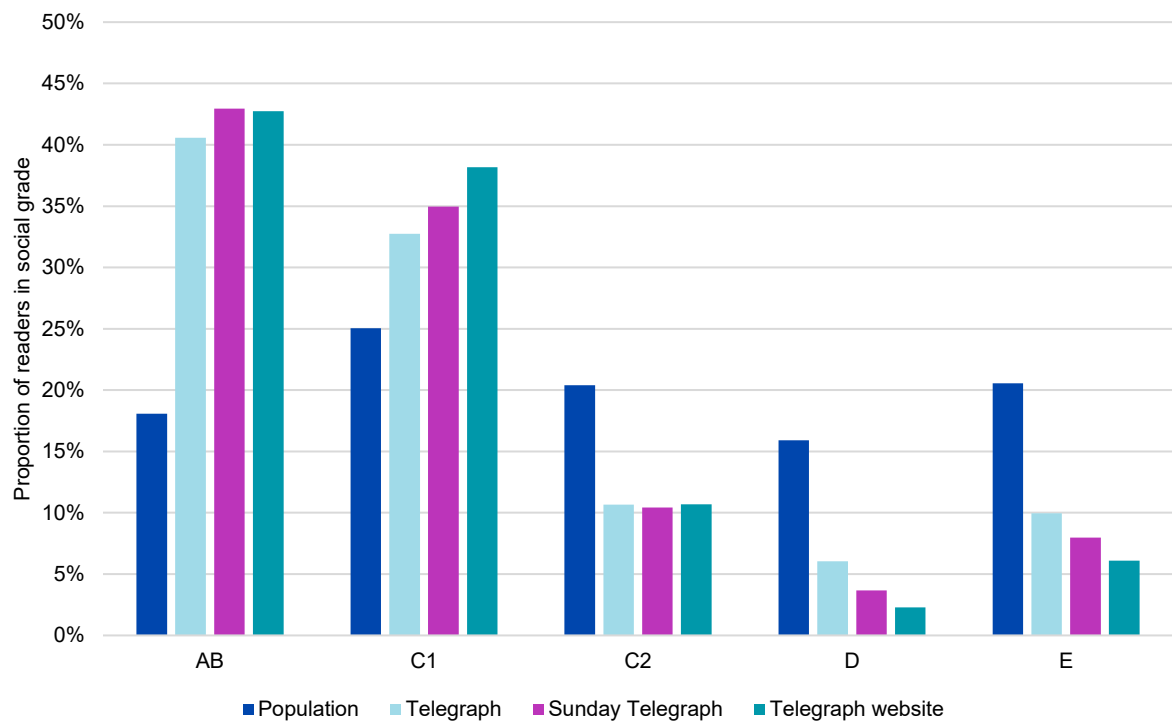


Source: CMA analysis of NCS data.

Base: all respondents (11,408), Telegraph (281), Sunday Telegraph (163), Telegraph website (131).

Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?* and question S2: *What was your age last birthday?*

Figure 29: Proportion of Telegraph Group readers in each social group



Source: CMA analysis of NCS data.

Base: all respondents (11,408), Telegraph (281), Sunday Telegraph (163), Telegraph website (131).

Questions 5b, 5c of the NCS: *Thinking specifically about daily newspapers/weekly newspapers, which of the following do you use for news nowadays?*

Social grade ascribed by interviewer.

Appendix H: News production

Introduction

1. This appendix summarises evidence in relation to the resources used in news gathering activities.
2. We requested information from major UK news providers as to the costs of their news gathering activities, and the number of full time staff that they engage in news gathering activities.

Findings

3. To produce the most comparable data set, we considered news gathering online and offline combined,¹³⁷ and looked at costs and staffing at an overall level and at an editorial level.¹³⁸ Table 9 summarises the information we gathered. The data is based on responses to information requests and it is not possible to compile data on a like-for-like basis (for example, different titles may class different types of costs as editorial costs).

Table 9: Costs and staffing for major UK news providers, 2017¹³⁹

News title	Staff numbers		Costs (£m, per year)	
	All	Editorial	All	Editorial
Bauer¹⁴⁰	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
BBC	[REDACTED] ¹⁴¹	[REDACTED]	[REDACTED] ¹⁴²	[REDACTED]
BuzzFeed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Channel 4^{143,144}	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Channel 5¹⁴⁵	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Daily Mail	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Daily Mirror¹⁴⁶	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Evening Standard	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Financial Times	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

¹³⁷ Many news providers were not able to separate out costs and staffing between their online and print/broadcast titles.

¹³⁸ We also asked for equivalent data in relation to commercial, printing and other costs but the nature of data supplied made comparisons difficult.

¹³⁹ We requested data for 'the last year.' The precise time period of data supplied by third parties varies.

¹⁴⁰ [REDACTED].

¹⁴¹ [REDACTED].

¹⁴² [REDACTED].

¹⁴³ [REDACTED].

¹⁴⁴ [REDACTED].

¹⁴⁵ [REDACTED].

¹⁴⁶ [REDACTED].

Global¹⁴⁷	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Guardian	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Independent	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
ITN	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
ITV¹⁴⁸	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Metro	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Northern and Shell¹⁴⁹	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Sky News	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Telegraph	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
The Sun	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
The Times	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: The Parties and third parties.

4. Items of note from Table 9 include:

- The Sun and The Times are among the [REDACTED] providers of news in terms of editorial staff engaged and costs incurred;
- Sky News' [REDACTED];
- BuzzFeed's staffing level is [REDACTED] compared to more established titles;
- there appears to be little correlation between the number of staff employed by an organisation and its reach. The reach of newspapers is typically relatively low, and they employ a comparatively high number of editorial staff, while TV channels can reach much higher proportions of the population with less editorial resource.¹⁵⁰

5. Sky has submitted that plurality does not require every individual news provider to have large scale news gathering operations. Sky has noted that a range of business models are possible, citing for example, the availability of third party sources of pictures and video or the possibility of focussing on specific news genres, such as political news, content as an alternative to large scale news gathering.
6. We consider that while alternative models exist, the largest providers in terms of reach and consumption metrics remain the established news providers with significant news gathering operations. Paragraphs 11.82 and 11.83 outline

¹⁴⁷ [REDACTED].

¹⁴⁸ [REDACTED].

¹⁴⁹ [REDACTED].

¹⁵⁰ We have compared the reach using BARB data and NRS data and compared this to the number of editorial staff employed by a news provider. Data constraints meant this could be done for a relatively small number of titles (9) and the comparisons are not like-for-like (mixing definitions of reach between NRS and BARB).

how providers with greater news gathering resource appear to be able to more consistently lead the news agenda.

Conclusions

7. We note that the data on news production may not be directly comparable from news provider to news provider. However, The Sun and The Times appear to be among [✂], and Sky News' editorial staffing is towards the [✂]. BuzzFeed, a newer news provider, appears [✂] than more established providers in terms of editorial staffing and spending.

Appendix I: Agenda leading studies

Studies on agenda leading

1. There have been a number of studies looking at the impact of news providers on the news agenda. In this appendix, we analyse two particular studies:
 - (a) a Cardiff University study on Intermedia agenda-setting during the 2015 UK general election campaign;¹⁵¹ and
 - (b) Media Reform (MRC) analysis on agenda leading.

Cardiff University study

2. Ofcom referenced a study by Cardiff University which concluded that morning newspapers continued to share a similar agenda to the evening TV news bulletins during the general election 2015, despite the increasing use of online news. The same study also concluded that newspapers, particularly broadsheet titles, acted as opinion leaders, and identified what it concluded were clear moments during the 2015 campaign where TV news followed stories originating from newspapers.¹⁵²
3. Over and above this, the study also found that the largest proportion of stories reported by newspapers before appearing on national TV news bulletins came from News Corp titles (23% overall; 16.3% from The Times/Sunday Times, and 6.7% from The Sun/Sun on Sunday). The next most influential was The Telegraph and The Sunday Telegraph (20.2%). In spite of being the largest newspaper group in terms of consumption (according to Ofcom's consumption metrics), the Daily Mail and General Trust Group (DMGT) was only the fourth most influential on this measure (see Table 10).

¹⁵¹ Cushion, S., Kilby, A., Thomas, R., Morani, M. & Sambrook, (April 2016). *R. Newspapers, Impartiality and Television News: Intermedia agenda-setting during the 2015 UK General Election campaign*.

¹⁵² Ofcom Public Interest Report, paragraphs 8.16 and 8.19.

Table 10: Origin of election related broadcast stories which had been previously covered by newspapers

<i>Newspaper</i>	<i>Percentage of times broadcast story covered (%)</i>
The Daily Telegraph / The Sunday Telegraph	20.2
The Times / The Sunday Times	16.3
The Independent / The Independent on Sunday	15.4
Daily Mail / The Mail on Sunday	12.5
The Guardian / Observer	12.5
Daily Mirror / Sunday Mirror	9.6
Daily Express / Sunday Express	6.7
The Sun / The Sun on Sunday	6.7

Source: [Cushion, S., Kilby, A., Thomas, R., Morani, M. & Sambrook, R. *Newspapers, Impartiality and Television News: Intermedia agenda-setting during the 2015 UK general election campaign*, April 2016.](#)

4. MRC and others claimed the study showed that national newspapers – including News UK titles – played a significant agenda leading role over TV news.¹⁵³ While recognising that the study did not provide conclusive evidence Ofcom considered that it suggested that News Corp’s influence over public opinion went beyond that measurable by consumption metrics alone.¹⁵⁴
5. We identified a number of weaknesses with the conclusions that have been drawn from this study. The primary weakness is that the research is not able to control for newsworthiness of items. Where a news item is newsworthy, we would expect other media outlets to cover the story, regardless of the source.¹⁵⁵ The authors themselves say that ‘our study [...] cannot clearly determine whether newspapers influenced broadcaster’s editorial decision making.’ Therefore, we consider that the quantitative elements of the study are at best able to show correlation of news agendas between broadcasters and newspapers, rather than causation.¹⁵⁶

¹⁵³ [MRC issues statement response](#), page 15

¹⁵⁴ [Ofcom Public Interest Report](#), paragraphs 8.22 and 8.23.

¹⁵⁵ This point is also highlighted in Fox’s submission ([Plurality implications of the Fox/Sky Transaction](#), CRA, 8 November 2017), where it notes that ‘It is necessary to distinguish between genuine agenda setting (newspaper coverage that results in broadcasters running stories they would not otherwise have run) and instances where newspapers report first on a story that would have been covered anyway. While the Cushion et al. study makes efforts to distinguish between these effects by looking at articles that were published by newspapers the previous day, it appears that many of the ‘agenda setting’ stories relate to issues of obvious public interest that would almost certainly have been covered by broadcasters in any event. Most notably, and as acknowledged by the authors, nine of the 12 most significant ‘agenda setting’ stories were in fact newspapers getting a first look at parties’ policy announcements.’

¹⁵⁶ Other issues with the study include the small sample size of stories. The study considered 843 election related news items. However, it excluded all process stories, which accounted for 505 news items and 140 different policy stories. This reduces the ability of a study to claim that one news medium influences another when a

6. Indeed, all the news providers we asked indicated that they monitor other news providers (with some news organisations also monitoring social media), and pick up stories originally covered elsewhere where they considered them verifiable and of interest to their respective audiences (often with their own particular angle).¹⁵⁷ However, no one particular news provider was considered particularly important by any news provider responding to our questions.¹⁵⁸
7. In particular, we note Channel 5's comment that, for its Wright Stuff programme, if it is felt that a particular source has been used more frequently than others in a given time period then the editorial team may try to focus on other sources for a while (though this decision would not be based on the specific number of stories originating from any given source). Further, Sky News, Channel 4 News, GMG and BuzzFeed each provided a list of stories they originated and which had, subsequent to airing or publication, been picked up and reported on by other major news providers. This suggests that, provided a story is sufficiently newsworthy, it will be picked up regardless of source (we note that this group of responses covers TV news, newspapers and online-only).
8. In addition, the study does not seek to explore the extent to which news agenda flows the other way with newspapers picking up stories from broadcasters. As noted, Channel 4's response to our requests for information indicated that a number of their most influential stories were subsequently picked up by newspapers and other media outlets. In addition, BuzzFeed told us that on the occasions it had worked with another media organisation, each time it was with the BBC so it could amplify the story. This suggests that broadcasters can drive the news agenda and can seek to amplify issues covered by other media outlets. The qualitative research in the Cardiff study appears consistent with our findings above that broadcasters consider newspapers as a source. One of the broadcaster respondents to the Cardiff study noted that

number of relevant stories are excluded from the analysis. Fox's submission concerns, which points to the implied magnitude of effects to be small. See pages 33 to 35 of Fox submission, [Plurality implications of the Fox/Sky Transaction](#), CRA, 8 November 2017.

¹⁵⁷ Audience relevance was considered a key criteria for news providers, which goes back to the symbiotic relationship referred to by Rebekah Brooks. The symbiotic nature of the relationship was also noted by Ed Miliband MP. We note the BBC stated how individual editors will consider what stories are important and significant for its audiences, and how, for example, the Newsbeat audience on Radio 1 will have different interests from the audience for Today on Radio 4 ([Hearing with the BBC](#)). Similarly, ITV explained how the news stories covered during 'Good Morning, Britain' evolved throughout the programme from hard news to more magazine-type content reflecting how the audience changed through the duration of the programme. Sky also said that while its journalists keep up to date with the news and will sometimes discuss at editorial meetings what other news organisations are doing, Sky News editorial decisions are focused in particular on its own news gathering activities.

¹⁵⁸ We also note that Tony Gallagher stated that Sky News was always on in The Sun newsroom as it was good for breaking news.

my job is to make sure that we lead the news as much as possible but of course do we pick up stories from the papers? Of course we do. But did we slavishly follow their agenda? No, absolutely not.¹⁵⁹

9. We also note that the Cardiff study was conducted at an election period, which may mean that stories are more closely related. A study by King's College London found that in the 2015 election

The press rarely altered the news agenda of the lead parties during the campaign; few stories significantly disrupted or subverted the issues put forward by one or both of the two the Parties.¹⁶⁰

Media Reform Coalition analysis

10. The MRC submitted further analysis which sought to assess whether national newspapers play a significant agenda setting role over TV news. Once stories had been filtered out to show a clear agenda leader, it found that out of the 66 stories, 'News UK accounted for the highest share both in terms of the number of stories and levels of salience.'¹⁶¹ MRC said that 'These results are consistent with previous research showing that newspapers continue to play a dominant role in inter-media agenda setting.'
11. Similar to the Cardiff study, the MRC research does not control for newsworthiness of items so it could only provide an indication of influence rather than demonstrating causality. In addition, the sample size for this study was small, and covered a short period of time. It is difficult for us to assess whether these results are representative. In addition, the results do not include all stories, so may overstate the degree to which media organisations are led by one another, given the results only cover stories with a clear agenda leader.
12. Submissions from the Parties also raised other weaknesses with this study;¹⁶² including:

¹⁵⁹ Cushion, S., Kilby, A., Thomas, R., Morani, M. & Sambrook, R. *Newspapers, Impartiality and Television News: Intermedia agenda-setting during the 2015 UK general election campaign*, April 2016.

¹⁶⁰ Moore M., Ramsay G. (October 2015). *UK Election 2015 - Setting the agenda*, Centre for the Study of Media, Communication and Power with support from the Media Standards Trust, the Policy Institute at King's and Ebay Inc.

¹⁶¹ MRC response to issues statement.

¹⁶² See Fox submission of 8 November 2017: Robert Kenny critique of MRC submission, pages 12 to 16 and *Plurality implications of the Fox/Sky transaction*, CRA, pages 35 to 37 for further details.

- (a) an inability to distinguish between leading the agenda and breaking news – the MRC study appears to focus on who first covers the story, but this does not mean that the coverage by others is due to the coverage by the first to break the story (ie the study may simply measure the ability to break inherently newsworthy stories first, rather than influence);¹⁶³
- (b) omission of other sources which set the agenda – for example, the study does not include Twitter, which was identified as a significant source of stories in another study that MRC relied on;¹⁶⁴
- (c) inconsistency of the results with the Cardiff study – this suggests this methodology may be an unstable basis on which to reach judgements.¹⁶⁵

13. The MRC responded to these critiques:

- (a) with respect to leading the agenda vs breaking news stories, the MRC said that its concept of ‘agenda leading’ (as opposed to ‘agenda setting’) captures the potential for agenda influence signalled by particular titles or brands who consistently and systematically carry headlines before others’;¹⁶⁶
- (b) with respect to the omission of other sources, the MRC noted that its study does not purport to measure the degree to which some outlets decide to cover a story because it is carried by others. Nor is it concerned with origination of stories. Rather, it is concerned exclusively with the potential for certain outlets to increase the salience of stories. This is important because virtually any conceivable news story at any given time is covered somewhere in the digital news sphere. According to the MRC, what matters most are those news stories that cut across information noise and fragmented audiences and become, potentially, embedded in the public consciousness;¹⁶⁷
- (c) finally, with respect to inconsistency of results between its study and the Cardiff study, the MRC suggests that despite clear conceptual and contextual differences between the two studies, there is a remarkable similarity between the results of each. For example, while the Cardiff

¹⁶³ This is similar critique to the separation of newsworthy items from those that are leading the agenda.

¹⁶⁴ Harder et. al. note that ‘discussions of particular news stories [on Twitter] precede websites’ news coverage in a (small) majority of cases (55 percent)’” See Harder, R.A., Sevenans, J. and Van Aelst, P., *Intermedia Agenda Setting in the Social media age: how traditional players dominate the news agenda in election times*, *The International Journal of Press/Politics*, 28 April 2017

¹⁶⁵ Indeed, to find evidence of agenda setting convincing, we would need to see relatively consistent results between periods.

¹⁶⁶ MRC response to Fox 8 November submission, page 22.

¹⁶⁷ MRC response to Fox 8 November submission, page 23.

study found The Telegraph to be most important and the MRC identified The Times as the most persistent agenda leader, it is striking that in both studies, The Telegraph and The Times are the two most important agenda influencers, in spite of their relatively small (direct) audience share. Further, both studies found that News UK titles combined had the most influence, followed by The Telegraph.¹⁶⁸

Conclusion

14. Overall, the studies on news agenda setting may provide some indication of the importance of different news providers. However, neither the Cardiff study or the MRC study were carried out over a long enough period of time for us to assess the representativeness of the results. Neither do they show the degree of self-generated stories by news providers, which would likely dilute the significance of the results. The evidence in these studies does, however, support the view at least that traditional news providers (whether on their established print or broadcast medium or online) together play a significant part in driving the news agenda.

¹⁶⁸ [MRC response](#) to Fox 8 November submission, page 25.

Appendix J: News Corp's media ownership in Australia

Introduction

1. In this appendix, we consider News Corp Australia's acquisition of Australian News Channel (ANC), and its relevance to our Inquiry with respect to the two public interest considerations referred by the Secretary of State.
2. The acquisition has led to an increase in the amount of influence that the Murdoch Family Trust (MFT) has over ANC, and there are concerns that as a result it could use its increased influence to change the content of programming on Sky News Australia (officially known as SKY NEWS LIVE), or align the news positions of News Corp Australia newspapers and Sky News Australia.
3. Third parties have raised concerns that there are growing similarities between Fox News and Sky News Australia, particularly in the amount of partisan programming that appears on Sky News Australia. These third parties are concerned that this approach may be adopted by Sky News in the UK. The first part of this appendix addresses these concerns.
4. The second part of this appendix focuses on the cross-platform nature of the acquisition, including the potential for News Corp Australia to align News Corp Australia newspapers and Sky News Australia.
5. We consider this acquisition to be a relevant case study of cross-media ownership, as it brings a newspaper group and TV news organisation under the same controller, which is similar to the considerations in our Inquiry. We note, however, that the different acquirer in this case – News Corp Australia, not Fox – makes it more difficult to draw parallels to the Inquiry. We also recognise that the regulatory context and media landscape in Australia is different from the UK, and this affects the extent to which we can draw parallels with possible effects in the UK.

News Corp's acquisition of Australian News Channel

6. News Corp Australia acquired 100% of Australia News Channel Pty Ltd (ANC) in December 2016. Before the acquisition by News Corp, ANC was a joint venture between Seven, Nine Entertainment Company and Sky PLC, each with an effective ownership of 33.3%.
7. ANC makes available a suite of news and information channels across multiple media platforms. In Australia, the corresponding channels are available on the Foxtel subscription platform. Foxtel is a cable network that is

50% owned by News Corporation (which is based in the US) with the other 50% owned by Telstra, an Australian telecommunications and media company.

8. Subscribers on Foxtel can choose from 13 separate Sky News services. Unlike Sky News in the UK, ANC broadcasts a number of Sky News branded news and information channels, the three main channels being:¹⁶⁹
 - (a) Sky News Live (hereinafter referred to as 'Sky News Australia', as the popularised name of this channel): this channel predominantly broadcasts live news programming, focussing on national affairs and politics. It also broadcasts a number of commentary and opinion programmes;
 - (b) Sky News Business: This channel is a 24-hour business channel and broadcasts live coverage of the Australian Stock Exchange as well as commentary and opinion programmes;
 - (c) Sky News - A-PAC (Australia's Public Affairs Channel).
9. We focus on the first of these channels – Sky News Australia, as this is the main Sky News channel, and is also the channel that relates to third party concerns submitted to us.
10. News Corp told us that the strategic rationale for entering into the broadcast market was to:
 - (a) [REDACTED];
 - (b) [REDACTED];
 - (c) [REDACTED].

Third party concerns

11. A number of third parties told us that there has been an increase in more opinion led, right-wing shows on Sky News Australia since News Corp's takeover in December 2016.¹⁷⁰

¹⁶⁹ Other channels are Sky News Weather, Sky News UK, Sky News Sydney, Sky News Melbourne, Sky News Brisbane, Sky News Adelaide, Sky News Perth, pop up channel(s) called US News featuring ABC USA and CBS, and additional pop up channels for major events eg national elections.

¹⁷⁰ [CPBF submission](#); [Ed Miliband et al submission](#).

12. Denis Muller, a Senior Research Fellow in the Centre for Advancing Journalism, University of Melbourne, wrote an article in which he discussed the similarities between Sky News Australia and Fox News. He said:

Sky has a kind of split personality. During the day, it runs a professional, no-frills TV news service. This has value because it lets its coverage run without too much editing or interruptions. So you get the whole prime ministerial door-stop, rather than just quick grabs wrapped up in a news report... But when darkness falls, it becomes a different beast altogether. The Bolt Report is a nightly piece of right-wing punditry in which Andrew Bolt does his more-in-sadness-than-in-anger routine.¹⁷¹

13. The Campaign for Press and Broadcasting Freedom (CPBF) noted that Sky News Australia is increasingly veering away from the requirements of the Australian Code with respect to its current affairs talk show evening programming since the takeover by News Corp. It, among others, is concerned that the partisan approach to news and current affairs adopted by Murdoch Family Trust affiliated news broadcasters, even when not in breach of regulatory standards, may be taken by Sky News in the UK if Fox is permitted to own 100% of the shares of Sky Plc. CPBF told us: '...an MFT-controlled company took control of Sky News Australia...on December 1 last year...the service is evidently following the 'Foxification' formula that is feared for the future of Sky in London.'¹⁷²

14. Similarly, Ed Miliband et al told us:

[The Murdoch's] record at both Fox News and Sky News Australia is one of creating highly opinionated, conflict-oriented TV programmes that offer an entertaining and compelling version of the news (albeit one that is frequently biased and often inaccurate).¹⁷³

15. CPBF highlighted two presenters – Andrew Bolt and Paul Murray – as examples of this change. It claims that the style of the programmes hosted by these two presenters is similar to the programmes broadcast on Fox News in the US, such as the 'Hannity and Friends' show, which is presented Sean Hannity and 'The O'Reilly Factor' which was presented by Bill O'Reilly before he left Fox News. CPBF note that other media experts have commented on the change in programming that has taken place since the acquisition by

¹⁷¹ [The Conversation, Sky News is not yet Fox News, but it has the good, the bad and the uglies.](#)

¹⁷² [CPBF submission.](#)

¹⁷³ [Ed Miliband et al submission.](#)

News Corp.¹⁷⁴ One example of this is from Paul Barry, the host for ABC's Media Watch, who stated in July 2017:

There's long been talk of the Foxification of Sky News. Since News Corp took full ownership in December it's been looking and sounding more and more like its famous American counterpart, especially in the evening¹⁷⁵

Response from News Corp

16. News Corp told us that talk and opinion driven programming have been part of ANC's strategy since 2010. News Corp provided us with evidence to show this was the case. All of this evidence predates News Corp's acquisition of ANC. News Corp told us that ANC has not implemented any materially new strategies since News Corp acquired the business in December 2016. Table 11 provides News Corp's own analysis of its TV schedules, showing the amount of opinion-led programming has been broadcast on Sky News Australia between 2015 and 2017.

Table 11: Number of hours of live opinion shows from 2015 to 2017

	2015	2016	2017
Number of hours of live opinion shows	[REDACTED]	[REDACTED]	[REDACTED]

Source: News Corp.

17. News Corp's analysis demonstrates that there has been a [REDACTED] increase in the number of hours of opinion-led programming on Sky News Australia between 2016 and 2017. Between 2015 and 2016, the number of hours of opinion-led programming increased by [REDACTED].

Analysis of Sky News programming schedules

18. In addition to the scheduling analysis provided by News Corp, we asked News Corp to provide us with details of TV schedules for the calendar year 2016 and January 2017 to date (ie November 2017) for Sky News Australia.¹⁷⁶ We have analysed these schedules to determine whether there has been any change in the frequency in broadcasting of these opinion-led programmes since the acquisition.¹⁷⁷

¹⁷⁴ Dennis Muller (Media Commentator), Mark Day (Columnist for The Australian), Paul Barry (host for ABC), BuzzFeed (quoting long term Sky News presenters who wished to remain anonymous).

¹⁷⁵ [ABC Media Watch Paul Murray's spectacular Sky dummy spit.](#)

¹⁷⁶ Schedules from October and November 2017 were subject to change.

¹⁷⁷ We compared January to November 2016, to January to November 2017 to take in to account the missing data for December 2017, as well as the fact that the acquisition took place in December 2016.

19. News Corp told us that the main opinion programmes broadcast on Sky News Australia are Paul Murray Live, PML Overtime, The Bolt Report, Jones & Co, and Outsiders. We used these programmes, as well as others featuring Paul Murray and Andrew Bolt, as the 'opinion talk shows' for our analysis.

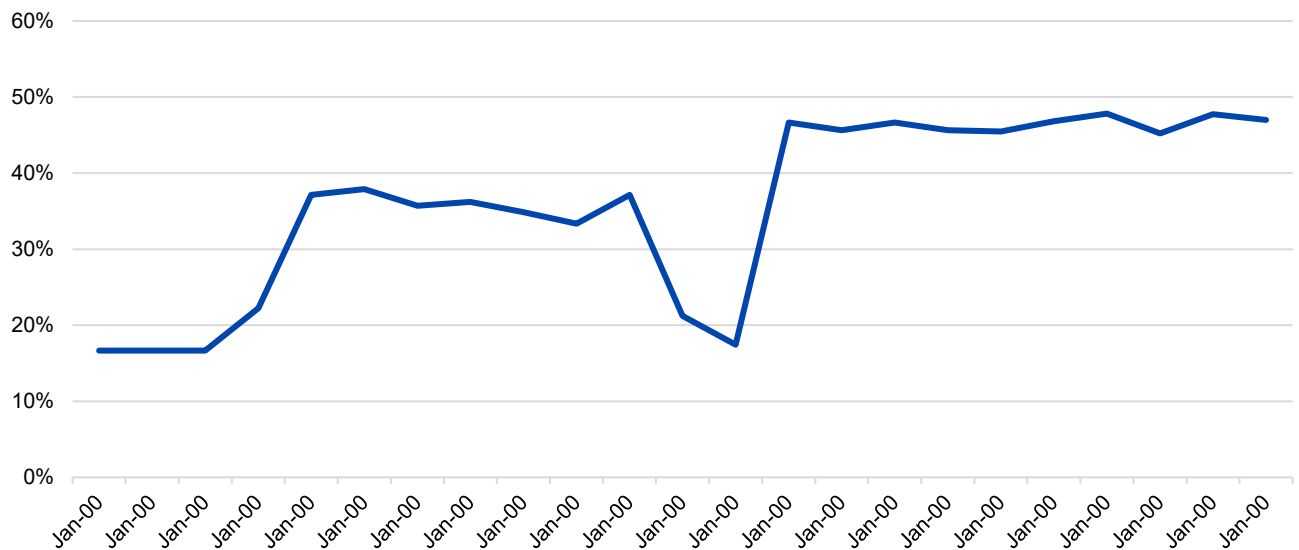
Comparison between 2016 and 2017

20. We compared the number of broadcast hours of opinion talk shows between 2016 and 2017, focusing our analysis on the programmes shown at peak times.^{178,179}
21. Figure 30 and Figure 31 show that there has been an increase in the number of hours broadcast of these opinion talk shows, on weekdays and weekends. Our analysis differs from News Corp's in that it analysed data from an extended time period, and it included all programs categorised as opinion-led, whereas we only used the top five programmes. Although this analysis is not the same as News Corp's, the increase we find between 2016 and 2017 is reasonably consistent with News Corp's analysis.

¹⁷⁸ As we only have data for the 11 months in 2017, we compared broadcast hours for the period 'Jan to Nov 2016' with 'Jan to Nov 2017' for consistency.

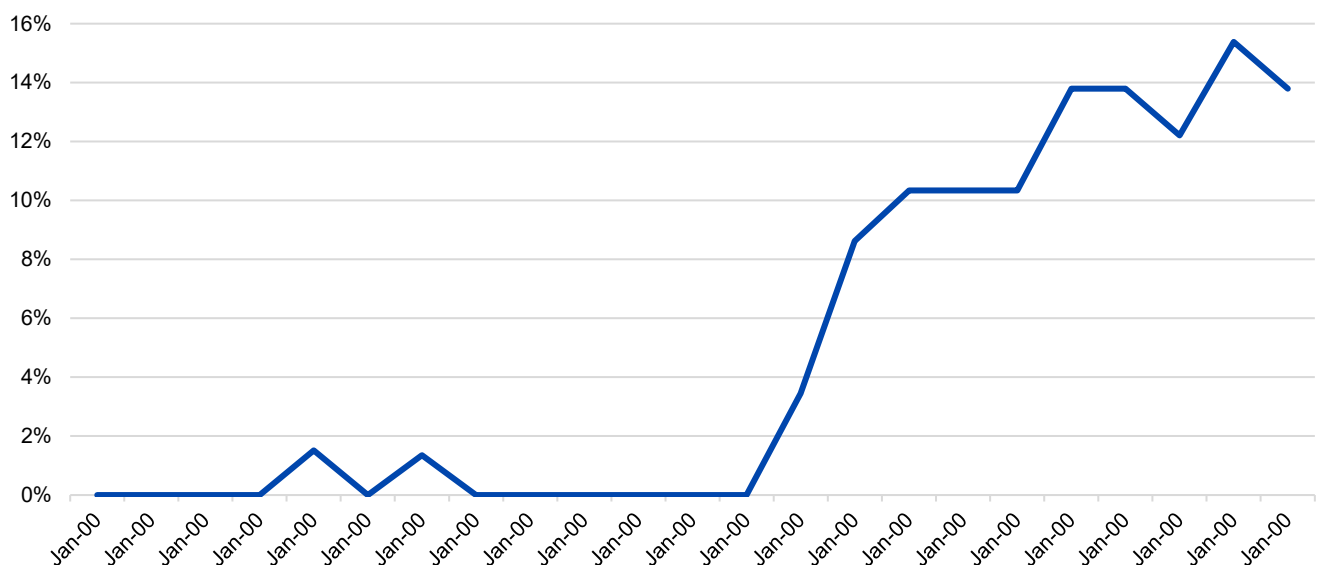
¹⁷⁹ From 6:00pm to midnight on weekdays, and 9:00am to midnight on weekends.

Figure 30: Total hours of opinion shows broadcast on Sky News Australia in peak time on weekdays (starting from 6pm), as a percentage of total peak broadcasting hours



Source: CMA analysis of Sky News Australia TV schedules.

Figure 31: Total hours of opinion shows broadcast on Sky News Australia in peak time on weekends (starting from 9am), as a percentage of total peak broadcasting hours



Source: CMA analysis of Sky News Australia TV schedules.

22. Some of the shows included in the analysis are replays. News Corp provided us with data which showed the number of hours of shows that were replays, are shown in Table 12. As we cannot identify which programmes are replays, some of these replayed shows may appear in the analysis.

Table 12: Number of hours of opinion shows broadcast on Sky News Australia that were replays

2015		2016		2017	
	[X]		[X]		[X]

Source: News Corp.

23. We provide a breakdown of the five programmes outlined that News Corp told us were opinion-led programming, as well as other shows which include hosts Paul Murray and Andrew Bolt.
24. Between 2016 and 2017 (up to November), we note that the total number of hours of programmes hosted by Paul Murray on Sky News Australia during prime times increased by 47%:
- (a) the number of hours of Paul Murray Live broadcast decreased by 66 hours between 2016 and 2017;
 - (b) PML Overtime – a second hour of Paul Murray was introduced in January 2017;
 - (c) there was a temporary reduction in the number of hours of Paul Murray Live broadcast on Sky News Australia in December 2016 and January 2017, which accounts for the large dip for these months in Figure 30.
25. The Bolt Report first aired on Sky News Australia in April 2016, prior to News Corp's acquisition of ANC. The number of hours of programmes hosted by Andrew Bolt increased by 43%:
- (a) hours of The Bolt Report per month have remained fairly constant between 2016 and 2017;
 - (b) there was a temporary reduction in the number of hours of The Bolt Report broadcast in December 2016 and January 2017, accounting for the dip for these months in Figure 30.
 - (c) a new programme – 'Bolt Report Sunday' – featuring Andrew Bolt first aired on Sky News Australia in July 2017. We note that this programme was aired during the day.
26. In response to our questions, News Corp told us that Outsiders first debuted in December 2016. The addition of Outsiders to the schedule led to an increase in the number of hours of opinion-led programming appearing on weekends between the end of 2016 and the beginning of 2017, from 0 to 3% in February 2017. This is shown in Figure 31.
27. Jones & Co. has been on air since April 2016, and replaced the programme Richo & Jones. The number of hours of Jones & Co. broadcasts on weekdays has remained fairly constant, however Jones & Co. started being broadcast on weekends in March 2017, leading to a further rise in the amount of hours of opinion-led shows broadcast on Sky News Australia on weekends, as shown in Figure 31.

2018 scheduling announcement

28. On the 30 October 2017, a media release was put out by Sky News, detailing its plans for 2018.¹⁸⁰ These plans included an expanded evening schedule, and a new broadcast and business centre for Sky News Business based at News Corp Australia HQ. With respect to Sky News Australia, the media release said ‘Sky News will continue to deliver more live national affairs programming than any other Australian network, featuring the best award-winning journalists with exclusive insights and fearless opinions...’. The changes to programming include the extension of Paul Murray Live to five nights a week.

Our views

29. Our analysis of the TV scheduling indicates that there has been an increase in the number of hours of opinion led programming/right-wing personalities broadcast on Sky News Australia since the acquisition. However, we note that News Corp’s analysis of their TV schedules shows suggests that the increase was more significant between 2015 and 2016, ie before the acquisition by News Corp. As discussed later, other evidence suggests that this change in strategy had already started to take place before the acquisition in December 2016.
30. An article for The Guardian online in Australia from March 2016 titled ‘Straight News or Fox News’ noted that the appointment of Andrew Bolt would ‘push the channel even further in the direction of Rupert Murdoch’s Fox News...’.¹⁸¹ It also noted that Sky News had to be provocative in order to compete with ABC. [✂].
31. An article from an Australian media and marketing discussion website from October 2016 also noted:
- For most of its history, Sky News remained mainly bulletin based. But over the past five years, it has increasingly turned over its evening programming to panel-based discussion shows, mainly featuring right-leaning commentators such as Andrew Bolt and Paul Murray.¹⁸²
32. While it appears as if the ‘stable of commentators’ on Sky News Australia are primarily ‘right leaning’, Denis Muller also noted that a range of other viewpoints are provided including from respected independent journalists.

¹⁸⁰ Sky News media release 30 October 2017.

¹⁸¹ The Guardian, *Straight news or Fox news? Andrew Bolt’s show sends Sky further right on the night*.

¹⁸² Mumbrella.

Denis Muller noted this is not found on Fox News in the US, and that is a significant difference between the two. He noted that someone ‘who watched only Fox News would get a very distorted view of the world. That is not true of Sky. [Sky contains] a range of perspectives, even on major stories with an ideological bent...’.¹⁸³

33. Third parties have told us that programming on Sky News Australia is veering away from the Australian Code. We, however, note that there have been no complaints, investigations or breaches with regards to accuracy and impartiality for any Sky News Australia shows between 2010 and 2017. Accuracy and impartiality of news reporting are both requirements in the Australian Code.¹⁸⁴ We have no evidence to suggest that the reputed change in channel management has led to an increased risk of non-compliance with the Australian Code. We consider this in more detail in our assessment of the second public interest consideration (see chapter 16 of our provisional findings report).

Effects of combining ownership of ANC broadcasting with News Corp’s newspapers in Australia

34. In addition to the third-party concerns set out earlier, we also consider the acquisition of ANC relevant to the assessment of the effects of cross-media ownership on media plurality.
35. News Corp Australia owns or has material control over 21 newspaper titles, and one news website¹⁸⁵:
- (a) The Australian, a national newspaper title;
 - (b) 13 ‘Metro’ Newspapers that are produced in different cities in Australia;
 - (c) seven regional papers; and
 - (d) news.com.au (online news only).
36. At the time of the acquisition of ANC, News Corp already owned Fox Sports Australia, and as mentioned earlier also has a 50% share in Foxtel.
37. Laws exist in Australia that govern how much control any one person can have over the Australia media (TV, Radio and Newspaper). The Australian

¹⁸³ [The Conversation, Sky News is not yet Fox News, but it has the good, the bad and the uglies.](#)

¹⁸⁴ [ACMA, Television Investigation Reports.](#)

¹⁸⁵ [News Corp Australia Brands.](#)

Communications and Media Authority (ACMA) is responsible for monitoring and responding to complaints about control and ownership arrangements of the Australian media that potentially raise concerns under Australia's Broadcasting Services Act 1993. The acquisition of ANC by News Corp Australia was not the subject of an investigation into media control issues.¹⁸⁶

Media landscape in Australia

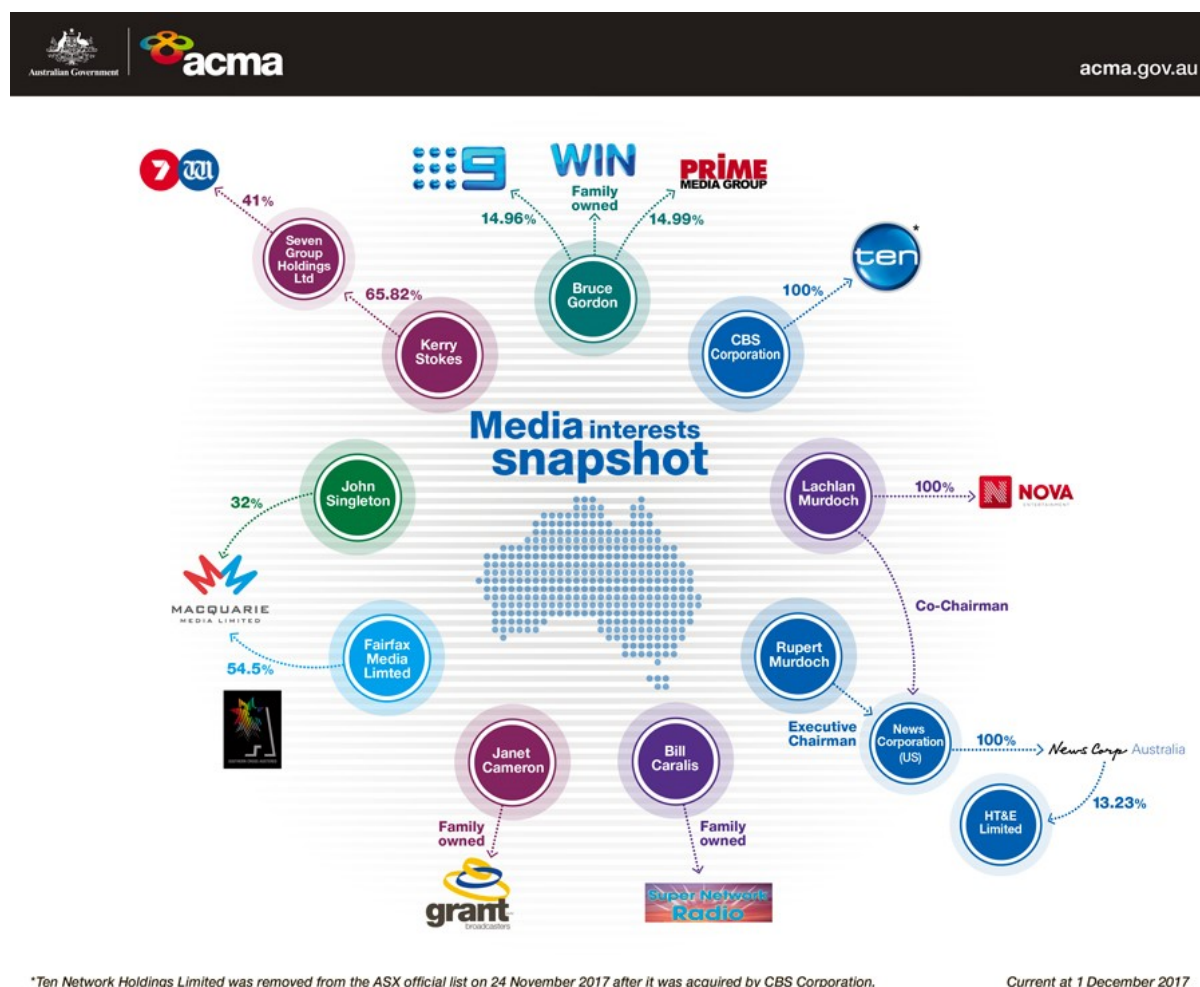
38. The Reuters Institute Digital News Report 2017 states that there are two main players in print ownership in Australia – News Corp Australia and Fairfax Media. It also stated that Australia features one of the highest concentration of print ownership of any Western democracy.¹⁸⁷
39. Figure 32 produced by ACMA, gives a snapshot of media ownership (TV, radio and newspapers) in Australia. It shows that a handful of corporations and interconnected family interests control much of Australia's media.¹⁸⁸

¹⁸⁶ ACMA, *Ownership and Control Investigation Reports*.

¹⁸⁷ Reuters Institute, *Digital News Report*.

¹⁸⁸ The Conversation, *FactCheck: is Australia's level of media ownership concentration one of the highest in the world?*

Figure 32: Media interests snapshot in Australia



*Ten Network Holdings Limited was removed from the ASX official list on 24 November 2017 after it was acquired by CBS Corporation.

Current at 1 December 2017

Source: ACMA¹⁸⁹

Change in the level of influence of the MFT

40. As noted in the chapter 11 of the provisional findings report, cross-media ownership may increase the influence of a media owner by aligning the editorial outlook, but influence could increase even without a degree of editorial alignment (by reaching different audiences and increasing the scope of issues over which they can influence the public opinion).
41. Before the acquisition, the MFT may have been able to exercise its influence on ANC, through
 - (a) Sky Plc's 33.3% stake in ANC; and
 - (b) News Corp's (US) 50% stake in Foxtel.

¹⁸⁹ ACMA Media Interests Snapshot.

42. Since the acquisition, the potential for the MFT to influence content on ANC has increased as it now has full control. The potential for the MFT to influence content through Foxtel remains unchanged.
43. Foxtel told us that it is rarely able to influence the content or scheduling of programmes broadcast on channels that are not produced by it. Decisions made about channels and content are made by Foxtel, and where necessary the Foxtel board.
44. However, we note that the CEO of Foxtel has previously held positions at News Corp Australia, and several board members also work for News Corp. Therefore it is possible that News Corp Australia could have some influence through Foxtel, in the instances where Foxtel are able to influence channel content although we have not received any evidence to support this view.
45. We sought to observe whether there has been any degree of editorial alignment between News Corp Australia newspapers and Sky News Australia since the acquisition, by reviewing evidence on the Australian media, questions to third parties including academic and journalists and evidence from News Corp.

Evidence of alignment

46. The MFT, through various businesses, controls a large amount of the media landscape. Timothy Dwyer, an Associate Professor and Chair of the Department of Media and Communications at the University of Sydney, told us that although Sky News Australia can only reach around a third of the TV viewing market, it is popular with the ‘business community and the political elites’, and in that sense, it is disproportionately influential.
47. Research carried out in Australia on the topic of News Corp Australia’s relationship with the Australian labor government showed that News Corp Australia newspapers all campaigned the same way in the 2007 and 2013 Australian elections.¹⁹⁰
48. It appears that Sky News Australia had a similar stance in the 2013 general election. Shortly after the election, an Australian media website noted that ‘Like News Corp’s press outlets, Sky [was] transparent about its anti-ALP (Australian Labor Party) bias, with presenters such as Paul Murray functioning like tabloid cheerleaders for the Coalition in the campaign’, though it did note

¹⁹⁰ [*Kick this mob out: The Murdoch media and the Australian Labor government \(2007 to 2013\).*](#)

that ‘the channel provided important moments of critical scrutiny of both sides.’¹⁹¹

49. Third parties have told us that many News Corp columnists appear on Sky News Australia.¹⁹² This could mean that the same view point was being shared across News Corp Australia newspapers and the Sky News Australia shows that these journalists appear on. However, it appears this was the case even before the acquisition, as in March 2016, an article posted on the Guardian Online, entitled ‘Straight News or Fox News?’ noted: ‘Sky has always had a close connection to News Corp and its journalists. It even had purpose-built studios in the newsrooms at the Australian and the Daily Telegraph (both News Corp owned papers)’.¹⁹³ This suggests that it is likely there was some editorial alignment between Sky News Australia and News Corp Australia newspapers, before the acquisition.
50. Reflecting this, Timothy Dwyer told us that there appeared to be a high degree of editorial alignment pre-acquisition, and that the acquisition had further consolidated and integrated Sky News within the operations of News Corp Australia, noting that since the acquisition, there has just been ‘more of the same News Corporation news voice’.
51. In addition to the already close relationship between Sky News Australia and News Corp, on 6 February 2017 The Australian newspaper (owned by News Corp Australia) announced there would be more integration between News Corp papers and Sky News. News Corp told us that the Sky news channels and News Corp’s newspaper titles remain separate news organisations, but there is some cross-promotion (for example putting promotional material in newspapers for the Sky News channels), and talent sharing, however this cooperation started under arrangements that pre-dated the acquisition. News Corp told us that the integration that has taken place as a consequence of the acquisition has been the build-out and commissioning of a TV studio for Sky News Business at News Corp’s Holt Street premises.

Summary on effects of cross-media ownership in Australia

52. It appears that a ‘News Corp voice’ is present on Sky News Australia. However, a review of the evidence we have received suggests that this was apparent before the acquisition.

¹⁹¹ SBS News comment – *Election 2013 the role of the media*.

¹⁹² CPBF submission.

¹⁹³ ¹⁹³ The Guardian, *Straight news or Fox news? Andrew Bolt’s show sends Sky further right on the night*.

53. The acquisition only took place a year ago, so we do not have enough information at this point to assess the degree of editorial alignment that may or may not have arisen from this acquisition. However, there is evidence of News Corp aiming to bring its news operations closer together.

Appendix K: Qualitative evidence on political influence

1. We set out in chapter 11 a summary of the qualitative evidence from third parties that are or were involved in the political process on why politicians meet with the media and which media organisations are the most influential. This appendix sets out these views in more detail.
2. As noted in chapter 11, we consider that these views indicate that politicians remain principally concerned with the traditional media and that, reflecting the numbers in our analysis of the meetings noted above, those news providers controlled by the MFT already play a significant role. For example:
 - (a) Lord Falconer told us that we ‘should be under no illusions about how absorbed politicians are [by the media]’;
 - (b) a former senior political adviser, [X], told us that politicians still consider how certain policies would land with the press. Politicians would court journalists – socially or through offering exclusives with the understanding that more would follow if ‘written up fairly’;
 - (c) Sue Beeby, previously adviser to George Osborne¹⁹⁴ told us that the reaction of the media – as vocal representatives of their readers’ views – was often considered when government was thinking about how to present policy. Ms Beeby noted that ministers most frequently met with newspaper and broadcast editors rather than media owners often to explain policy announcements or complex issues in more detail;
 - (d) a former senior political adviser told us that politicians and their advisers are concerned with getting their messages accurately and fairly represented by the media. Their overwhelming focus is therefore on crafting their messages clearly and ensuring that the editors and journalists who create media content understand them and reflect them. Governments consider the merits of a decision and the likely reaction of the public. Governments did consider the reaction of specific newspapers because this will affect how decisions are presented to newspaper readers (the reaction of broadcasters does not tend to be considered in the same way given the constraints they are under);
 - (e) Baroness Gabrielle Bertin, previously Director of External Relations at No.10,¹⁹⁵ told us that politicians from all parties feel they need to have a

¹⁹⁴ Prior to this, Ms Beeby was senior adviser to Jeremy Hunt at DCMS and the Department of Health, and a press officer in the Conservative Party.

¹⁹⁵ Prior to this, Baroness Bertin was Press Secretary to David Cameron as both Prime Minister and Leader of the Opposition.

strong relationship with media organisations given the desire to get messages across to the public;

- (f) Baroness Rosalind Grender, previously acting Deputy Director of Communications for the government,¹⁹⁶ told us that:

On the whole politicians and their advisers are open and available to a wide range of reporters because that is one of the ways of getting across their achievements or explaining their failures to a greater audience. There are inevitably stronger relationships with some [...] Editors, in particular, are in an unusual position when they meet senior politicians. They often have the privilege of the journalist: an 'off the record' or 'for background' conversation, but at the same time they are CEOs whose profitability can be affected by a decision at the next budget. Often, however, they are not as accountable and the meetings are not on the record in a way they would be if an industrialist were in the room.

- (g) Baroness Grender added that politicians of all parties were keen to ensure that media coverage of them was fair (inevitably, politicians will gravitate towards sympathetic newspapers and vice versa), noting the significance of the 'news grid' in trying to shape the media narrative, and that the UK print media remains a significant player due to its breadth and reach.

3. Because of the focus on messaging, audience size was generally considered as indicative of importance:

- (a) a former senior political adviser said that politicians were particularly motivated to talk to and influence news providers with the greatest number of readers/viewers (ie voters). TV was probably considered the most influential media due to its ease of access, likelihood of the public to view it, and the 'compelling nature' of visual imagery. This was followed by social media, tabloids and then broadsheets;
- (b) Ms Beeby told us that TV was the most influential source of news (terrestrial bulletins in particular as they picked up viewers watching other programmes). This was followed by social media (which politicians saw as important for direct communication with voters), then tabloids, radio (particularly the Today programme which set the agenda for the day and LBC with a wider audience), regional broadcast media, broadsheets, 24-

¹⁹⁶ Prior to this, Baroness Grender was speechwriter to Paddy Ashdown and Director of Communications for the Liberal Democrats.

hour news (with an ability to set the agenda for the day) and finally regional and local papers;

- (c) a former senior political adviser told us that politicians and their advisers are concerned about media outlets broadly in proportion to audience size, with the most attention paid to the BBC and ITV (social media may be starting to catch up with the influence of these two);
- (d) Baroness Bertin told us that the main focus was with those with the biggest audiences, and the biggest 'cut through' was seen to be via TV, particularly the 6.00pm and 10.00pm BBC and ITV bulletins as they were one of the few occasions with a single mass audience for current affairs and political commentary. Social media and online news was becoming increasingly important.

4. Consequently, those organisations with the highest audience reach were seen as the most important (and influential) news providers. Overall, given the importance of size, the BBC was seen as the most influential media organisation (ITV's news bulletin was also mentioned). However, others highlighted the importance of newspapers, particularly The Sun, The Daily Mail and The Times:

- (a) a former senior political adviser told us that the BBC was seen as the most influential brand (and had best access to politicians), followed by papers such as The Sun, The Daily Mail and The Times. This selection was mainly influenced by the numbers of readers and viewers, but the likelihood of getting a good hearing also played a role and politicians would be more inclined to meet with news providers that share their political leaning;
- (b) Ms Beeby told us that the BBC was the most influential organisation because it was seen as trusted and because of its reach across TV, radio online and social media platforms. However, tabloid papers were also influential due to their ability to campaign on behalf of readers;
- (c) a former senior political adviser told us that politicians and their advisers are concerned about media outlets broadly in proportion to audience size, with the most attention paid to the BBC and ITV (social media may be starting to catch up with the influence of these two);
- (d) however, Baroness Greender said that 'The BBC, despite its very broad reach is sometimes compromised by its reliance on newspaper agendas and commentators'. Baroness Greender suggested that the accounts by Alistair Campbell in his diaries regarding Tony Blair's 'reverence' of the Daily Mail reflect how concerned governments are with the media, as do

accounts in David Laws' memoirs of David Cameron's concern about the Leveson Inquiry damaging the relationship between the Conservatives and what he viewed as important papers such as The Sun and The Daily Mail;

- (e) Lord Falconer noted that 'the thing that really absorbs politicians is how does the 6 o'clock and the 10 o'clock news on the BBC and the ITV cover things', but qualified this by stating that 'the newspapers set the agenda for the radio and the TV'.¹⁹⁷
- (f) Ed Miliband MP and Kenneth Clarke MP suggested that newspapers were still the key media providers that politicians were concerned with (Mr Clarke noted that 'political leaders are obsessed with newspapers').
- (g) Ms Beeby noted that tabloid papers were also influential due to their ability to campaign on behalf of readers, and a former senior political adviser noted that governments did consider the reaction of specific newspapers because this will affect how decisions are presented to newspaper readers (the reaction of broadcasters does not tend to be considered in the same way given the constraints they are under;
- (h) former Prime Minister Gordon Brown expressed a view that

[N]ewspaper coverage remains central in setting the media agenda for the day, despite declining circulation numbers [...] All recent evidence is that the Murdoch Group have not changed [...] trying to influence voters and the general public to support causes that may be of commercial benefit, as well as political benefit to their company.

- 5. Finally, respondents indicated that news providers had at least some influence on the political agenda, and the role of those news providers controlled by the MFT (and The Daily Mail) was particularly highlighted:
 - (a) Baroness Greender also noted the importance played by The Times in reforms to adoption, and The Daily Mail in relation to the introduction of the plastic bag levy as clear examples of the papers at editorial level seeking to influence the agenda (although noted there was no such equivalent in broadcasting);
 - (b) Baroness Bertin said that it was normal for newspapers and media organisations to run campaigns which they believed to be in the public

¹⁹⁷ [Hearing with Miliband et al.](#)

interest and highlight issues which the public believes requires a change in policy (for example, The Daily Mail campaign on plastic bags). These campaigns would seek to influence public opinion as well as politicians, but would only succeed if they were the right thing to do;

- (c) Ms Beeby said that there were cases where policies were changed as a result of external pressure – as was the case with the tax credit changes in 2015 – but this was a result of public, parliamentary and media pressure and it was the combination of all three things that brought about the change although, primarily it was due to parliamentary pressures, that had been heightened by the media and public reaction;¹⁹⁸

- (d) Mr Miliband indicated that titles owned by the MFT were still particularly influential, noting that:

In October 2015, after the Conservatives won the General Election, The Sun, rather surprisingly, decided to launch a campaign against George Osborne's changes to the Tax Credits. These changes had been around for some time. Within a month he had changed his policy. I am not saying it is simply because The Sun did it, but choosing to highlight an issue, choosing to drive the issue through the public agenda, definitely has an impact on people's perceptions and the salience of that issue.¹⁹⁹

- (e) former Prime Minister Sir John Major expressed a view that:

Our British political system is confrontational and non-consensual. This leads to media stories shaping the political agenda. This is especially true if an original report is picked up by a large number of other media outlets. When this occurs a perfect storm can be created out of very little. The media knows this – and feeds on sensation because it attracts the electronic audience and promotes newspapers sales. Apart from their commercial interest, the point is that the media can, and does, set the political agenda, not least through the 'slant' they give the news. This is not a new phenomenon – it is as old as printer's ink – but it is more prevalent today because of the growth and changing nature of the media, and most especially the tabloid newspapers. In this fashion newspapers can:

¹⁹⁸ Ms Beeby gave the example of the government scrapping tax credit cuts in 2015 as a result of pressure from these three, but also noted that these had failed to change policy relating to the spare room subsidy/bedroom tax.

¹⁹⁹ [Hearing with Miliband et al.](#)

- (i) set the agenda – even a partisan agenda;
- (ii) undermine or support political parties and/or their policies;
- (iii) advance or damage the individual career or reputation of anyone in the public eye.

It is noticeable that ‘friendlier’ coverage is given to those who share the convictions of the newspaper itself – sometimes coverage is shamelessly partisan.

Sir John Major went on to say that that:

I do know that some who oppose it have kept silent for fear of subsequent hostile press coverage in the existing Murdoch titles. One said to me ‘I know this is not heroic, but it is prudent’. Whether justified or not, the very fact that such a fear exists suggests the present power of the Murdoch media is already too great.

As part of his response to our request for information, Sir John Major included his submission to Ofcom, which also noted that:

he is aware that other public figures who wish this acquisition to be denied have, nonetheless, decided against submitting evidence to Ofcom. As one put it [...] ‘If I put my head above the parapet over this bid, I may live to regret it.’ Clearly, Sir John cannot know whether this fear – presumably of retaliation is justified. However, the very fact that such a view is held – and inhibits the submission of evidence – surely argues against the approval of this acquisition.

Appendix L: Breaches of the Broadcasting Code

Introduction

1. In assessing the Parties' compliance with the Broadcasting Code, we considered the number and nature of breaches by the Parties' and other comparable broadcasters. This appendix gives a breakdown of relevant breaches, including details of the programme and a summary of the issue.

Details of breaches of the Broadcasting Code

Breaches by Fox News

2. Figure 33 provides a breakdown of the breaches of the Broadcasting Code by Fox News. The five breaches relating to section five and section six are highlighted later. These five breaches by Fox News occurred between April 2016 and May 2017.

Figure 33: Breaches of the Code recorded against Fox News between 2013 and November 2017

<i>Ref</i>	<i>Programme</i>	<i>Decision</i>	<i>Issue of Broadcast and On Demand Bulletin</i>	<i>Date of publication</i>	<i>Summary of issue</i>
1	Studio B with Shephard Smith	Breach	222	21/01/2013	Live segment of car chase in which footage was shown of the driver committing suicide by shooting himself in the head. Programme was shown before the watershed.
2	Fox Extra	Breach	227	08/04/2013	Promotion of IAMS pet food in prog
3	Justice with Jeanine Pirro	Breach	288	21/09/2015	Programme included two interviews with 'experts' on Islam and terrorism which contained facts that were misrepresented in programme.
4	Your World with Neil Cavuto	Breach	311	22/08/2016	Programme discussed the EU Referendum issues on the day of the vote while the polls were still open.
5	Fox Extra	Breach	311	22/08/2016	Contributor made a series of statements setting out his strong opposition to abortion and there were no other viewpoints included
6	Hannity	Breach	317	21/11/2016	Programmes featured various statements which either strongly criticised Hillary Clinton and her presidential campaign and/or gave support to the campaign of Donald Trump

<i>Ref</i>	<i>Programme</i>	<i>Decision</i>	<i>Issue of Broadcast and On Demand Bulletin</i>	<i>Date of publication</i>	<i>Summary of issue</i>
7	Fox & Friends	Breach	319	19/12/2016	A programme segment entitled 'Mega Morning Deals' comprised a sequence of discussions about a number of products exclusively discounted for Fox and Friends viewers. A series of 2-minute Fox Extra programmes contained promotional references to a number of commercial enterprises.
8	Fox Extra	Breach	324	06/03/2017	
9	Hannity	Breach	341	06/11/2017	The programme covered President Donald Trump's Executive Order issued on 27 January 2017 restricting travel from seven majority-Muslim countries. This coverage was found to have not provided a sufficiently balanced view. The discussion of the reaction of the UK authorities to the Manchester terrorist attack on 22 May 2017 was not presented with due impartiality.
10	Tucker Carlson	Breach	341	06/11/2017	

Source: CMA analysis of Fox data.

3. Details of the five breaches recorded against Fox News relating to sections five and six of the Broadcasting Code are given here.
4. The first of these breaches related to content broadcast on Fox Extra, which are brief editorial programmes that cover a range of subject matters and are inserted into the international feed in place of the US advertisements. On 7 April 2016, a programme lasting two minutes and 34 seconds, featured a commentator (Judge Andrew Napolitano) giving his views on the subject of abortion. Ofcom noted that Judge Napolitano's anti-abortion remarks clearly extended beyond a solely US-focused discussion about a particular court case or news story. Abortion was criticised in general terms using highly emotive language, a subject which was relevant to viewers in the UK and in Ofcom's view, a matter of public policy that engaged the impartiality provisions of the Broadcasting Code. Ofcom acknowledged that the viewpoint on abortion put forward in the programme by the judge was seen through the prism of the US legal and political system, but even after taking into account the subject and nature of the programme, Ofcom concluded, on balance, that the programme did not preserve due impartiality.
5. The second of these breaches concerned section six of the Broadcasting Code (special impartiality at elections and referendums). Ofcom received a

complaint that the 'Your World with Neil Cavuto' programme – a weekday business and financial news programme – was broadcast in the UK at 9:00pm GMT on the day of the EU referendum and had discussed and analysed issues relating to the referendum while the polls were still open in the UK. Rule 6.4 requires broadcasters to refrain from discussion and analysis of referendum issues while the polls are open. The purpose of this rule is to ensure that broadcast coverage on the day of a referendum does not directly affect voters' decisions. Ofcom considered that the programme had clearly contained a number of statements which constituted discussion and analysis of referendum issues while the polls were still open. While it recognised that the programme was 'prepared with a view towards an American and the expectations of what an American audience would find interesting', Ofcom concluded that as an Ofcom licensed service, Fox News must comply with all relevant requirements of the Broadcasting Code, including rule 6.4. It further noted that it had regard to the fact that the prohibition under this rule was not qualified in any way, such that it would not be possible for a broadcaster to justify the material by context.

6. The third of these breaches relates to programming content that infringed both section five and section six of the Broadcasting Code. During routine monitoring of Fox News, Ofcom identified three one hour programmes, broadcast at 3:00am (UK time), on the 2, 5 and 6 of August 2016, in which a number of highly critical statements were made about Hillary Clinton's policy platform and past political actions. In addition, it included various statements that were described as supporting the policies of Donald Trump. Ofcom acknowledged that viewers would have expected programmes on Fox News to address controversial issues, and from the perspective that was generally more supportive of the US Republican Party. However, even taking into account this context, Ofcom concluded that the content did not preserve impartiality. Ofcom concluded that the material had clearly breached rule 6.1, rules 5.11 and 5.12.
7. The fourth of these breaches related to a programme which covered President Donald Trump's Executive Order issued on 27 January 2017 restricting travel from seven majority-Muslim countries (Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen). It was aired on 31 January 2017, at 6:15am (UK time). Fox submitted to Ofcom that the discussion around the Executive Order was not a matter of major political or industrial policy and therefore the impartiality requirements did not apply. In its correspondence with Ofcom, Fox also submitted:

Fox News understands 'due impartiality' to mean that programming must not inappropriately favour a particular perspective taking into account the context. In this case the

relevant factors to take into account when considering context (as set out in section two of the Code) are:

The editorial of the programme – this Programme is renowned for its challenging material and a presenter who has strong and opinionated views;

The service on which it was broadcast – a US channel, simulcast into the UK;

The degree of harm or offence likely to be cause – the audience in the UK averages around 2,000 simultaneous viewers who appreciate that the Programme is transmitted from the US, and therefore the degree of harm (or offence) that is likely to cause will be minimal, if any;

The likely size and expectation of the audience – as stated earlier the size of the audience is extremely small and those viewing the channel are likely to appreciate its context; and

Bringing the nature of the content to the attention of the audience – Fox News considers that there is adequate information for those viewing this channel to understand its context.

8. Ofcom disagreed with Fox's analysis and concluded that the making of the Executive Order was a matter of major political and industrial controversy. Ofcom found Fox to be in breach of rules 5.9, 5.11 and 5.12 of the Broadcasting Code.
9. The fifth and most recent breach recorded against Fox News related to an episode of 'Tucker Carlson: tonight', which was broadcast on 25 May 2017. In the episode Mr Carlson interviewed two people (Nigel Farage and Mark Steyn) to discuss the bomb attack on 22 May 2017 in Manchester. The programme included highly critical statements about: Theresa May; the Deputy Mayor of Manchester, Baroness Hughes; the Chief Constable of Greater Manchester, Ian Hopkins; the UK government; and the UK authorities, including accusations that particular individuals and public bodies had done nothing to: counter terrorism; stop radicalisation; protect citizens from terrorism; or protect 'thousands of underage girls' from rape and abuse. Further, that the inaction of public leaders was motivated by political correctness; they valued how people saw them over the lives of children; and they were forcing an 'official lie' on citizens, which was 'totalitarian' and 'wicked'. There was no reflection of the views of the UK government or any of the authorities or people criticised, which Ofcom said it would have expected given the nature and amount of criticism of them in the programme. The

presenter did not challenge the views of his contributors, instead, he reinforced their views. Fox, in its response to Ofcom's initial letter, accepted that the issue was a 'major matter', i.e. a breach of rules 5.11 and 5.12 of the Code. Fox admitted that the programme 'could have benefitted from an alternative perspective' and noted that its 'key editorial staff and legal staff received Ofcom training just before this episode was broadcast' and the broadcast had been 'aired before Fox News had put in place its new Ofcom compliance procedures'. Ofcom again found Fox to be in breach of rules 5.9, 5.11 and 5.12 of the Broadcasting Code.

Breaches by Sky News

10. Figure 34 provides a breakdown of breaches of the Broadcasting Code by Sky News. The single breach relating to section six is highlighted.

Figure 34: Breaches of the Broadcasting Code by Sky News between 2013 and 2017

<i>Ref</i>	<i>Programme</i>	<i>Decision</i>	<i>Issue of Broadcast and On Demand Bulletin</i>	<i>Date of publication</i>	<i>Summary of issue</i>
1	Sponsorship of Sky News Weather Reports by Qatar Airways	Breach	223	04/02/2013	Sky's weather report of approx 60 secs incls a 10-sec opening credit and a 5-sec closing credit - the opening credits didn't identify the sponsorship arrangement
2	Cross promotion for Sky Sports	Breach	229	07/05/2013	Flashing images in 30-sec promo for Sky Sports (calendar pages turned rapidly in the style of a flick book)
3	Finspreads' sponsorship of The Financial Report, Sky News	Breach	237	09/09/2013	Spread betting company advertised outside of specialist financial channels or programming
4	Sky News with Lorna Dunkley	Resolved	263	06/10/2014	Colin Brazier picked up two items from a victim's open suitcase during this live report at the crash site in eastern Ukraine of flight MH17.
5	Ian King Live	Resolved	290	12/10/2015	Presenter Ian King used 'f**k' because his microphone was not working before an interview. An apology was broadcast after and at end of programme
6	Sky News with Niall Paterson	Breach	302	11/04/2016	'F**k the BNP' banner was shown during a news broadcast
7	Sky News with Colin Brazier	Breach	302	11/04/2016	Graphic footage of hit and run shown before break, with no context provided
8	Sky News Tonight	Resolved	327	20/02/2017	This relates to the airing of a placard 'Donald Trump is a c**t'.
9	Sunrise	Breach	334	12/05/2017	Sky failed to list all of the candidates standing in the Vauxhall constituency during a report on tactical voting.

Source: CMA analysis of Sky's submissions.

Breaches by Channel 4 News

11. Figure 35 provides a breakdown of breaches of the Broadcasting Code by Channel 4, specifically breaches relating to news and current affairs programmes.

Figure 35: Breaches of the Broadcasting Code by news and current affairs programmes broadcast on Channel 4 between 2013 and 2017

<i>Ref</i>	<i>Programme</i>	<i>Decision</i>	<i>Issue of Broadcast and On Demand Bulletin</i>	<i>Date of Publication</i>	<i>Summary of Issue</i>
1	Channel 4 News	Breach	273	16/02/2015	Inaccurate representation of the MPS and the Ellison Review.
2	The Political Slot	Breach	273	16/02/2015	Broadcast of Conservative MP discussing tax policy on day of a by-election.
3	Channel 4 News	Breach	277	20/04/2015	Inaccurately representing a Russian airplane as Latvian, during the Baltic Sea flying exercises.
4	Channel 4 News	Breach	295	21/12/2015	Shoreham Air Show. Naming the wrong victims.
5	Channel 4 News	Breach. Sanction imposed due to previous breaches.	336	11/09/2017	Report of Westminster terror attack. Incorrectly identifying the assailant.

Source: CMA analysis of Ofcom data.

Glossary

20/20 rule	The national cross-media ownership rule provided in the CA03 which prohibits a newspaper operator with a market share of 20% or more of newspaper circulation from holding a Channel 3 licence or a stake in a Channel 3 licensee that is greater than 20%.
ACMA	Australian Communications and Media Authority, an Australian statutory authority responsible for ensuring the facilitation and regulation of media and communications.
The Act	Enterprise Act 2002.
The 1990 Act	Broadcasting Act 1990.
The 1996 Act	Broadcasting Act 1996.
AGM	Annual General Meeting of companies.
Al Jazeera	Al Jazeera Media Network, a Middle Eastern multinational multimedia conglomerate, which operates the news channel Al Jazeera.
ANC	Australian News Channel (ANC), which broadcasts the suite of Sky News channels, is a wholly owned subsidiary of News Corp.
ASTRA code	Subscription Broadcast Television Code of Practice 2013 by ASTRA .
ATV	Actual Television, a nationwide television channel in Turkey.
BARB	Broadcasters' Audience Research Board, an organisation that measures television viewing in the UK.
Bauer	Bauer Media Group, a European-based media company that manages a large range of magazines, digital products, TV stations and radio stations worldwide.
BBC	British Broadcasting Corporation, a UK-based public service broadcaster operating a number of TV channels including BBC News, radio stations and websites.

BCAP	The Broadcast Committee of Advertising Practice, a UK regulatory body responsible for writing and reviewing the UK Code of Broadcast Advertising.
BCAP Code	The Code of Broadcast Advertising written and reviewed by BCAP .
Bloomberg	Bloomberg L.P., a US-based financial software, data and media company headquartered in New York City.
Breitbart	Breitbart News Network, an American website publishing news, opinion and commentary since 2007.
Broadcaster	An organisation that transmits a programme or information by radio or TV.
The Broadcasting Code	This refers to the following codes together: Ofcom Broadcasting Code (Incorporating the Cross-promotion Code)- Revised December 2009, COSTA , CUDBPA and the BCAP Code .
Broadcasting standards objective	Standards objectives set out in section 319 of CA03.
BSB	British Satellite Broadcasting, a UK TV company no longer in operation since 1990.
BSkyB	Former name of Sky .
BTN	Big Ten Network, an American sports network owned partially by Fox .
BuzzFeed	The UK division of an American news and entertainment company namely BuzzFeed Inc.
Cardiff study	A study by Cardiff University of the 2015 UK General Election Campaign.
CA03	Communications Act 2003.
CAT	UK Competition Appeal Tribunal.
CBS	CBS Corporation, an American mass media corporation which also operates the news channel CBS News.

CC	Competition Commission (predecessor of the CMA).
CEO	Chief Executive Officer.
CFO	Chief Financial Officer.
Channel 4	Channel Four Television Corporation, a UK based media company which operates the TV network Channel 4 .
Channel 5	A UK TV network channel owned by Viacom Inc, an American multinational media conglomerate
Class A Common Stock (non-voting stock)	Both Fox and News Corp have dual class stock, with different rights attaching to each. Class A common stock refers to stock in Fox and News Corp to which no voting rights attach.
Class B Common Stock (voting stock)	Both Fox and News Corp have dual class stock, with different rights attaching to each. Class B common stock refers to stock in Fox and News Corp to which voting rights attach.
Click bait	The practice of presenting news stories in a way to attract attention and encourage visitors to click on a link to a particular webpage.
Click through	The act of clicking on a link (generally embedded in a post on social media) to a particular webpage.
CNN	Cable News Network, an international news channel owned by the American media company Turner Broadcasting System, Inc.
CMA	Competition and Markets Authority, competition regulator for the UK.
comScore	An American media measurement company.
comScore MMX Multi-Platform	An Online measurement tool comprising audience data from desktop, smartphone and tablet data sources, unduplicated to create a multi-platform view of use (ie a single user may be recognised as visiting an entity on both their desktop and smartphone).
COO	Chief Operating Officer.

COSTA	Code on Scheduling of Television Advertising by Ofcom .
CPS	Crown Prosecution Service, the principal public prosecuting agency for conduction criminal prosecutions in England and Wales.
Cross-platform reach	Reach across all types of platforms both online and offline in total.
Cross-usage	Simultaneous use of more than one platform/media by a single user.
Cruden	Cruden Financial Services LLC, a subsidiary of the MFT .
CSC	Compliance Steering Committee at News Corp .
CUDBPA	The Code on the Prevention of Undue Discrimination between Broadcast Advertisers.
Daily Mail	A UK news publication in print owned by DMGT .
The Daily Telegraph	A UK news publication both online and in print owned by Telegraph Media Group.
DCMS	Department for Digital, Culture, Media and Sport in UK government.
The Directive	The Audiovisual Media Services Directive (EC Directive 2010/13/EU).
Discovery	Discovery Communications, an American company which owns channels such as the Discovery Channel and Animal Planet.
Disney	The Walt Disney Company, an American diversified multinational mass media and entertainment conglomerate.
DMGT	Daily Mail and General Trust, a UK company and owner of both the Daily Mail and the Mail Online amongst other business entities.
Domain	The set of all internet site owned by an organisation.
DTH	A new technology for the broadcasting of TV signals.
DTI	Department of Trade and Industry in UK government.

EBITDA	A company's earnings before interest, taxes, depreciation, and amortisation.
ECHR	European Convention on Human Rights.
The Editors' Code	Editors' Code of Practice set by the Editors' Code of Practice Committee.
EEA	European Economic Area.
EIN	European Intervention Notice, a notice (under section 67(2) of the Act) from the Secretary of State stating the public interest consideration(s) relevant to a relevant merger situation (as defined by section 23 of the Act).
EMEA	A region covering Europe, Middle East and Africa.
ERMS	European Relevant Merger Situation as defined by section 68(2) of the Act .
The Evening Standard	The London Evening Standard, a news publication both in print and online owned by Alexander Lebedev.
Facebook	Facebook Inc, an American company which operates a major online social media network.
FCC	The Federal Communications Commission, an independent American agency of the US government which regulates interstate communications by radio, TV, wire, satellite, and cable.
FCNS	Fox Cable Network Services, an entity of Fox .
FCPA	Foreign Corrupt Practices Act.
FEG	Fox Entertainment Group, an entity of Fox .
FT	Financial Times, a UK news publication both in print and online owned by The Nikkei.
FTE	Full time equivalent, a unit that indicates the workload of an employee.
FTSE	Financial Times Stock Exchange.

FTSE 100	A share index of the 100 companies listed on the London Stock Exchange with the highest market capitalisation.
FNG	Fox Network Groups, an entity of Fox .
Fox	21st Century Fox , Inc., an American media company.
Fox Extra	Narrated reports on non-major news covering a variety of topics by Fox .
GCCOs	Group Chief Compliance Officers at News Corp .
Global Radio	Global, a UK media company which owns a large number of radio stations including Capital FM.
GMG	Guardian Media Group, a UK media company that owns the UK news publication The Guardian among others.
Google	Google LLC, a global technology company and owner of Google search engine and YouTube.
The Guardian	A news publication both online and in print forming part of the Guardian Media Group, owned by Scott Trust Limited.
Guidance Notes	Ofcom Broadcasting Code Guidance.
House of Lords report	House of Lords Select Committee on Communications 1 st report of 2014-15 Media Plurality.
HQ	A company's headquarters.
HR	Human Resources department of a company.
HuffPost UK	A UK online news publication owned by The Huffington Post Media Group UK.
ICO	UK Information Commissioner's Office, a UK independent authority set up to uphold information rights in the public interest and promote openness by public bodies and data privacy for individuals.
IMPRESS	The Independent Monitor for the Press, an independent press regulator in the UK.
Impression(s)	The impression of a post or a link is recorded when a user sees that post on that link on his or her screen.

The Independent	The Independent , a news publication both in print and online owned by Alexander Lebedev.
Independent board	An independent board is a corporate board of directors that has a majority of independent directors who are not affiliated with the top executives of the firm and have minimal or no business dealings with the company to avoid potential conflicts of interests.
Independent director	An independent director is a director (member) of a board of directors who does not have a material or pecuniary relationship with the company or related persons.
Independent shareholder(s)	Any person entitled to vote on the election of directors of a listed company that is not a controlling shareholder.
Inquiry	The phase 2 CMA investigation into the anticipated acquisition of Sky by Fox .
Inquiry Group	The appointed Panel Members overlooking the phase 2 CMA investigation into the acquisition of Sky by Fox .
Intermediary	An online platform that distributes news content from various publishers.
IPSO	Independent Press Standards Organisation, an independent regulator for the newspaper and magazine industry in the UK. Regulates all News UK newspaper titles.
IRN	Independent Radio News, a provider of news bulletins for commercial radio stations in the UK and other countries. Owned by Sky .
Issues statement	Statement of Issues in relation to the phase 2 CMA investigation into the anticipated acquisition of Sky by Fox .
ITN	Independent Television News, a UK news channel owned partially by ITV plc and DMGT amongst other owners.
ITV	Independent Television, a UK TV channel owned by ITV plc.
LBC	Leading Britain's Conversation, a UK radio station.
Lord Justice Leveson	Lord Justice Leveson, Chair of the Leveson Inquiry.

Leveson Inquiry	The Leveson Inquiry , a public inquiry into the culture, practices and ethics of the press chaired by Lord Justice Leveson.
The Mail Online	A news publication online owned by DMGT .
Media ownership and plurality consultation report	Report on media ownership and plurality by DCMS
Metro	Free of charge UK news publication in print published by DMG Media Ltd.
MFS	Massachusetts Financial Services Investment Management, a global active investment manager and shareholder of Sky .
MFT	Murdoch Family Trust, a trust established for the benefit of Rupert Murdoch's children and charities. The MFT currently has holdings in a number of entities including Fox and News Corp
MRC	Media Reform Coalition, an organisation that coordinates contributions from civil society groups, academics and media campaigners to debates over media regulation, ownership and democracy.
MSC	Management and Standards Committee at News Corporation set up in July 2011 to deal with matters such as the News of the World voicemail interception case and an investigation into payments to public officials.
Multi-sourcing	The practice of consumers using a variety of alternative sources of news which could also be set across different types of platforms.
NASDAQ	An American stock exchange on which Fox is listed.
NASDAQ Global Select Market	A market tier of NASDAQ where stocks of public companies that meet the highest listing standards in world are traded.
National Geographic channels	Channels with shows that include documentaries related to geography, archaeology and natural science, owned by Fox .
NCGC	Nominating and Corporate Governance Committee of Fox .

NCC	The National Communications Commission Republic of China (Taiwan).
NCS	News Consumption Survey by Ofcom .
News Corp	US-based company partly owned by the MFT via a 39% share.
News International	Former subsidiary of News Corp now no longer in operation.
News UK	News UK and Ireland Ltd., a wholly owned subsidiary of News Corp operating in the UK, and owns news titles such as The Sun and The Times .
Northern and Shell	Northern and Shell Media Group, a UK publishing group and owner of news publications such as the Daily Express and Daily Star.
NGN	News Group Newspapers, a wholly owned subsidiary of News UK and the operator of news publications such as The Sun and The Sun on Sunday.
NMA	News Media Association, an association of national, regional and local UK news media organisations.
Non-voting stock	Non-voting stock is stock that provides the shareholder no vote on corporate matters, such as election of the reference of directors.
NRS	National Readership Survey, a joint venture company in the UK which provides audience research for print advertising trading in the UK.
Ofcom	The Office of Communications, the UK's communications regulator.
Ofcom measurement framework	Ofcom measurement framework for media plurality
Ofcom media plurality advice	Ofcom guidance on media plurality

Ofcom Public Interest Report	Report on the public interest test for the proposed acquisition of Sky by Fox (phase 1) by Ofcom .
Opening letter	The CMA 's letter to the Parties of a Transaction informing them of the Terms of Reference and focus of the Inquiry .
The Order	Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (as amended).
The Parties	Reference to Fox and Sky collectively.
PCC	Press Complaints Commission, an independent body which used to deal with complaints from the members of the public about editorial content in newspapers and magazines, but is no longer in operation and was replaced by IPSO in September 2014.
phase 1	First stage of CMA investigation in jurisdictional matters and Ofcom 's investigation of media plurality and commitment to broadcasting standards as referred by the Secretary of State on 16 March 2017.
phase 2	Second stage of CMA investigation into the anticipated acquisition of Sky by Fox .
PRP	Press Recognition Panel, an independent body set up by Royal Charter to ensure that regulators of the UK press are independent, properly funded and able to protect the public.
RAJAR	Radio Joint Audience Research, a measurement and profiling of the audiences of UK radio stations.
Reach	The total number of people who have used a particular source over a defined period of time.
Regional Channel 3	Channel 3 on Freeview that varies according to region in the UK.
Retail news provider	Individual title or brand that provides content to users of news.
Retweet	Sharing of a message or post on Twitter .

RFC	Regulatory Funding Company, a company charged with raising a levy on the news media and magazine industries to finance IPSO .
RLCS	Radio Licensable Content Service.
RT	Russia Today, a Russian international TV news network channel funded by the Russian government.
RTUK	Turkish Radio and Television Council.
SEC	Securities and Exchange Commission.
Share of reference	The share of reference is a metric of news consumption across different platforms. It is calculated by asking people which news sources they use and the frequency with which they use them.
Sky	Sky Plc, a media company headquartered in the UK and owner of Sky News .
Sky News	The news arm of Sky operating in the UK.
Social media	Online platform through which users engage and share content.
Secretary of State	Secretary of State for Digital, Culture, Media and Sport.
STAR channels	STAR India Entertainment owned by Fox .
The Sun	A UK news publication both online (the Sun Online) and in print owned by NGN .
The Takeover Code	City code on takeovers and mergers applicable to listed companies in the UK.
TCFFC	Twentieth Century Fox Film Corporation.
TCFHE	Twentieth Century Fox Home Entertainment.
The Times	A UK news publication both online and print which is owned by Times Newspapers Ltd, a subsidiary of News UK .
The Transaction	The anticipated acquisition of Sky by Fox .
Third party(ies)	Parties that are not Fox or Sky .

TLCS	Television licensable content service, a TV service broadcast from a satellite, distributed using an electronic communications network or a service made available by a radio multiplex for which a license must be granted by Ofcom .
Traditional media/organisation/platform	Non-online media such as, but not limited to, TV, radio and print.
Trinity Mirror	Trinity Mirror plc, a media company and owner of the news publication the Daily Mirror.
Twitter	Twitter Inc, owner of Twitter, a large social media site.
UKOM	UK Online Measurement Company, an industry governed multi-platform audience measurement in partnership with comScore .
Wholesale provider/supplier of news	Provider of news who produces and supplies news (as opposed to the practice of aggregating news from different original sources)
Wholesale share of reference	The share of reference at a wholesale level. The CMA has adopted wholesale allocations as provided by Ofcom in Figure A3.7 of the Public interest test for Sky/Fox .
Wireless Group	Wireless Group Ltd, a subsidiary of News Corp and a broadcasting and media company based in Northern Ireland.
YouGov	A UK market research and data analytics firm.