12 July 2017

Department for Digital, Culture, Media & Sport
100 Parliament Street
London
SW1A 2BQ

To: Ministers and Managers

Re: Proposed merger between Twenty-First Century Fox, Inc. and Sky plc

I have a particular interest in the proposed merger between Twenty-First Century Fox, Inc. and Sky plc because my career has been evenly divided between matters of corporate governance (thirty-one years representing investors from around the world in American public companies on matters including board structure and composition to financial disclosures, executive remuneration, proxy voting, litigation, and regulatory and legislative initiatives) and matters of media and culture (more than twenty years writing features, commentary, and reviews in print, on television and radio, and online). I am strongly opposed to it on both grounds.

My focus in these remarks will be on the governance issues because it is a catastrophic and systemic failure of governance that is responsible for the lack of integrity in the media product, a critical failure when it affects the credibility of journalism. That cannot be allowed to infect Sky further without significant and meaningful changes in the governance of Twenty-First Century Fox.

In my previous position at a corporate governance rating service called The Corporate Library (later GMI Ratings, now owned by MSCI), I noted that Fox received an F rating, based on a report card-style A-F assessment of governance risk, as I explained at the time, "only because there was no lower grade." I refer you to one of my commentaries on the company, published by BNet (now CBS News): http://www.cbsnews.com/news/ruperts-board-too-weak-to-stand-up-to-him-then-or-for-him-now/ This structure, or, perhaps more accurately, lack of structure pervades all of the various offshoots and subsidiaries. Ultimately, it is the dominating force of News Corp throughout media and its board's incapacity for independent oversight, that is the reason for the various problems in the organizations it controls or purports to.

The company's constant disregard of the rights of owners in a public company is constant and omnipresent. Just to give two representative examples: First, when News Corp asked its shareholders to change its incorporation to the United States, and within the United States to Delaware, the state well known for its broad accommodation for corporate executives, the shareholders granted permission on the condition that the company not adopt a "poison pill" (antitakeover device), utterly superfluous given the insider control of the company and potentially injurious to share value. In less than a year, the board reneged on this promise. To add insult to injury, they did not try to justify it by putting it to a shareholder vote. In settlement of a lawsuit over the pill, the company agreed for a period of twenty years not to extend any poison pill beyond a year unless it met certain conditions that include approval from its stockholders and a nine-month interim period when the pill is not in effect. It did not meet this promise, either, successfully pleading a technicality. LAW360 reported:

> When contacted on Tuesday, a News Corp. spokesman said the company, which is one of two spinoffs from the original News Corp., is not actually bound by the settlement agreement.
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> "The new News Corp didn't exist at the time of the settlement agreement, was not a party to it and is not bound by it," said Jim Kennedy, News Corp.'s chief communications officer.

This is of particular importance in evaluating the credibility of the "undertakings" promised by Fox. News Corp's record calls into question the likelihood of complying with its promises.

The second example was the purchase of Elisabeth Murdoch's company for what I will charitably call an extremely generous premium, one that did not meet even the minimum standards for an independent review.

Furthermore, the revelations about the phone hacking scandals and sexual abuse allegations revealed a culture of brutal lawlessness, disregard for the most fundamental human dignity and privacy and unwillingness to hold executives responsible. It is appalling to argue that the top management and directors were not aware of the pervasive sexual harassment at Fox. If they knew, they were complicit. If they did not know, given the repeated "bonus" payouts to women who filed complaints (with no meaningful consequences to the inflictors of the harassment) they were incompetent. If they did not know, it means that they failed to implement and communicate the most fundamental procedures for board oversight. And why would they, when the family could get rid of them any time they asked difficult questions?

To further enable this management and its ineffective board, to reward it with yet another expansion, would be a terrible mistake. Corporate governance is not about box ticking or compliance. It is about ensuring that robust, independent, and accountable decision-makers at every level throughout News Corp's extensive holdings have the integrity and incentives to ask tough questions and insist on honest answers. They have repeatedly shown us that the organization is just too big to govern effectively or they have no interest in doing so or both. Until the company establishes that they can and will do so, this merger should not proceed.

I note that I concur with the media plurality findings and the arguments made that allowing this merger would be to allow further consolidation of media outlets under the control of a very small group of individuals with no independent oversight or market-based accountability.

I appreciate the opportunity to share my views, and am more than happy to provide any additional information you may find helpful.

Sincerely,

Nell Minow
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