

21ST CENTURY FOX/SKY MERGER INQUIRY

Summary of non-substantive submissions to the Notice of Possible Remedies

Introduction

1. On 23 January 2018 the CMA published a Notice of Possible Remedies (the Remedies Notice) following its provisional finding that the anticipated acquisition by 21st Century Fox, Inc (Fox) of the shares it does not already own in Sky Plc (Sky) may be expected to operate against the public interest taking account of the media plurality consideration; and may not be expected to operate against the public interest taking account of the broadcasting standards consideration.
2. The Remedies Notice set out the actions which the Inquiry Group considers it might decide should be taken by the Secretary of State for the purpose of addressing the effects adverse to the public interest arising from the media plurality concerns identified in the provisional findings report.
3. We received 50 non-substantive responses to the Remedies Notice. This summary presents the main views on potential remedies options submitted to us by third parties, of which there were three main aspects.

Summary of views raised in non-substantive responses to the Remedies Notice

The Transaction should be prohibited as the best and most effective solution

4. The majority of third parties (46) submitted that they agreed with our provisional finding that the Transaction may be expected to operate against the public interest taking account of the media plurality consideration.
5. Most third parties submitted that prohibition would address concerns arising from the Transaction. The concerns identified were largely the same as those raised in previous consultation stages of the inquiry (for example in response to the issues statement) and as considered in the provisional findings report.

Behavioural remedies are not an appropriate or sufficiently robust solution

6. A small number of third parties (less than 10) submitted that behavioural remedies would not be effective for such a large, globally-operating organisation as Fox or Sky.
7. Third parties submitted that it would be unlikely that behavioural remedies would be upheld, with reference made to editorial independence of MFT owned companies such as the Wall Street Journal and The Times as questionable, and the effectiveness of The Times 1981 undertakings.
8. Third parties also raised corporate governance issues at Fox and the phone hacking scandal at News International as evidence of certain behaviours/attitudes and a 'track record' which would not support a behavioural remedy.
9. Third parties submitted that even if editorial independence was secured by a behavioural remedy, it would still be possible for influence to be exerted over editorial staff at Sky News post Transaction, such that this editorial independence was not reflected in the content or coverage of news stories.

The Transaction should not be prohibited

10. A minority of third party submissions (four) were in favour of the Transaction and disagreed with prohibition as a remedy.