



13<sup>th</sup> April 2018

Ms. Anne Lambert  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London WC1B 4AD

*Dear Anne Lambert,*

**Re: Proposed remedies in Fox/Sky merger**

Having taken the opportunity to study 21st Century Fox's most recent set of proposed remedies, published on your website on 3rd April, together with others' responses to your provisional findings, may I place on record my considered views of the above case in the expectation the CMA will take account of my views in their final decision.

During my 45-year career in the media industry I have been closely involved in a great number of regulatory matters and seen first-hand the development of the broadcasting regulatory regime in response to a dynamic and fast-evolving media marketplace. I fully subscribe to the notion that a plural media is a matter of public interest, something I keep a keen eye on in the House of Lords.

The current legislative and regulatory regime has developed from a long analogue period of spectrum scarcity, which created almost unassailable barriers to new entrants and competition; the digital world today, with ever lower barriers to entry for news outlets, the effects of platforms and social media, together with the vastly different news consumption habits of the general public, the concern to preserve plurality, whilst still important, is today far less of an issue by comparison.

I note that others' objections to the Sky/Fox merger hinge largely on the current and future perceived influence of the Murdoch Family Trust (MFT) over Sky News and, in the words of Ed Miliband MP *et al* the apparent "difficulty of designing any effective behavioural remedies which are resistant to attempts by Fox to exercise influence over Sky News".



Their concerns which lead them to this conclusion are significantly overstated. Critics of the deal quote in evidence Rupert Murdoch's alleged failure to adhere to the undertakings that were offered during the acquisition of The Time. I have some sympathy with that criticism, but it bears no relevance to the issue at hand. It is very clear to the objective observer that the remedies offered initially to the CMA by Fox proposed a fully independent board, with oversight by Government or a regulator, and rigorous transparency obligations. These far and away exceed what was required in the case of the Murdoch acquisition of The Times nearly four decades ago.

Furthermore, since this set of remedies has itself been superseded by two alternative structural proposals, all existing concerns raised about behavioural remedies *per se* are now answered and therefore irrelevant, including any possible inference of the potential for influence by the MFT. It is inconceivable that either the legal separation of Sky News, or divestiture of that business to Disney, could fail fully to remedy any outstanding concerns about this transaction.

In addition, the commitment to funding the business for up to 15 years, in the event of the proposed 'ringfencing' remedy, and for 10 years, in the event of divestiture, appears to me to be an extraordinary one to make towards an unprofitable news channel. Whether or not the closure of Sky News is a plausible scenario in the near future, its existence 15 years hence is undeniably far from certain in the context of current market conditions. In this respect Fox's commitment defies market realities and safeguards future plurality to an extent that would be otherwise impossible. On current evidence, I see no credible grounds remaining on which this transaction could be prohibited: indeed, on the basis of the funding commitment alone it should be welcomed by all those who claim to have the preservation of plurality as their primary objective.

For the record, I have no interest financial or otherwise in any broadcasting or news organisation and I write this letter as an entirely independent observer, albeit with a track record of criticism of Murdoch enterprises.

I would be grateful if you could publish this letter on your website alongside other respondents' submissions as soon as is practicable.

MICHAEL GRADE