



Department for
Digital, Culture,
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By Email

[REDACTED]
Executive Vice President, Deputy General Counsel
and Deputy Chief Compliance Officer
Twenty-First Century Fox, Inc.
1211 Avenue of the Americas
New York NY 10036
USA
[REDACTED]

[REDACTED]
Group General Counsel
Sky plc
Grant Way
Isleworth
TW7 5QD
[REDACTED]

Dear [REDACTED]
Dear [REDACTED]

**21st CENTURY FOX, INC AND SKY PLC
PUBLIC INTEREST FINDINGS**

I refer to the the proposed acquisition by 21st Century Fox, Inc ("21CF") of the entire issued and to be issued share capital of Sky plc ("Sky") that it does not already own ("the proposed merger situation").

On 1 May 2018, the Secretary of State for Digital, Culture, Media and Sport ("Secretary of State") received the final report of the CMA, prepared in accordance with article 9 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order ("2003 Order") ("the CMA Report").

I enclose the notice setting out the public interest decisions in relation to the proposed merger situation. As you will see, the Secretary of State has decided, for the reasons set out in paragraphs 1 to 160 of the Summary of the CMA report, that:

- arrangements are in progress or contemplation which if carried into effect, will result in the creation of a European relevant merger situation;
- taking account only of the relevant public interest considerations concerned:
 - the proposed merger situation may be expected to operate against the public interest so far as concerns the plurality ground (the public interest consideration set out in section 58(2C)(a) of the Enterprise Act 2002 ("the Act")); and
 - the proposed merger situation may not be expected to operate against the public interest so far as concerns the commitment to broadcasting standards grounds (the public interest consideration set out in section 58(2C)(c) of the Act).

In view of his decision, and in accordance with article 12(6) and (7) of the 2003 Order, the Secretary of State will now consider whether to take action which he considers reasonable and practicable to remedy, mitigate or prevent any of the effects adverse to the public interest which may be expected to result from the creation of the proposed merger situation. In making his decision under article 12(7), the Secretary of State is required, in particular, to have regard to the report of the CMA on these matters.

The Secretary of State notes the CMA's conclusion that only prohibition or the divestiture of Sky News would provide an effective solution to the identified adverse public interest effects. Of these two options, the CMA recommended that the most effective and proportionate remedy would be the divestiture of Sky News to The Walt Disney Company or to another suitable upfront purchaser. (See paragraphs 161-172 of the Summary of the CMA Report.)

The Secretary of State agrees that divestiture could potentially remedy the adverse public interest effects in an effective and proportionate manner. However, that will only be the case if the divestiture remedy is designed in a way that ensures its long-term effectiveness.

Draft undertakings were provided to the CMA by 21CF and subsequently offered to the Secretary of State in substantially the same terms. While the Secretary of State considers that these provide a good starting point, there are a number of issues with the current version of the draft undertakings that require further discussion, in particular the Secretary of State wishes to make sure that any final undertakings ensure that Sky News:

- remains financially viable over the long-term;
- is able to continue to operate as a major UK-based news provider; and
- is able to take its editorial decisions independently, free from any potential outside influence.

The Secretary of State has therefore instructed Departmental officials to begin these discussions immediately, with a view to trying to agree draft undertakings that he would be prepared to accept. I will be writing to 21CF separately to commence those discussions.

For the avoidance of doubt, however, the Secretary of State considers that if it is not possible to agree appropriately worded undertakings the only remaining effective remedy would be prohibition.

As required by the legislation, before taking a final decision the Secretary of State will consult publicly on the final form of any final undertaking he proposes to accept or any final order he proposes to make.¹

The Secretary of State would hope to be in a position to publish the consultation on any agreed final undertakings within the next two weeks, however, this is of course dependent on the outcome of discussions and the ability to agree an acceptable form of remedy.

I am copying this letter to [REDACTED] at Allen & Overy and [REDACTED] at Herbert Smith Freehills.

Yours sincerely,

[REDACTED]

Department for Digital, Culture, Media and Sport

Encl.

¹ Under Schedule 10 of the Act, (as applied by article 15 of, and Schedule 3 paragraph 2 to the 2003 Order) there is a minimum 15 day public consultation on proposed undertakings, and a minimum 30 days public consultation in the case of a proposed order, and a minimum 7 days further consultation on any modifications thereto.