



Jeremy Hunt

DCMS lawyer

1 message

Jeremy Hunt

21 December 2010 17:30

To: Edward Llewellyn

From: KILGARRIFF PATRICK

Sent: 21 December 2010 17:24

To: BEEBY, Sue; SMITH, Adam;

CC: ZEFF, JON;

PATEL RITA;

GEIST-DIVVER CAROLA;

Subject: RE: URGENT Competition policy

When did JH say it? I assume it was shortly after News Int announced its intention to buy out the other shareholders in Sky. Therefore at a time when JH was not responsible for policy in this area. If so, it is not helpful and tends towards an element of pre-judging the issue. That said, the view is far from definitive as is demonstrated by the wish not to second guess decision making by regulator and "it isn't clear to me" so unhelpful and enough to draw comment and perhaps challenge but probably not fatal when a well reasoned decision is made with conclusions based on all the relevant evidence.

Patrick

28/04/2012

MOD300010001

[Redacted]

From: [Redacted]  
 Sent: 21 December 2010 20:01  
 To: KILGARRIFF PATRICK; BEEBY, Sue; [Redacted]  
 SMITH, Adam; [Redacted]  
 Cc: ZEFF JON; [Redacted] PATEL RITA; [Redacted]  
 GEIST-DIVVER CAROLA; [Redacted]  
 Subject: RE: URGENT Competition policy

It occurs to me that we have a briefing meeting from Virgin Media on NewsCorp scheduled for tomorrow at 10.30. That was not, of course, a problem when Vince Cable was the decision maker in this case, but it seems to me that it probably ought to be cancelled now that responsibility has transferred to Jeremy. I don't think the presentation was, in any event, to Jeremy, but given recent events, I think that we ought to distance from any remote suggestion of influence by any interested party.

I'm happy to discuss though; I'll be in the office from at least 8 tomorrow morning.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
 Email: [Redacted]

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From: KILGARRIFF PATRICK  
 Sent: 21 December 2010 18:06  
 To: BEEBY, Sue; [Redacted] SMITH, Adam; [Redacted]  
 Cc: ZEFF JON; [Redacted] PATEL RITA; [Redacted] GEIST-DIVVER CAROLA;  
 Subject: RE: URGENT Competition policy

As we must now wait for Ofcom's report – so perhaps tweaked to – “...Ofcom's recommendation and so he will need to read Ofcom's report before making any decision”

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From: BEEBY, Sue  
 Sent: 21 December 2010 18:02  
 To: [Redacted] KILGARRIFF PATRICK; SMITH, Adam; [Redacted]  
 Cc: ZEFF JON; [Redacted] PATEL RITA; MARTIN LINDA; GEIST-DIVVER CAROLA;  
 Subject: RE: URGENT Competition policy

We also need a line on Jeremy's comment to the FT.

Suggested and cleared with Jeremy  
 “Jeremy clearly said at the time that he didn't want to second guess Ofcom's recommendation and so he will await their report before making any decision.”

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From: [Redacted]  
 Sent: 21 December 2010 17:55  
 To: [Redacted] BEEBY, Sue; KILGARRIFF PATRICK; SMITH, Adam; [Redacted]  
 Cc: ZEFF JON; [Redacted] PATEL RITA; [Redacted] GEIST-DIVVER CAROLA;

[Redacted]

**Subject:** RE: URGENT Competition policy

[Redacted]

Know you are speaking to Sue. Jonathan would like to have sight of any proposed lines in response before they go out.

Ta

[Redacted]

Department for Culture, Media and Sport

[Redacted]

**From:** [Redacted]

**Sent:** 21 December 2010 17:50

**To:** [Redacted] BEEBY, Sue; KILGARRIFF PATRICK; [Redacted] SMITH, Adam; [Redacted]

**Cc:** ZEFF JON; [Redacted] [Redacted] [Redacted] PATEL RITA; [Redacted] GEIST-DIVVER CAROLA;

[Redacted]

**Subject:** RE: URGENT Competition policy

Just announced by no 10.

A Downing Street spokesman said:

"Following comments made by Vince Cable to the Daily Telegraph, the Prime Minister has decided that he will play no further part in the decision over News Corporation's proposed takeover of BSkyB.

"In addition, all responsibility for competition and policy issues relating to media, broadcasting, digital and telecoms sectors will be transferred immediately to the Secretary of State for Culture, Media and Sport.

"This includes full responsibility for OFCOM's activities in these areas.

"The Prime Minister is clear that Mr Cable's comments were totally unacceptable and inappropriate."

**From:** [Redacted]

**Sent:** 21 December 2010 17:49

**To:** BEEBY, Sue; [Redacted] KILGARRIFF PATRICK; [Redacted] SMITH, Adam; [Redacted]

**Cc:** ZEFF JON; [Redacted] [Redacted] PATEL RITA; [Redacted] GEIST-DIVVER CAROLA;

[Redacted]

**Subject:** RE: URGENT Competition policy

Here's the basis for Jeremy' comment:

"BSkyB largest shareholder is News Corporation (News Corp) with a 39.02 per cent stake along with several directorships, which is sufficient to confer control over BSkyB." (from the OFT's report to SoS DTI on the Acquisition by British Sky Broadcasting Group plc of a 17.9 per cent stake in ITV plc, 27 April 2007).

So arguably Jeremy has done no more that repeat an earlier conclusion by the OFT.

[Redacted]

**From:** BEEBY, Sue

**Sent:** 21 December 2010 17:36

[Redacted]

**From:** [Redacted]  
**Sent:** 22 December 2010 09:22  
**To:** ZEFF JON; KILGARRIFF PATRICK; SMITH, Adam; [Redacted]  
Permanent Secretary  
**Subject:** FW: Media handling: BSKYB / NEWS CORP TAKEOVER - EC REPORT INTO COMPETITION  
**Attachments:** NewsCorps BSKyB - Handling issues - December 2010.doc

To see....

[Redacted]

**Department for Culture, Media and Sport**

[Redacted]

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**From:** Cable [Redacted]  
**Sent:** 22 December 2010 09:04  
SECRETARY OF STATE'S OFFICE  
**Subject:** FW: Media handling: BSKYB / NEWS CORP TAKEOVER - EC REPORT INTO COMPETITION

Hi [Redacted]

Here is the note our officials drafted last night. Might be helpful for your SoS to give this a once over.

Thanks, see you soon

[Redacted]

**Business, Innovation and Skills**

8th Floor | 1 Victoria Street | London | SW1H 0ET

[Redacted]

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**From:** Rees Andrew (CCP)  
**Sent:** 21 December 2010 19:01  
**To:** Cable [Redacted]  
**Cc:** [Redacted]; Kelly Bernadette (MPST DG) [Redacted] Sandby-Thomas Rachel (MPST DG); Chambers Sarah (CCP)  
**Subject:** RE: Media handling: BSKYB / NEWS CORP TAKEOVER - EC REPORT INTO COMPETITION

[Redacted] Bernadette asked us to do a note clarifying the handling process on the NewsCorps case. You might want to send this over to DCMS ahead of the briefing tomorrow. Given developments this afternoon there are still some issues for the lawyers to consider about whether DCMS can just pick it up from here or whether we start again but we'll get back to you on that. Hope this helps.

Andrew  
Mobile: [Redacted]

<<NewsCorps B SkyB - Handling issues - December 2010.doc>>

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[redacted] Andrew Rees | Consumer and Competition Policy | Department for Business, Innovation & Skills | Tel [redacted]

## Handling the Ofcom report and related issues

### **Anticipated Timeline**

- w/b 27 December – receive OFT's report on jurisdiction issues
- 31 December – receive Ofcom's report
- 6, 7 January – receive a further two versions of the report from Ofcom – a redacted one that can be published and a separate redacted version that can, if needed, be discussed with NewsCorp
- 4-7 January - officials consider the report, discuss it with Ofcom, and provide advice to the SofS
- 10-11 January SofS considers the report, discusses it with Ed Richards, Counsel and officials
- 11-14 January – NewsCorp given opportunity to make oral representations to BIS officials and a couple of days to make any further written representations. If the SofS is minded to refer he is obliged to tell the parties, and give them his reasons. He may want to give them an opportunity to make representations on undertakings in lieu of a reference.
- 17-21 January – SofS announces his decision

Note: the 10 working day timetable for a decision takes us through to 17 January. But this is an administrative not a statutory deadline and there is no reason why the SoS should not take a few days longer, especially if discussions with the parties are needed.

### **Issue 1: When to publish Ofcom's report**

The SofS has discretion over when to publish the Ofcom report provided this is no later than when he publishes his decision on whether to make a reference to the Competition Commission.

Our recommendation is that the SofS should not publish the report until he announces that decision. This is a market sensitive issue, it appears sensible to do what we can to reduce media comment and speculation about the outcome of the Secretary of State's decision.

There is bound to be speculation, but this may be greater if the report were made public prior to announcing a decision since there would be substantive evidence and information for the media to analyse and interpret.

For that reason it would be reasonable for the SofS to maintain the position that Ofcom's report should be published only at the time he announces his decision.

If the alternative conclusion is reached, Ofcom intends to send us a redacted version of the report, suitable for publication, in the first week of January; accordingly it would probably be possible to publish the report on the 6 or 7 January.

**Issue 2: Bids to make further representations on the merits of the case**

In reaching a decision on a reference, it is open to the Secretary of State to take into account further evidence and information that may be submitted direct to him separate from the Ofcom report.

We would generally only actively seek such further representations if there was a particular point of fact or law on which the Secretary of State required clarification or additional information before taking a properly informed decision. But nor would we deny parties the opportunity to submit further arguments if they so wished.

However, we are required to act reasonably at all times. If, in particular, the merging parties believed they had further arguments they wished to make, we would seek to accommodate them as far as practicable. We should remain open to a meeting with them if desired and to receiving any further written representations they considered necessary.

**Issue 3: Requirement to consult the parties if the SofS is minded to make a reference**

Section 104 of the Enterprise Act provides that the SofS must consult affected parties before taking a relevant merger decision. If the Secretary of State were minded to make a reference in this case, it would be appropriate to give the merging parties an opportunity to make further representations about that decision, including on the possibility of offering statutory undertakings that addressed the public interest concern identified in lieu of making such a reference.

**Issue 4: Representations about the adequacy of the process**

If parties wished to comment on the way Ofcom conducted its investigation or other aspects of the process, we would again be under a general obligation to give fair hearing to these. We would wish to ensure that all relevant information and evidence had been properly considered and given due weight.

**Issue 5: Handling the Ofcom report – limited circulation**

The non-redacted confidential version of the Ofcom report will be delivered to the Secretary of State on 31 December. The report will only be made available to those officials directly involved in providing advice on the decision and to our external legal Counsel. In response to calls to disclose the contents of the report, we would need to maintain the position that it would be inappropriate to disclose it in advance of the decision.

[Redacted]

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**From:** PATEL RITA  
**Sent:** 11 January 2011 16:52  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; ZEFF JON; [Redacted]  
**Subject:** Restricted: SoS conversation with Ed Richards

The SoS had a brief conversation with Ed Richards (ER) this afternoon re News Corp. Please find below a summary of the conversation.

- ER said he wanted to raise an issue which is only touched on in the Ofcom report but could become an issue if things started to move quickly and which he did not have the opportunity to raise at their meeting earlier on in the week. The issue was of commitments and undertakings (prior to any remedies) which could become an important dimension and one which News Corp may choose to raise. The SoS would therefore want to consider how he would want to respond to this matter.
- The SoS confirmed that he had not received specific advice from officials on this matter. ER said the SoS will also want to consider, if and at what point, he would wish to consult Ofcom on this matter. The SoS said that ofcom would be the first pt of consultation and he was clear that appropriate due process should be followed.
- The SoS said the Ofcom advice was clear cut and makes it difficult for remedies to pass the test of reasonableness. ER said the advice was strong on the first stage hurdle but not at all definitive on the second stage.

Thanks

Rita

Rita Patel  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport  
4 Cockspur Street  
London  
SW1Y 5DH

[Redacted]

Box Times: The Secretary of State's box closes at 3.00pm Monday – Thursday. Please contact the relevant Private Secretary directly regarding any urgent matters arising outside of these hours.



[Redacted]

**From:** [Redacted]  
**Sent:** 12 January 2011 08:56  
**To:** [Redacted]  
**Subject:** RE: Restricted: SoS conversation with Ed Richards

[Redacted]

I agree with the issue about accepting undertakings at this stage. I think too little is certain about what the problems with plurality are. Having said that, it may well be that NewsCorp try and offer some, in which case we will have to consider. But I also agree that Ofcom should be able to comment on their efficacy, as their report has not focussed on this.

Well, remedies are usually imposed by the regulator (in a straightforward competition case by the Competition Commission). But remedies can also be used as a blanket term to encompass undertakings and orders made to remedy the situation. I think what's meant at the first bullet point is undertakings prior to the discussion of remedies. Does that make sense at all?

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

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**From:** [Redacted]  
**Sent:** 11 January 2011 17:15  
**To:** [Redacted]  
**Subject:** FW: Restricted: SoS conversation with Ed Richards

[Redacted]

My feeling is that it would be very difficult to accept commitments and undertakings at this stage when the nature of the problem is itself still somewhat ill-defined (Ofcom say in respect of a number of issues that more work needs to be done). Of course, we will have to see what, if anything, is proposed, before we can decide. It seems right that Ofcom should be able to comment on the efficacy of any commitments and undertakings.

Incidentally, I am not sure what the distinction is being draw between "commitments and undertakings" and "remedies". Is it just a timing point?

[Redacted]

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**From:** PATEL RITA  
**Sent:** 11 January 2011 16:52  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; ZEFF JON; [Redacted] KILGARRIFF PATRICK  
**Subject:** Restricted: SoS conversation with Ed Richards

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- The SoS confirmed that he had not received specific advice from officials on this matter. ER said the SoS will also want to consider, if and at what point, he would wish to consult Ofcom on this matter. The SoS said that ofcom would be the first pt of consultation and he was clear that appropriate due process should be followed.
- The SoS said the Ofcom advice was clear cut and makes it difficult for remedies to pass the test of reasonableness. ER said the advice was strong on the first stage hurdle but not at all definitive on the second stage.

Thanks

Rita

a Patel  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport  
2-4 Cockspur Street  
London  
SW1Y 5DH



Box Times: The Secretary of State's box closes at 3.00pm Monday – Thursday. Please contact the relevant Private Secretary directly regarding any urgent matters arising outside of these hours.

[Redacted]

**From:** ZEFF JON  
**Sent:** 21 January 2011 18:24  
**To:** KILGARRIFF PATRICK  
**Cc:** [Redacted] SMITH, Adam; [Redacted]  
**Subject:** RE: Sky

Patrick

We spoke. Just for the record, I should be clear that: Graham rang me expressly to tell me that, having had a debrief from Newscorp, Sky no longer felt the meeting on Monday was necessary. He said he wanted to check that the SofS would not object to cancelling. I emphasised that the SofS was happy to have the meeting if they wanted to take the opportunity to go through the points in their submission, but that equally if they didn't feel the need to do that it was fine by us. GW confirmed that, in that case, they did not want to go ahead with the meeting and said that Sky would contact the SofS's office to confirm that (which they did).

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**From:** ZEFF JON  
**Sent:** 21 January 2011 13:58  
**To:** [Redacted]  
**Cc:** [Redacted] KILGARRIFF PATRICK; [Redacted] SMITH, Adam; [Redacted]  
**Subject:** Sky

RESTRICTED

[Redacted]

I spoke to Sky ([Redacted]) earlier: they no longer feel the need to meet SofS on Monday. I said the opportunity was there for them, but if they wanted to cancel that was fine by us. [Redacted] said they'd let you know direct.

They are clearly aware that we may make an announcement next week - [Redacted] noted that next Thursday is Sky's results day (so obviously they'd prefer us not to pick the same day).

Happy to discuss

Jon

Jon Zeff  
Director, Media  
DCMS

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 21 January 2011 18:42  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] SMITH, Adam; BEEBY, Sue; [Redacted]  
**Subject:** meeting with News Corp legal team  
**Importance:** High

[Redacted]

Patrick, Carola [Redacted] and I met [Redacted] (the News Corp legal team) to discuss process and timing.

News Corp made the following points on the process:

- The SoS has all the information he needs to decide that he is satisfied in principle that the UILs would meet the plurality concerns. He should reach this decision now without consulting Ofcom or OFT, and indeed should not consult the OFT as the statute would otherwise have expressly provided for this
- The SoS should only then ask OFT to look at the UILs from an implementation rather than a policy perspective. This process should take a week so. (It was even suggested by Jeff that we could skip this step and simply ask the OFT to comment during the consultation process but this was not pursued.)
- The SoS publishes the Ofcom report and the UILs and consults for 15 days.

On being pressed, News Corp accepted that the SoS could consult Ofcom (though they would prefer if we did not) and our lawyers do not share News Corp's interpretation of the proper role of the OFT; our view is that it would be quite proper for us to ask OFT for before reaching his decision, but are checking with Counsel.

The down side of the News Corp approach is that it prolongs the uncertainty (though they do not see it that way) and, if Ofcom and the OFT point out glaring flaws in the UILs, we could be forced to consult a second time. This would be legally watertight but could prolong the process and do little for the Department's credibility.

Consequently, we think there is no need to revise our plans for a Tuesday announcement.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]



[Redacted]

**From:** [Redacted]  
**Sent:** 24 January 2011 17:40  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; [Redacted] BEEBY, Sue; SMITH, Adam [Redacted]  
**Subject:** RE: news corp/sky merger  
**Attachments:** WRITTEN STATEMENT.Final draftdoc.doc  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[Redacted]

Thank you for your submission.

The Secretary of State has approved the recommendation to make a statement tomorrow indicating that he intends refer the proposed merger to the CC subject to first considering the undertakings in lieu (UIL) proposed by News Corp.

I attach a final version of the statement with SoS amends. No more changes please unless Patrick or Counsel advise there are good legal reasons for doing so.

Very grateful if we could have a further submission before the end of the week setting out recommendations for next steps.

Many thanks

[Redacted]

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**From:** [Redacted]  
**Sent:** 24 January 2011 15:46  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIWER CAROLA; [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** news corp/sky merger  
**Importance:** High

[Redacted]

As promised.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]



To: 1. Jeremy Hunt

From:

036

Team: media

Tel:

Date: 24/01/2011

**NEWS CORP BSKYB PROPOSED MERGER**

**Issue**

Next steps on proposed News Corp/BSkyB merger.

**Recommendation and Timing**

That you

- make a statement tomorrow saying that you intend to refer the proposed merger to Competition Commission but will first consider undertakings in lieu (UIL) proposed by News Corp (Annex A)
- inform News Corp and Sky of your decision.

**Background**

See attached PWS.

**Advice**

The Ofcom report concludes that it may be the case that the proposed acquisition may be expected to operate against the public interest since there may not be a sufficient plurality of persons with control of media enterprises. This "double may" test represents a low threshold for referral and following a number of discussions, including with legal advisers, I understand that you have concluded that this threshold is met. However, under the legislation you may consider undertakings in lieu offered by the negotiating parties. News Corp have now provided you with outline proposals for UIL and these would appear to offer a possible way of preventing or mitigating against the possible threat to plurality posed by the merger. Under these circumstances, if you believe that these UIL could offer a way forward, it is right for you to ask Ofcom and the OFT to consider them in more detail with a view to helping you to decide whether or not they would be acceptable. If, having had their further advice, you are satisfied that they are, you will need to have a formal consultation of at least 15 days during which all interested parties can comment. At the end of the consultation period it will be for you to reach a final decision on whether to refer the decision or accept the UIL and let the merger proceed.

**Clearance**

This has been cleared by Jon Zeff

—cc:



RESTRICTED

Jonathan Stephens

Jon Zeff

Patrick Kilgarriff

[redacted]  
Carola Geist-Divver

040

To: Jeremy Hunt

From:

Team: media

Tel:

Date: 26/01/2011

**NEWS CORP BSKYB PROPOSED MERGER: NEXT STEPS**

**Issue**

Next steps on proposed News Corp/BSkyB merger.

**Recommendation**

That you agree:

1. To write immediately to Ofcom and the OFT sending them a copy of the more developed version of the UILs received today from News Corp. The letter to Ofcom asks them for a report on the extent to which the UILs have the potential to prevent or otherwise mitigate the merger from having effects adverse to the public interest (draft at Annex A). The letter to the OFT asks them to consult with both merging parties with a view to discovering whether those undertakings would, in terms of practical and financial viability, be acceptable to you.
2. That Officials meet with OFT as soon as possible to discuss process and timetable.

**Timing**

Immediate.

**Advice**

RESTRICTED

A very provisional timeline is attached which suggests that the process could take around two months, and probably bit longer (as it makes no allowances for weekends). Moreover this assumes that Ofcom can produce a report within a week, although Ofcom officials have indicated to me that they their best guess at this stage is that this work will take "weeks rather than days". Furthermore, the letter to the OFT asks for a report within 2 weeks, however officials at the OFT have reservations about meeting this deadline, their main concern being that they have not seen the full Ofcom report, nor been privy to the undertakings in lieu. The letter to the OFT acknowledges the tight deadline and recommends a meeting with officials as soon as possible at which time the OFT can flag up any serious doubts they have with the timetable.

You will also want to consider when in this process would be the best time to have a meeting with News Corp.

Clearance

This has been cleared by Jon Zeff

cc:

Jonathan Stephens

Jon Zeff

Patrick Kilgarriff

  
Carola Geist-Diwer

[Redacted]

**From:** SMITH, Adam  
**Sent:** 27 January 2011 14:09  
**To:** [Redacted]  
**Cc:** [Redacted] ZEFF JON  
**Subject:** RE: News Corp/BSkyB

I agree. Jeremy was pretty clear to me he wanted it done in two weeks unless, having looked at it, they come back with a good reason for needing longer.

---

**From:** [Redacted]  
**Sent:** 27 January 2011 13:58  
**To:** [Redacted] SMITH, Adam  
**Cc:** [Redacted] ZEFF JON  
**Subject:** RE: News Corp/BSkyB

[Redacted]

I think SoS is clear it's two weeks. OFT should wait to see the material first. If it becomes clear, having assessed the work required, that they need more time then they should write to SoS requesting it.

However at this stage SoS will want to keep the pressure on to get a robust decision quickly. I understand Ofcom thought this is do-able.

We really need to get the letters out – can we send the final versions up to me please?

Thanks

[Redacted]

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**From:** [Redacted]  
**Sent:** 27 January 2011 13:37  
**To:** SMITH, Adam  
**Cc:** [Redacted] ZEFF JON [Redacted]  
**Subject:** FW: News Corp/BSkyB

Adam,

I assume that the latter is better - any views?

[Redacted]

---

**From:** Nicholas Scola [mailto:[Redacted]]  
**Sent:** 27 January 2011 13:21  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corp/BSkyB

[Redacted]

In the letter, the Secretary of State states that:

I would like you to let me know your view on this within 2 weeks, but I suggest my officials mee' with you or your officials at the earliest opportunity to discuss an appropriate timetable.

Just to clarify, is the intention that this 2 week deadline might be revised further to Monday's discussion (ie by another formal letter from the Secretary of State, revising the deadline for reporting back) or that we would definitely be expected to report formally within 2 weeks, but noting that the undertakings in lieu might require additional work?

Kind regards

Nick

Nicholas Scola [redacted] Office of Fair Trading  
Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: [redacted]

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**From:** [redacted]  
**Date:** 27 January 2011 11:39  
**To:** Nicholas Scola  
**Subject:** Fw: News Corp/BSkyB

Fyi

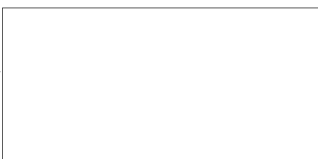
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**From:** [redacted]  
**To:** nicholas.scola@ofcom.gov.uk  
**Cc:** [redacted]  
**Sent:** Thu Jan 27 10:58:46 2011  
**Subject:** News Corp/BSkyB

Hi Nick,

Further to our conversation, please find attached the draft letter which the SoS wishes to send out today. Although the 2 week deadline is included within the letter, I am pleased that I have been able to secure some flexibility. At the meeting on Monday morning (at Cockspur St) you will be able to flag up concerns over the timetable.

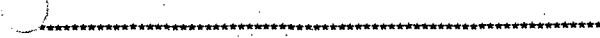
Best Regards



Public Service Broadcasting  
Media Directorate  
Dept for Culture, Media & Sport  
2-4 Cockspur Street  
London SW1Y 5DH



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047

To: Jeremy Hunt

From:

Team: Media

Tel:

Date: 10/02/2011

## NEWS CORP/BSKYB MERGER: NEXT STEPS

### Issue

Next steps in the News Corp/BSkyB merger.

### Recommendation

That you note the timelines set out below and confirm that you are happy with what is proposed.

### Timing

Immediate.

### Background

See your statement attached at Annex A.

### Advice

We have asked OFT and Ofcom for their reports by 3pm on Friday. We do not know what is in the reports but there are three broad outcomes:

**Scenario 1:** The reports conclude that the UILs are inadequate and or unenforceable. In this situation, you are likely to want to refer the matter to the Competition Commission immediately and make a written statement announcing your decision, probably on Tuesday or Wednesday (the last day possible before the recess). You would also need to write to News Corp and Sky explaining your decision. This could issue after the markets close on the night before the announcement.

**Scenario 2:** The reports conclude that the undertakings are satisfactory. If you agree, you will probably want to make an oral statement to both Houses on Tuesday. At that point we would also publish your letters to the OFT and Ofcom, their reports and the UILs for consultation. We suggest the minimum 15 day consultation period, though you will want to consider any strong representations for a longer period. Having announced 15 days, it would be possible to subsequently extend it if you felt the circumstances merited it. There are also likely to be requests for meetings which will need to be considered on a case by case basis.

**Scenario 3:** more time is required by Ofcom and/or OFT. It is possible that the OFT will say that the UILs are along the right lines but they need to do more work on them. This might be because they need to strengthen them in some way, or it may just be that

**RESTRICTED**

more work is needed to get them into a consultable form. Either way, we think you would probably want to agree on an extension and would not make any announcement until the further work is completed (and we are back into scenario 1 or 2 territory).

Under scenarios 1 and 2, we think there are advantages both presentationally and in substance in meeting Ofcom and OFT on Monday to discuss their reports and ensure that you fully understand their conclusions.

cc

Jonathan Stephens

Jon Zeff

Patrick Kilgarriff

Carola Geist-Divver

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 11 February 2011 17:22  
**To:** [Redacted] SMITH, Adam  
**Cc:** KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; ZEFF JON  
**Subject:** RE: News Corporation/BSkyB

Hello all,

Jonathan has just had a 15 minute conversation with Ed R.

He has asked if we can have a 15 minute catch up to download and work out the way forward.

Would everyone be able to do 17:30 – room 45?

Many thanks,

[Redacted]

Department for Culture, Media and Sport  
Telephone: [Redacted]

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---

**From:** [Redacted]  
**Sent:** 11 February 2011 17:16  
**To:** KILGARRIFF PATRICK; [Redacted]; ZEFF JON; GEIST-DIVVER CAROLA; [Redacted] SMITH, Adam;  
[Redacted]  
**Subject:** RE: News Corporation/BSkyB

Now expecting OFT report by 6 and Ofcom by about 7 (it is currently with their lawyers). On the bus side, the latter is apparently quite short.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 11 February 2011 11:10  
**To:** KILGARRIFF PATRICK; [Redacted] ZEFF JON; GEIST-DIVVER CAROLA  
**Cc:** [Redacted] SMITH, Adam  
**Subject:** RE: News Corporation/BSkyB

Steve has told me that they had a meeting with News Corp last night which went on late into the evening and that News Corp will be writing to them following that meeting by midday, so the 3pm deadline will be a struggle and will depend on the nature of the NC response.

[Redacted]

---

**From:** KILGARRIFF PATRICK  
**Sent:** 11 February 2011 10:15  
**To:** [Redacted] ZEFF JON; GEIST-DIVVER CAROLA



Cc: [redacted] SMITH, Adam  
Subject: Re: News Corporation/BSkyB

On Z asked me to pass on message from [redacted] may miss 3 pm deadline by a bit  
Patrick

Sent from my BlackBerry Wireless Handheld

---

From: [redacted]  
To: [redacted] ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
Cc: [redacted] SMITH, Adam  
Sent: Fri Feb 11 09:44:50 2011  
Subject: RE: News Corporation/BSkyB  
All,

I assume no-one has any queries in relation to this draft letter? I am now sending it to OFT and Ofcom, and will try and get it out this afternoon.



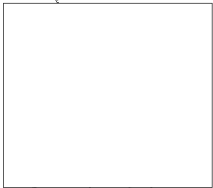
Legal Advisers to the Department for Culture, Media and Sport  
Email: [redacted]

---

From: [redacted]  
Sent: 10 February 2011 15:21  
To: [redacted] ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
Cc: [redacted]  
Subject: RE: News Corporation/BSkyB

All,

Please see attached draft letter, which Daniel has seen and is happy with. I'll run this by Ofcom/OFT before sending it out, but are you content? I'd like to send it at least by midday tomorrow, given that we may be in a position to have a clearer idea of timetabling tomorrow, and I'd like to get this sent before then.



Legal Advisers to the Department for Culture, Media and Sport  
Email: [redacted] Tel: [redacted]

---

From: [redacted]  
Sent: 09 February 2011 14:25  
To: ZEFF JON; [redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
Cc: [redacted]  
Subject: FW: News Corporation/BSkyB

All,

Please see the attached from S&M. I do not think it takes us significantly further forward from previous correspondence, and I'd propose (having discussed with Daniel) to respond in relatively short order saying so.

Does anyone have any specific points which they think ought to be addressed. I plan already to ask (again) that correspondence be addressed to me.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** [Redacted]  
**Sent:** 09 February 2011 14:13  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** FW: News Corporation/BSkyB

CONFIDENTIAL EMAIL FROM SLAUGHTER AND MAY - THIS EMAIL AND ANY ATTACHMENT MAY BE PRIVILEGED

Dear [Redacted]

Please see attached a letter sent to the Secretary of State today (and copied to OFCOM and the OFT).

Best regards

[Redacted]

Slaughter and May  
[Redacted]

---

**From:** [Redacted]  
**Sent:** 01 February 2011 12:39  
**To:** [Redacted]  
**Cc:** Nicholas.Scolac@ [Redacted]  
**Subject:** News Corporation/BSkyB

Dear M [Redacted]

Please see attached letter in response to your own of 27 January. Please note that this letter will only be sent electronically.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Treasury Solicitor's Department | 2-4 Colindale Avenue, London | BT1 6AE  
Email: [Redacted]@culture.gov.uk  
\*\*\*\*\*

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SLAUGHTER AND MAY, One Bunhill Row, London EC1Y 8YY

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TEL: +

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[Redacted]

**From:** SMITH, Adam  
**Sent:** 11 February 2011 19:37  
**To:** [Redacted]  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted]  
**Subject:** RE: reports

Will the reports be delivered somewhere that I can get at them tonight?

---

**From:** [Redacted]  
**Sent:** 11 February 2011 19:19  
**To:** SMITH, Adam  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** reports

Hi Adam,

Nothing has arrived so I am going to go home and be in early (for me) on Monday to distribute.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 11 February 2011 20:18  
**To:** SMITH, Adam; [Redacted]  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** Re: reports

When I spoke with ed Rs office they thought it would still get there. I've spoken with security who haven't received any deliveries since COP. I'll keep trying and keep you in touch

---

**From:** SMITH, Adam  
**To:** [Redacted]  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Sent:** Fri Feb 11 19:37:16 2011  
**Subject:** RE: reports

Will the reports be delivered somewhere that I can get at them tonight?

---

**From:** [Redacted]  
**Sent:** 11 February 2011 19:19  
**To:** SMITH, Adam  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** reports

Hi Adam,

Nothing has arrived so I am going to go home and be in early (for me) on Monday to distribute.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 12 February 2011 12:10  
**To:** [Redacted] SMITH, Adam  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** RE: reports

Hi Both,

I've checked in with security and there's no sign of the report. There's no-one in the office at Ofcom, which is making it a little difficult to check whether or not it's actually been sent, although every indication at 7pm yesterday was that it would be.

In short – unless anyone else has take receipt of it [Redacted] I think we'll all be speed reading come Monday morning.

Best wishes,

[Redacted]

Department for Culture, Media and Sport

[Redacted]

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**From:** [Redacted]  
**Sent:** 11 February 2011 19:19  
**To:** SMITH, Adam  
**Cc:** [Redacted] KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** reports

Hi Adam,

Nothing has arrived so I am going to go home and be in early (for me) on Monday to distribute.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]

[Redacted]

---

**From:** [Redacted]  
**ent:** 14 February 2011 09:46  
**To:** [Redacted] SMITH, Adam  
**Cc:** KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** Reports

Good morning,

Just for information: Jonathan and Jon Zeff are both in meetings (from which they cannot be extracted) 9.30-13.00 and 14.00-17.00 today. As such, if they need to be involved in any discussions today, these must be between 1pm and 2pm or after 5pm.

Many thanks,

[Redacted]

Department for Culture, Media and Sport

[Redacted]

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[Redacted]

**From:** STEPHENS JONATHAN  
**Sent:** 15 February 2011 19:08  
**To:** [Redacted]  
**Cc:** ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** Re: NEWS CORP/BSKYB MERGER

[Redacted]

I don't know if Jeremy has seen this yet, but I think the sentence saying the reports show the (existing) UILs are close to addressing the plurality issue goes too far, given that both reports say existing UILs are inadequate. It's a sentence which risks looking as if we are leaning over backwards to put a positive gloss on the reports. I think it's better to say progress has been made, however both reports indicate a few significant issues which must be resolved in order to address the concerns about plurality raised in the first OFCOM report (not drafting, obviously). Can you feed this in please?  
Jonathan

Jonathan Stephens  
Permanent Secretary  
Department of Culture, Media & Sport  
2-4 Cockspur St. London SW1Y 5DH

[Redacted]

---

**From:** [Redacted]  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted] BEEBY, Sue; SMITH, Adam  
**Sent:** Tue Feb 15 16:12:33 2011  
**Subject:** FW: NEWS CORP/BSKYB MERGER

[Redacted]

Revised draft following a discussion with lawyers and SpAds.

Please note that lawyers would like to retain the sentence in square brackets in the third paragraph, as it gives the Secretary of State more scope for manoeuvre in the event that he decides not to accept the UILs, whereas SpAds would like it deleted to keep the letter more focussed and think that the reference to "serious consideration" later in the para makes it sufficient clear that he has not reached a final decision on the UILs.

I will bring down copies of the reports.

Stuart

---

**From:** [Redacted]  
**Sent:** 15 February 2011 14:16  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** RE: NEWS CORP/BSKYB MERGER

[Redacted]



Draft attached. This has been cleared with our lawyers and Counsel.

As have mentioned, Ed would apparently like to speak to Jeremy before the report is sent to News Corp.

[Redacted]

[Redacted]  
**Sent:** 14 February 2011 18:57

**To:** [Redacted]

**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted]

**Subject:** RE: NEWS CORP/BSKYB MERGER

[Redacted]

Many thanks for your note which we have just discussed with the SoS. The SoS has agreed the following next steps:

1) To write to News Corp copying the Ofcom and OFT reports. The letter should:

- explain that given the reports identify some outstanding concerns the SoS is still minded to refer.
- acknowledge that both reports suggest the UILs would address plurality concerns if the outstanding conditions were met.
- set out the SoS is prepared to allow News Corp 24 hours to indicate they would accept all the conditions proposed by the regulators
- explain if News don't accept all of the remedies proposed in 24 hours SoS would refer directly to the Competition Commission

2) If News Corp are prepared to accept the remedies in full, SoS will write to Ofcom and OFT requesting them to continue discussions with a view to producing a final set of UILs for him to consider. These final UILs would form the basis of a public consultation.

Very grateful for a draft letter for SoS to consider and send tomorrow.

Many thanks

[Redacted]

[Redacted]  
**From:** [Redacted]

**Sent:** 14 February 2011 12:55

**To:** [Redacted]

**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]

**Subject:** NEWS CORP/BSKYB MERGER

[Redacted]

Note for this afternoon's discussion attached.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]



[Redacted]

**From:** STEPHENS JONATHAN  
**Sent:** 15 February 2011 21:57  
**To:** [Redacted]  
**Cc:** ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** Re: NEWS CORP/BSKYB MERGER

Thanks [Redacted] think that's much better.

Jonathan

Jonathan Stephens  
Permanent Secretary  
Department of Culture, Media & Sport  
2-4 Cockspur St, London SW1Y 5DH

[Redacted]

---

**From:** [Redacted]  
**To:** STEPHENS JONATHAN; [Redacted]  
**Cc:** ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] BEEBY, Sue; SMITH, Adam  
**Sent:** Tue Feb 15 19:57:11 2011  
**Subject:** RE: NEWS CORP/BSKYB MERGER  
Jonathan

Just to say I've now agreed a form of words with Patrick, Adam and SoS to cover this point. We have removed the reference to a deal being close and now say simply that progress has been made in regard to concerns about plurality, but there are a number of substantive issues outstanding which mean that neither Ofcom nor OFT have been able to give a definitive recommendation.

SoS has asked for the letter to go out tonight so I'm working on that basis and expect to send in the next 20mins or so.

Many thanks

[Redacted]

---

**From:** STEPHENS JONATHAN  
**Sent:** 15 February 2011 19:08  
**To:** [Redacted]  
**Cc:** ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** Re: NEWS CORP/BSKYB MERGER

[Redacted]

I don't know if Jeremy has seen this yet, but I think the sentence saying the reports show the (existing) UILs are close to addressing the plurality issue goes too far, given that both reports say existing UILs are inadequate. It's a sentence which risks looking as if we are leaning over backwards to put a positive gloss on the reports. I think it's better to say progress has been made, however both reports indicate a few significant issues which must be resolved in order to address the concerns about plurality raised in the first OFCOM report (not drafting, obviously). Can you feed this in please?

Jonathan

Jonathan Stephens  
Permanent Secretary  
Department of Culture, Media & Sport  
4 Cockspur St, London SW1Y 5DH

[Redacted]

---

**From:** [Redacted]  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] BEEBY, Sue;  
SMITH, Adam  
**Sent:** Tue Feb 15 16:12:33 2011  
**Subject:** FW: NEWS CORP/BSKYB MERGER

[Redacted]

Revised draft following a discussion with lawyers and SpAds.

Please note that lawyers would like to retain the sentence in square brackets in the third paragraph, as it gives the Secretary of State more scope for manoeuvre in the event that he decides not to accept the UILs, whereas SpAds would like it deleted to keep the letter more focussed and think that the reference to "serious consideration" later in the para makes it sufficient clear that he has not reached a final decision on the UILs.

I will bring down copies of the reports.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 15 February 2011 14:16  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] BEEBY, Sue;  
SMITH, Adam  
**Subject:** RE: NEWS CORP/BSKYB MERGER

[Redacted]

●aft attached. This has been cleared with our lawyers and Counsel.

As have mentioned, Ed would apparently like to speak to Jeremy before the report is sent to News Corp.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 14 February 2011 18:57  
**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** RE: NEWS CORP/BSKYB MERGER

[Redacted]

Many thanks for your note which we have just discussed with the SoS. The SoS has agreed the following next steps:

) To write to News Corp copying the Ofcom and OFT reports. The letter should:

- explain that given the reports identify some outstanding concerns the SoS is still minded to refer.
- acknowledge that both reports suggest the UILs would address plurality concerns if the outstanding conditions were met.
- set out the SoS is prepared to allow News Corp 24 hours to indicate they would accept all the conditions proposed by the regulators
- explain if News don't accept all of the remedies proposed in 24 hours SoS would refer directly to the Competition Commission

2) If News Corp are prepared to accept the remedies in full, SoS will write to Ofcom and OFT requesting them to continue discussions with a view to producing a final set of UILs for him to consider. These final UILs would form the basis of a public consultation.

Very grateful for a draft letter for SoS to consider and send tomorrow.

Many thanks

[Redacted]

---

**From:** [Redacted]  
**Date:** 14 February 2011 12:55

**To:** [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** NEWS CORP/BSKYB MERGER

[Redacted]

Note for this afternoon's discussion attached.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]

[Redacted]

**From:** SMITH, Adam  
**Sent:** 17 February 2011 09:40  
**To:** [Redacted] ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Cc:** [Redacted]  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Are we sure that by doing this will we get a clear recommendation back from them? We don't really want them spending time again looking at the ten year issue as this has already been considered. We want them focusing on checking that the new UIL does what News say it does. So I thought saying we'd made a decision on that closed the issue down.

---

**From:** [Redacted]  
**Sent:** 17 February 2011 09:07  
**To:** [Redacted] ZEFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[Redacted]

I've made a couple of amendments, simply to make clear that Jeremy has not reached a conclusion on the carriage agreement and whether it is long-term, but is asking the OFT and Ofcom to proceed on the basis that it is. I've also added the statutory reference to the OFT letter (I think it more important for that letter, although it could also be added to the Ofcom letter).

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** [Redacted]  
**Sent:** 16 February 2011 19:08  
**To:** ZEFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
**Subject:** IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM  
**Importance:** High

Dear all,

Following News Corp's revised set of UILs, please find attached draft letters for JH to send to OFT and Ofcom. I understand that JH would like to issue these early tomorrow.

[Redacted]

Head of Digital TV Team  
CMS

2-4 Cockspur Street  
London SW1Y 5DH



[Redacted]

**From:** [Redacted]  
**Sent:** 17 February 2011 11:27  
**To:** [Redacted]; SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM  
**Attachments:** SB 11 02 16 - JH letters to Ofcom and OFT (vers 2).docx  
**Importance:** High

[Redacted]

Here are revised drafts.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 17 February 2011 11:05  
**To:** [Redacted]; SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[Redacted] - just discussed these letters with SoS.

He would like to keep both as simple as possible – ie thank them for the work done, note that they have suggested the plurality concerns could be overcome if certain conditions were met, explain that we now have confirmation from News suggesting they are willing to meet these conditions in full and now ask OFT and OFCOM to work with News to put the UILs in a form that SoS could take a final, definitive view on.

Can we turn these around for 11.45 so SoS can see them before we leave for Chatham at 12?

Many thanks

[Redacted]

---

**From:** [Redacted]  
**Sent:** 17 February 2011 10:43  
**To:** [Redacted]; SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Cc:** [Redacted]  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[Redacted]

I can live with this. The SoS did want to refer OFT to the Ofcom conclusions on 10 years so I would have preferred to retain the first deleted sentence, but I don't think it is essential.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 17 February 2011 10:34

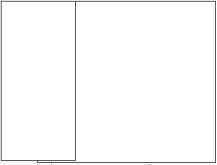


**To:** SMITH, Adam; [redacted] ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVER CAROLA

**Cc:** [redacted]

**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Following discussions with [redacted] letters amended to minimise reference to the carriage agreement, and whether the SoS has or has not made a decision on this. Attached in clean and tracked form.



Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]

---

**From:** SMITH, Adam

**Sent:** 17 February 2011 09:40

**To:** [redacted] ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVER CAROLA

**Cc:** [redacted]

**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Are we sure that by doing this will we get a clear recommendation back from them? We don't really want them spending time again looking at the ten year issue as this has already been considered. We want them focusing on checking that the new UIL does what News say it does. So I thought saying we'd made a decision on that closed the issue down.

---

**From:** [redacted]

**Sent:** 17 February 2011 09:07

**To:** [redacted] ZEFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVER CAROLA

**Cc:** [redacted]

**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM



I've made a couple of amendments, simply to make clear that Jeremy has not reached a conclusion on the carriage agreement and whether it is long-term, but is asking the OFT and Ofcom to proceed on the basis that it is. I've also added the statutory reference to the OFT letter (I think it more important for that letter, although it could also be added to the Ofcom letter).



Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]

---

**From:** [redacted]

**Sent:** 16 February 2011 19:08

**To:** ZEFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVER CAROLA;

[redacted]

**Cc:** [redacted]

**Subject:** IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

**Importance:** High

Dear all,

Following News Corp's revised set of UILs, please find attached draft letters for JH to send to OFT and Ofcom. I understand that JH would like to issue these early tomorrow.



DCMS  
2-4 Cockspur Street  
London SW1Y 5DH



[Redacted]

**From:** SMITH, Adam  
**Sent:** 17 February 2011 17:31  
**To:** [Redacted] ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; OLDFIELD PAUL  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

I only have one question – are we ok to include a deadline? The last thing we want is them coming back saying they didn't quite get there again.

**From:** [Redacted]  
**Sent:** 17 February 2011 13:10  
**To:** [Redacted] SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; 'paul.oldfield' [Redacted]  
**Subject:** Re: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Thanks [Redacted] think this does the job.

Have agreed with sos for spads to now clear and send. Can we do this today?

[Redacted]

Sent from my BlackBerry Wireless Device

**From:** [Redacted]  
**To:** [Redacted] SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Sent:** Thu Feb 17 12:07:01 2011  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM  
All,

Having spoken to [Redacted] please see revised drafts.

[Redacted]

[Redacted]  
Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

**From:** [Redacted]  
**Sent:** 17 February 2011 11:27  
**To:** [Redacted] SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM  
**Importance:** High

[Redacted]

Here are revised drafts.

[redacted]

---

**From:** [redacted]  
**Sent:** 17 February 2011 11:05  
**To:** [redacted] SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[redacted] ust discussed these letters with SoS.

He would like to keep both as simple as possible – ie thank them for the work done, note that they have suggested the plurality concerns could be overcome if certain conditions were met, explain that we now have confirmation from News suggesting they are willing to meet these conditions in full and now ask OFT and OFCOM to work with News to put the UILs in a form that SoS could take a final, definitive view on.

Can we turn these around for 11.45 so SoS can see them before we leave for Chatham at 12?

Many thanks

[redacted]

---

**From:** [redacted]  
**Sent:** 17 February 2011 10:43  
**To:** [redacted] SMITH, Adam; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Cc:** [redacted]  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[redacted]

I can live with this. The SoS did want to refer OFT to the Ofcom conclusions on 10 years so I would have preferred to retain the first deleted sentence, but I don't think it is essential.

[redacted]

---

**From:** [redacted]  
**Sent:** 17 February 2011 10:34  
**To:** SMITH, Adam; [redacted] ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA  
**Cc:** [redacted]  
**Subject:** RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Following discussions with Dean, letters amended to minimise reference to the carriage agreement, and whether the SoS has or has not made a decision on this. Attached in clean and tracked form.

[redacted]

Legal Adviser to the Department for Culture, Media and Sport

From: [redacted]

Sent: 17 February 2011 09:40

To: [redacted]; ZEFF JON; STEPHENS JONATHAN; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA

[redacted]

Subject: RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Are we sure that by doing this will we get a clear recommendation back from them? We don't really want them spending time again looking at the ten year issue as this has already been considered. We want them focusing on checking that the new UIL does what News say it does. So I thought saying we'd made a decision on that closed the issue down.

From: [redacted]

Sent: 17 February 2011 09:07

To: [redacted] EFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA

Cc: [redacted]

Subject: RE: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

[redacted]

I've made a couple of amendments, simply to make clear that Jeremy has not reached a conclusion on the carriage agreement and whether it is long-term, but is asking the OFT and Ofcom to proceed on the basis that it is. I've also added the statutory reference to the OFT letter (I think it more important for that letter, although it could also be added to the Ofcom letter).

[redacted]

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]

From: [redacted]

Sent: 16 February 2011 19:08

To: ZEFF JON; STEPHENS JONATHAN; SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA;

[redacted]

Subject: IMMEDIATE: NEWS CORP/BSKYB MERGER - LETTERS TO OFT AND OFCOM

Importance: High

Dear all,

Following News Corp's revised set of UILs, please find attached draft letters for JH to send to OFT and Ofcom. I understand that JH would like to issue these early tomorrow.

[redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[redacted]



[Redacted]

**From:** ZEFF JON  
**Sent:** 01 March 2011 16:29  
**To:** [Redacted]  
**Cc:** SMITH, Adam  
**Subject:** RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

Seems fine to me.

Fred Michel rang me about this issue this morning. I said that although no decisions had been taken in advance of receiving the reports, I expected the SofS's strong inclination would be to publish all the reports in the interests of transparency, though we would obviously consider any genuinely substantive concerns from Newscorp about the need for confidentiality.

---

**From:** [Redacted]  
**Sent:** 01 March 2011 15:58  
**To:** [Redacted] ZEFF JON  
**Cc:** SMITH, Adam  
**Subject:** FW: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

All,

Further to our conversation this morning, please see below request from A&O, on behalf of News. In italics below is my draft response. Are you content with this, and I will then float it past Daniel in case we are all missing something.

Thanks,

[Redacted]

Dear [Redacted]

*Thank you for your email.*

*To be clear, as I said when we discussed on 25 February, we do not think that the Secretary of State can mandate the way in which the OFT reports to the Secretary of State in response to a request. The form of providing its advice is clearly a matter for the OFT, and that is why we left it that you would speak to the OFT about their intentions in preparing their report. As you will appreciate, the effect of section 106B is that Ofcom must publish its report, and we consider that this will apply both to its interim and final reports. This is, of course, independent from any decision taken about publication by the Secretary of State.*

*Reports have not yet been received by the Secretary of State and, accordingly, a decision has not yet been taken as to when to publish those reports. We have taken the view though that it is inevitable (not least because of the operation of the Freedom of Information Act) that the OFT's first report will be placed in the public domain.*

*I note that your objection to publication is expressed to be "at this stage" however, and that your view is that, at this stage, such publication would "harm" the "interests" of your client. I wonder if you could set out in greater detail what interests it would harm, and what the nature of that harm might be, so that the*

Secretary of State will be in a position to take a reasoned decision on this issue when he decides whether not to accept UILs following receipt of advice from the OFT and from Ofcom.

As we discussed when we spoke, whilst the Secretary of State is committed to an open and transparent process, which mitigates in favour of as much information as possible being available as to the background to decisions he has taken, he is sensitive to proper objections to publication on issues of confidentiality and timing.

Regards etc.

[Redacted]  
Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted]

---

**From:** [Redacted]  
**Sent:** 28 February 2011 19:55  
**To:** [Redacted]  
**Cc:** jeff.palkel [Redacted], Andrea.Appella [Redacted], Cerry.Darbon [Redacted],  
minic.Longi [Redacted]  
**Subject:** FW: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

CONFIDENTIAL

Dear [Redacted]

I refer to my email of 24 February and to our telephone conversation the following morning. We have now received from OFT the request below.

As I mentioned in my email (and during our conversation) News Corp would regard the publication of a report disclosing its interim position in the discussion of UIL confidential and would consider that its disclosure at this stage would harm its interests. We do not see how it would be in the public interest to have that interim report public and, indeed, we believe that publication of that report at this stage would generate confusion.

It is now open to the Secretary of State to request that OFT includes in its final advice all issues that are relevant to the decision that the Secretary of State now needs to take based on the final set of Draft UILs and to send the final advice to the Secretary of State in a form that, subject to the customary representations on confidentiality, could be published promptly. I note that this practical solution - that I discussed separately with the OFT and DCMS - does appear to have been adopted.

Given that we are still in time to adopt this course of action I would urge to consult with OFT so that this can be achieved.

I look forward to your response before we revert to the OFT.

Best regards

---

**From:** Nicholas Scola [Redacted]  
**Sent:** Monday, February 28, 2011 7:20 PM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** Restricted - News / Sky - publication of reports / non-confidential versions



[Redacted]

**From:** SMITH, Adam  
**Sent:** 01 March 2011 16:35  
**To:** ZEFF JON [Redacted]  
**Subject:** RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

Fine with me. I've also reiterated that Jeremy's start point is to publish pretty much everything unless there's a good reason not to.

Thanks.

---

**From:** ZEFF JON  
**Sent:** 01 March 2011 16:29  
**To:** [Redacted]  
**Cc:** SMITH, Adam  
**Subject:** RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

seems fine to me.

Fred Michel rang me about this issue this morning. I said that although no decisions had been taken in advance of receiving the reports, I expected the SofS's strong inclination would be to publish all the reports in the interests of transparency, though we would obviously consider any genuinely substantive concerns from NewsCorp about the need for confidentiality.

---

**From:** [Redacted]  
**Sent:** 01 March 2011 15:58  
**To:** [Redacted]; ZEFF JON  
**Cc:** SMITH, Adam  
**Subject:** FW: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

All,

Further to our conversation this morning, please see below request from A&O, on behalf of News. In italics below is my draft response. Are you content with this, and I will then float it past Daniel in case we are all missing something.

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[Redacted]

Dear [Redacted]

*Thank you for your email.*

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Regards etc.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted]

---

**From:** [Redacted]

**Sent:** 28 February 2011 19:55

**To:** [Redacted]

**Cc:** jeff.palker([Redacted]) andrea.Appella([Redacted]) Cerry.Darbon([Redacted])  
Dominic.Lond([Redacted])

**Subject:** FW: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

CONFIDENTIAL

Dear [Redacted]

I refer to my email of 24 February and to our telephone conversation the following morning. We have now received from OFT the request below.

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Given that we are still in time to adopt this course of action I would urge to consult with OFT so that this can be achieved.

I look forward to your response before we revert to the OFT.

Best regards

**From:** Nicholas Scola [m [redacted]]

**Sent:** Monday, February 28, 2011 7:20 PM

**To:** [redacted]

**Cc:** [redacted]

**Subject:** Restricted - News / Sky - publication of reports / non-confidential versions

Dear [redacted]

We spoke earlier this evening about potential publication of the OFT reports to the Secretary of State.

DCMS has not requested, and OFT has not prepared, any form of 'composite' report to the Secretary of State. Rather, there exists:

- (1) the OFT advice provided on 11 February (the First Advice) and
- (2) the advice anticipated to be provided to the Secretary of State tomorrow (the Second Advice).

My understanding from DCMS is that, subject to a final decision being taken, they are currently minded to publish both the First Advice and the Second Advice in due course.

I appreciate that you do not, of course, have the Second Advice at this point in time. However, in the interests of time, DCMS has asked us to engage with you in the meantime on the preparation of a non-confidential version of the First Advice for future publication. We will send you tomorrow morning a clean word version of the First Advice to assist with this process. We would be grateful if you could indicate:

- what information is confidential to News such that publication might significantly harm its legitimate business interests; and
- for each category of information, the reason why this is the case.

We understand that you have provided a copy of the First Advice, in full, to Sky. On this basis, we will send a similar request to James Conyers at Sky in respect of information that Sky believes is confidential to it such that it should be removed from the version of the First Advice to be published.

Kind regards

Nick

Nicholas Scola | [redacted] Office of Fair Trading  
Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: [redacted]

.....  
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[Redacted]

From: [Redacted]  
 Sent: 02 March 2011 20:13  
 To: [Redacted]  
 Cc: STEPHENS JONATHAN; KILGARRIFF PATRICK; [Redacted] SMITH, Adam; BEEBY, Sue; ZEFF JON; ([Redacted] OLDFIELD PAUL; [Redacted])  
 Subject: Restricted - Commercial B SkyB Merger

Dear all

Many thanks to those who attended the meeting with the SoS this evening.

Just to confirm decisions:

Having met Ofcom/OFT this afternoon and considered their reports SoS is minded to accept the News Corporation UIL and proceed to consultation ahead of making his final decision.

SoS would now like arrangements to be put in place to make an announcement tomorrow.

We agreed this should include:

- 1) Press Notice (Action: [Redacted])
- 2) Consultation Doc, timeline and associated correspondence/reports (Action: [Redacted])  
 Grateful if [Redacted] could liaise with Linda to ensure press office have the full list of attachments)

These documents to be released to the Markets first thing in line with normal practice.

- 3) An oral statement for the SoS to make to the House (Action: [Redacted])

**These will need to be cleared with SoS tonight please.**

In addition, we also agreed a few key points of preparation:

- Baroness Rawlings should be informed this evening that we expect to make an oral statement tomorrow and make arrangements to brief her. (Action: Adam Smith)
- We should request a slot for a oral statement from the parliamentary authorities first thing tomorrow. (Action: [Redacted])

Many thanks

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 02 March 2011 18:08  
**To:** [Redacted] BEEBY, Sue  
**Cc:** ZEFF JON; [Redacted] ILGARRIFF PATRICK; SMITH, Adam; [Redacted]  
**Subject:** merger- release of letters

[Redacted] Sue,

News Corp have asked for copies of the documents to be published tomorrow which they haven't yet seen. These are SoS's two letters to Ofcom and OFT of 27 January and 17 February (they don't say much – I can forward if anyone wishes to see them). I would have thought that we could send them to News Corp at the same time as we communicate our decision, but grateful for views.

They would also like to see a copy of the PN in advance. Could we show them that at the same time (assuming that it is ready by then)?

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]

[Redacted]

**From:** OLDFIELD PAUL  
**Sent:** 03 March 2011 10:02  
**To:** [Redacted] ZEFF JON  
**Cc:** [Redacted] BEEBY, Sue; SMITH, Adam  
**Subject:** No 10 and News Copr Announcement

[Redacted] from number 10 called.

He appreciates the distance that they need to keep from all this, but would like us to send any briefing over to him pls. So, I would guess statement text, press notice, and any of the Q and A the press guys are using.

[Redacted] could you arrange to have relevant info sent over pls.

[Redacted]

Paul Oldfield  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** 03 March 2011 12:13  
**To:** [Redacted]; ZEFF JON; KILGARRIFF PATRICK; [Redacted]  
 STEPHENS JONATHAN; [Redacted]  
**Cc:** OLDFIELD PAUL; SMITH, Adam; BEEBY, Sue; [Redacted]  
**Subject:** Final Oral statement  
**Attachments:** Final oral statement.3.2.11.doc.docx  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear all

SoS has only added one line to the statement this morning which I have discussed with [Redacted] 3<sup>rd</sup> para from the end, final sentence, he has added: "After careful consideration, I have followed that independent advice."

Attached is now the final version we will be sending over the House in time for the statement at 3pm.

Many thanks to all for your help on this.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 03 March 2011 00:56  
**To:** [Redacted]; ZEFF JON; KILGARRIFF PATRICK; [Redacted] STEPHENS JONATHAN; [Redacted]  
**Cc:** OLDFIELD PAUL; SMITH, Adam; BEEBY, Sue; [Redacted]  
**Subject:** SoS Oral statement

[Redacted]

Here is the hopefully (!) final version of the statement. It has been through Spads, SoS and Legal several times and is consistent with what we say in the Condoc and Press notice.

I expect we'll get SoS to look at this once more in the morning as we will have a bit of time (given that this is not going out with other documents at 7am) but no more changes from us please.

Many thanks

[Redacted]



066

[redacted]

---

From: [redacted]  
 Sent: 10 March 2011 17:22  
 To: [redacted]  
 Cc: [redacted] SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; ZEFF JON;  
 STEPHENS JONATHAN  
 Subject: RE: Consultation correspondence  
 Attachments: SB 11 03 10 - consultation process.doc

Revised advice attached. This is a joint note from [redacted] and me.

---

From: [redacted]  
 Sent: 10 March 2011 14:22  
 To: [redacted] SMITH, Adam; BEEBY, Sue; KILGARRIFF PATRICK; ZEFF JON; STEPHENS JONATHAN  
 Subject: RE: Consultation correspondence

Advice (cleared with lawyers) on how to handle the consultation process. Some of this SoS is well aware, of some will be new.

Happy to discuss.

---

From: [redacted]  
 Sent: 04 March 2011 10:45  
 To: [redacted]  
 Subject: Re: Consultation correspondence

Hi [redacted]

Sos has just asked for some legal advice on the right way to handle what he is calling the '17 day' consultation. I think it would be good to explain the process, what he can say at this stage to respondents and more generally how he should refer to the consultation when speaking about it publicly. We should also set out what happens once responses are in.

Would it be possible to have something for close Monday?

Thanks

Sent from my BlackBerry Wirefess Device

From: [redacted]  
To: [redacted]  
Cc: [redacted]

Sent: Fri Mar 04 08:23:44 2011

Subject: RE: Consultation correspondence

It's also occurred to me this morning that we will need some strong lines about what the SoS can and cannot legally do. I think many of the responses focus on what are properly competition concerns, and concentration of media power concerns. Those are different from plurality, and we should, I think, work up some lines (also for a consultation response) to this effect.

Legal Advisers to the Department for Culture, Media and Sport  
Email: [redacted]

---

From: [redacted]  
Sent: 04 March 2011 07:53  
To: [redacted]  
Subject: RE: Consultation correspondence

Thank you very much – I'll ask James to set the meeting up.

I am not in the office on Monday and Tuesday (although happy to join the meeting on the spider phone) – but my thoughts are:

We need to ensure we are considering this from the correspondents point of view: do they believe that in writing to Jeremy – at any of the various emails used, that he will factor the points they have made into his decision making process – if yes, I think we should not respond to the letters but include them as consultation responses [redacted] and I discussed the FOI implications – which can be resolved).

Having looked at some of the letters coming in – I don't think we can send a response – they have heard Jeremy's statement and are responding to it, pointing them in the direction of the consultation document seems bureaucratic and unhelpful.

Thought on handling of MP letters and PQs gratefully received.

---

From: [redacted]  
Sent: 03 March 2011 18:51  
To: [redacted]  
Cc: [redacted]  
Subject: RE: Consultation correspondence

## Consultation: Risks and Process

### During the consultation

It is important that you continue to stress that you are taking a quasi-judicial decision. As such, you must not take into account any irrelevant considerations (whether political, economic or whatever) but reach a decision on the merits of the case.

You can refer to the advice which you have received and followed from the regulators, though it is important not to give the impression that you have been directed by them. You must have carefully considered their advice in reaching your own decision.

Given that you may change your mind as a result of the consultation, it is best if you do not, or do not appear to be, too strongly defending the proposal while it is still out for consultation. Where specific criticisms are raised, it would be safest to say that they will be carefully considered before you reach your decision.

It is best to keep to the lines that you have used to date as far as possible. However many good arguments you use, one "bad" argument could be used as the basis of a challenge. The safest course legally is to let the decision speak for itself and direct those with views to participate in the consultation exercise.

That said, it is perfectly reasonable to give primarily factual answers to questions based on the substance of the UILs (as you have done already). It is also reasonable to give a description of the process you have followed and intend to follow.

Once the consultation is over and you have reached your decision, you will then be able to defend whatever decision you make in a much more pro-active fashion than you can during the course of the consultation.

### Meetings

We recommend that you do not offer meetings where they have not been requested.

Where requested, you will need to consider each meeting request on its merits. We would recommend that you agree to requests from the main opponents and would be highly unlikely to recommend meetings with individuals. There will inevitably be some grey cases in the middle where a judgement needs to be made.

One-to-one meetings with MPs do not feel consistent with the transparent approach adopted to date, and we recommend that instead you write all MPs (draft to follow).

If you did want to see MPs, a workable approach may be to have open meetings for MPs. We can discuss this further if you wish.

At all meetings we recommend that you make it clear at the start of the meeting that your primary role is to listen carefully to the representations put to you, not to engage in debate or justification of the proposed UfLs. You should also encourage the attendees to make representations in writing.

### Period of consultation

You may well have late responses and requests for an extension to the timetable. These will have to be considered on their merits. It may not be reasonable to turn down requests for an extension where the respondent is likely to have substantive points to make. At the same time, it would not be reasonable to allow the process to drag out interminably, so a careful balance will have to be struck. There is no need, however, to say publically that an extension might be considered in some circumstances but equally you should not categorically rule it out.

### Once the deadline for comments has passed

You will need to consider all representations, clearly spending more time on those which are more relevant. We will provide you with advice and a summary of all the main representations plus a numerical indication of total representations as soon as possible after the end of the period. It will no doubt take some time for us to read all the representations and produce summaries of ones which raise new or substantive points, and we have secured extra resources for this exercise.

No decision should be taken until you have all these representations before you.

Your final decision will have to be communicated by way of a decision letter. Legal advice is that this should be taken and issued only after all the representations have been read, summarised where necessary, and published on our website.

As indicated above, it is at this point that your decision can be promoted more actively.



Jeremy Hunt <[redacted]>

**FW: JHLetterFinal**

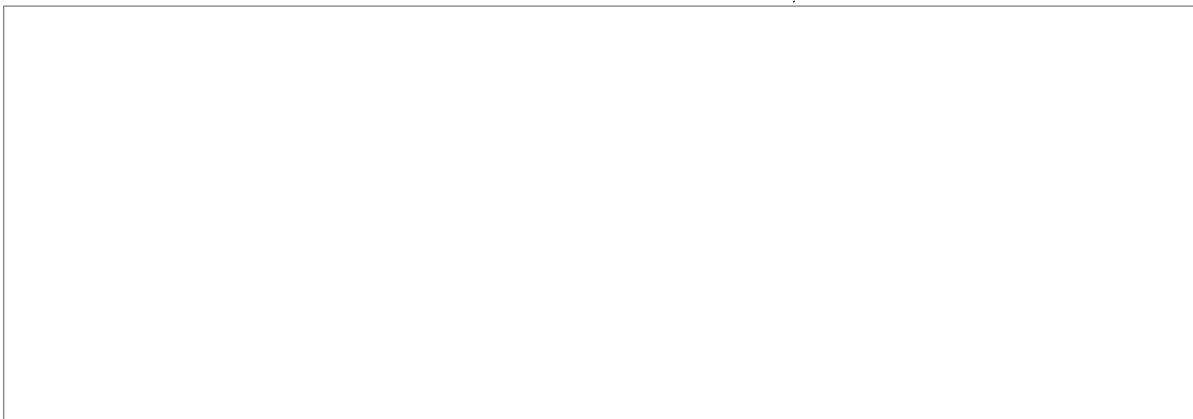
5 messages

[redacted]

11 March 2011 16:52

To: jeremy [redacted]

Jeremy - Here is a private email from [redacted] which I said I would forward to you. Have a look. At some stage I think it would be a good idea for you both to discuss this as he returns to uk on Monday and may start some media interviews. [redacted]



**2 attachments**

JHLetterFinal.doc  
45K

ATT444448.txt  
1K

[redacted]

11 March 2011 17:41

To: jeremy [redacted]

Here you are  
[Quoted text hidden]

**2 attachments**

JHLetterFinal.doc  
45K

ATT444448.txt  
1K

Jeremy Hunt [redacted]

11 March 2011 18:15

To: [redacted]

He writes thoughtfully and intelligently and I will offer to see him as soon as he is back  
J.

On 11 Mar 2011, at 17:41, [redacted]

[redacted]

27/04/2012

[Quoted text hidden]  
> <JHLetterFinal.doc>  
>  
>  
>  
> Sent from my iPad

---

**Jeremy Hunt** <[redacted]> 11 March 2011 18:17  
To: [redacted]  
Cc: Adam SMITH <[redacted]>

please arrange mtg. with Lord P asap and ask John Z for brief on points he raises  
Thx  
J.

Begin forwarded message:

**From:** "[redacted]"  
**Date:** 11 March 2011 17:41:29 GMT  
**To:** <jeremyj[redacted]>  
**Subject:** FW: JHLetterFinal

[Quoted text hidden]

---

 **JHLetterFinal.doc**  
45K

---

[redacted] 11 March 2011 20:48  
To: jeremy [redacted]

Great.  
[Quoted text hidden]

[redacted]

27/04/2012

11 March 2011

Rt Hon Jeremy Hunt MP

Secretary of State for Culture, Media and Sport

Department for Culture, Media and Sport

2-4 Cockspur Street

London

SW1Y 5DH

Dear Jeremy,

As you possibly know, I've devoted the past thirty years of my life to the issues of media plurality and preserving the widest consumer choice in the provision of both information and entertainment. I believe it is the responsibility of public policy to ensure the independence and diversity of opinion that have been a unique hallmark of our national culture – a quality much envied in other parts of the world.

I've also attempted to be strictly non-partisan in my commitment to these issues.

At different times this has led to battles with most of the relevant unions and trade bodies, all of the broadcasters, and even my own Party!

In every case, what I was opposing was the concentration of power - be it from the market or elsewhere. The impact of new communication technologies has, if anything, made this more rather than less challenging.

My passion was always based on a conviction that 'information' and its related industries are unlike any other, in that they have an enormous influence on the broadest range of opinions and behaviour - in fact on the very health of society.

In principle, I welcome much of what you've been able to achieve in respect to the future of Sky News case. However, experience suggests that, when dealing with News Corporation and its Chairman, the devil lies very much in the detail.

But before going into any of that detail I feel I should set out a few overriding concerns.

The first is that the level of unregulated market and financial power that will accrue to News Corporation as a result of this transaction is such as to ensure the eventual emasculation of 'free to air' public service broadcasting' as we have known it.

Moreover, recent experience adds another serious concern, that the BBC, along with Channel Four will, in a relatively short time, become publicly funded Research and Development operations for subscription services. This has already happened to PBS in the United States and is worth a much longer discussion than is possible in this note.

I fear that in hindsight these developments will be seen to have dated from, and been accelerated by the completion of the News Corporation takeover.

I find it hard to imagine that this is your intention, and if I learned one thing from my thirteen years in Government it's that a great deal of political capital can be spent clearing up the unintended consequences of what might, at the time, have appeared to have been an expedient decision.

My second overriding concern is that the clearance the News Corporation bid received from the European Commission was based, at least in part, on the astonishing notion that since there had been no direct experience of the market-distorting effects of 'bundling' it was impossible to find against it. It is equally true to say that there was no direct experience of the dangers of 'credit default swaps', but that didn't prevent them from bringing the world as close as its ever been to financial meltdown!

I would argue that competition law, in a fast moving sector like the media, must be able to take account of, and make judgements based on 'highly probable' as well as 'actual' market dominance.

Turning to the specifics of the case you are currently considering.

It appears to me that the proposed 'undertakings in lieu' (UILs) do not take into account the following issues:

1. They only attempt to address the impact of the proposed transaction with regard to news. In doing so they fail to consider the longer-term effect on plurality across the media as a whole.
2. They fail to consider the ability of News Corporation and Sky to bring together their advertising sales houses and, by bundling advertising packages from television and newspapers together, undercut their competitors, leading to a significant distortion and subsequent weakening of competition in the advertising market.



3. The UILs fail to address the unfettered ability of News Corporation to use its newspapers, and its online products such as 'The Daily', to cross-promote Sky's content and services - including its broadband services. This was something that I consistently warned against during the passage of the last Communications Bill.
4. They fail to address the longer term impact on British audiences of the greatly enhanced market power that News Corporation will have (not least because of its access to BSkyB's cash-flows) when acquiring contractual rights to individual talent, as well as to television programming such as sports, films and other high cost material such as drama. Over time this will unquestionably diminish the ability of other broadcasters to compete for these rights, thus depriving non-Sky subscribers of access to much of this programming. You only have to imagine the 'Premier League effect' translated into other genres to understand where this could lead us.
5. The UILs fail to address the potential for the 'bundling' of services, such as newspapers, Sky, broadband packages and online products in a way that effectively represents a form of predatory pricing, which is detrimental to competitors, and therefore ultimately to choice for consumers.
6. Moreover, with specific regard to news, the proposed UILs do not:
  - Specify the process by which the independent Chair and Directors of Sky News will be appointed
  - Specify the manner in which the Chair and Directors would be able to remedy any editorial or commercial interference in Sky News by News Corp.
  - Set out any mechanism by which members of the Murdoch family, or interests affiliated with them, could be prevented from acquiring or influencing any of the 60.9% shares of Sky News not owned by News Corp.
  - Define the meaning of the "material breach" which would allow News Corp. to terminate the carriage agreement for Sky News.

Separately, in its letter to you of March 1, 2011, Ofcom suggests that "the Government should consider undertaking a wider review of the statutory framework to ensure sufficient plurality in the public interest in the longer term".

It goes further; stating that "the current system is deficient in failing to provide for intervention to be considered where plurality concerns arise in the absence of a corporate transaction involving media enterprises."

I urge you to implement such a review as soon as possible, and certainly well ahead of the forthcoming Communications Bill.

In the House of Lords and elsewhere I have repeatedly called for a comprehensive 'cross-media impact study' - but so far to no avail. I would also strongly urge that you instruct Ofcom to commission such a study as an evidence-based prelude to a review of the statutory framework governing the whole area of (new and old) media plurality.

Taken together, I believe that the case for a wholesale review of the policy framework within which we are all attempting to navigate our way forward is not only justified but probably way overdue.

It might interest you to know that the terms of reference of the Joint Scrutiny Committee, on what became the 2003 Communications Act, did not permit us to make any policy recommendations in respect of the Internet.

If it seemed a pretty daft decision then, in hindsight it was patently absurd!

There is one further issue which I think needs to be urgently addressed. Internationally, regulatory frameworks have been established to promote 'reasonable' platform access fees (both the size and direction of payments) for public service channels. These interventions are made in recognition of the fact that normal commercial negotiations are unlikely to deliver an optimal market outcome.

In all developed markets, apart from the UK, platform operators make some contribution to broadcasters and/or content providers in return for the right to distribute public service channels; in the form of copyright fees, privileged access and/or payment of incremental distribution fees.

The situation in the UK is an increasingly indefensible historical anomaly, and one which needs to be addressed as soon as possible.

Specifically, whilst all UK public service channels have 'must offer' obligations to any platform with a "significant number of end users"<sup>1</sup>, there are no active 'must carry' obligations on the part of platform operators. This situation enables platform operators to charge the PSBs significant platform access fees. For example, the public service channels (all the BBC licence funded channels,

---

<sup>1</sup> S272 and S273 of the Communications Act

ITV1, Channel 4 and Channel 5) are estimated to have incurred c.£18m in platform access fees payable to Sky in 2009 alone!

There needs to be a specific focus on the introduction of 'must carry' obligations, along with a fully transparent refinement to Sky's current charging methodology. Contrast the situation in the US where only this week, Chase Carey, COO and Deputy Chair of News Corporation, said that Fox News would be looking for a "significant increase" in carriage fees from cable systems in the current round of negotiations!

I believe this is a pivotal moment for the communications sector. I find myself writing to you from the United States which, experience suggests, is not a marketplace for ideas and cultural excellence that we should necessarily be seeking to emulate - we in Britain happen to have found, or at least stumbled upon a public/private mix that works.

I urge you to use all the powers available to you to thoughtfully protect and build on it.

Kindest regards



[Redacted]

From: [Redacted]  
Sent: 14 March 2011 12:02  
To: KILGARRIFF PATRICK; [Redacted] ZEFF JON [Redacted] SMITH, Adam;  
STEPHENS JONATHAN  
Cc: OLDFIELD PAUL  
Subject: RE: Urgent - action required newscorp/bskyb merger

[Redacted] Patrick

Many thanks for briefing SoS this morning on the Newscopr/BSkyB merger.

On the consultation and the process of analysing the responses, SoS was clear that we should take the necessary time to examine the substantive points raised about the UILs. His priority was to ensure that the final UILs are robust and viable in the long term. We must take care to avoid possible loop holes.

In meetings, SoS wanted to be, and be seen to be, even handed with both proponents and opponents of the merger. To that end SoS agreed he would consider requests for meetings once written evidence had been submitted. In particular, SoS wanted the alliance of bodies working through Slaughter and May to be aware of this position and his willingness to meet, given the representations they have made throughout this process.

Many thanks

[Redacted]

-----Original Message-----

From: KILGARRIFF PATRICK  
Sent: 14 March 2011 09:15  
To: [Redacted] ZEFF JON; [Redacted] SMITH, Adam  
Subject: RE: Urgent - action required newscorp/bskyb merger

[Redacted]

Yes I am here.

I think the issue is one of what the diplomats would call "demandeur"

In essence if opposed parties seek a meeting/meetings - we determine the who, when and how. If we seek meetings we invite the invitees to determine the terms with the likelihood of lengthening the process.

The meetings can only be the opportunity for those opposed to emphasise and reinforce points we would want them to make in the written consultation and for the SoS to clarify his understanding of the points made. So better when the consultation has closed.

More pragmatically the obvious meeting is with the loose coalition of opposed media interests and on behalf of whom we have had a regular stream of letters from Slaughter + May - Solicitors.

Any meeting would need to see the SoS in listening mode - the meeting is not and should not a opportunity for the SoS to attempt to persuade those attending that its provisional decision is the right decision.

[Redacted]

-----Original Message-----

From: [Redacted]  
Sent: 14 March 2011 08:46  
To: [Redacted] ZEFF JON; [Redacted] KILGARRIFF PATRICK; SMITH, Adam  
Subject: RE: Urgent - action required newscorp/bskyb merger

With apologies for the short notice, SoS would like to meet to discuss the legal advice at 9.30am.

Jon/Patrick - are you both able to attend?

Thanks

[Redacted]

-----Original Message-----

From: [Redacted]  
Sent: 14 March 2011 08:02  
To: [Redacted] ZEFF JON; [Redacted] KILGARRIFF PATRICK; SMITH, Adam  
Cc: [Redacted]  
Subject: RE: Urgent - action required newscorp/bskyb merger

All,

Just to let you know, I'll be out of the office from 8.30 until approximately 10 at a medical appointment.

Having discussed with Patrick over the last week, our view is both that grouping people together would be sensible. However, it may prove difficult (within a relatively short consultation window) to see everyone. If the SoS wishes to be proactive in meeting people, then it will be difficult to offer meetings, and then not be able to arrange them before the close of the consultation, so this might have the effect of lengthening the consultation period.

Just some initial thoughts...

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted]

-----Original Message-----

From: [Redacted]  
Sent: 13 March 2011 20:04  
To: ZEFF JON; [Redacted] KILGARRIFF PATRICK; SMITH, Adam  
Cc: [Redacted]  
Subject: Urgent - action required newscorp/bskyb merger

Dear all

Sorry to email on a Sunday evening. Sos wants to meet on the newscorp consultation tomorrow morning. I will ask Will to arrange a slot in the diary. He is likely to want to meet the key opponents of the deal during the consultation to show that he has met and listened to both sides.

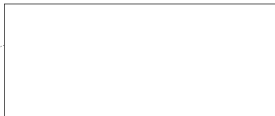
I have spoken to Jonathan Stephens tonight who would be very grateful if we could pull together a list of the organisations/people sos might see for 10.00am pls?

Presumably we could go for those people who wrote in to the original ofcom report? Could we group some of them together to avoid numerous meetings?

It's not impossible that sos will take the advice in the submission (ie only meet on request) but given what I've heard over the weekend I do think it will be unlikely, so we now need to get a back up plan in place.

Very happy to discuss

Many thanks



-----  
Sent from my BlackBerry Wireless Device

073

To: Jeremy Hunt

From: [redacted]

Team: Media

Tel: [redacted]

Date: 17/03/2011

## NEWS CORP/BSKYB MERGER

### Issue

- Advice from OFT and Ofcom on representations on the UILs.
- Meeting with main opponents of the merger.

### Timing

Immediate.

### Recommendation and Advice

We recommend that you continue to get appropriate advice from Ofcom and OFT on the substantive responses to the consultation on the UILs to see whether they raise any points which might lead you to reject or amend the UILs.

Draft letters for your signature are attached.

We have now had the response from Slaughter & May, BECTU and BT (attached) which should be enclosed with the letters.

The main group of opponents who Slaughter & May act for (BT, Guardian Media Group, Associated Newspapers, Trinity Mirror, Northcliffe Media and Telegraph Media Group) have also asked for a meeting with you to explain their points. They would like Ofcom, and OFT to be present which we agree would be very sensible as they too will want to hear the points explained and, if necessary, seek clarification.

I suggest your office get in touch with them to agree a suitable date. The contact is Jon Mcleod [redacted]

As of this afternoon, we have received over 10,000 responses, all but 500 of which are part of an organised e-mail campaign. Of the remaining 500, the vast majority are also from members of the public who are opposed to the merger. We will give you an update when the consultation formally closes on Monday at midday.

cc

Jonathan Stephens

Jon Zeff

Keith Smith

Patrick Kilgarriff

Carola Geist-Divver

RESTRICTED



Adam Smith  
Sue Beeby



[Redacted]

**From:** [Redacted]  
**Sent:** 21 March 2011 09:35  
**To:** [Redacted] SECRETARY OF STATE'S OFFICE; [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; GEIST-DIVVER CAROLA; [Redacted]  
 SMITH, Adam; BEEBY, Sue; [Redacted]  
**Subject:** RE: NEWS CORP/BSKYB MERGER

Just to pick up on the consultation point. S&M have given us their consultation response, and they have not asked for the consultation to be extended until after the meeting, so I think there's no need for the SoS to meet by midday today, or to formally extend the consultation pending such meeting.

Given that last time I looked, we had over 38,000 consultation responses (albeit many of them saying the same thing), it seems to me that it will take some time for the consultation responses to be fully analysed. In those circumstances, I would suggest that we do not offer to extend the consultation, but recognise (internally at least) that the SoS would have to take into account anything *new* which the alliance says during the meeting. But, given the number of responses so far, I don't think we'll have finished analysing before we see them anyway, provided that is, as Stuart says, asap.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
 Email [Redacted]

---

**From:** [Redacted]  
**Sent:** 18 March 2011 18:25  
**To:** SECRETARY OF STATE'S OFFICE; [Redacted]  
**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]  
 SMITH, Adam; BEEBY, Sue; [Redacted]  
**Subject:** RE: NEWS CORP/BSKYB MERGER

[Redacted]

Many thanks. Taking your points in turn:

- Now that we have the response from the opponents, I think we should go ahead and see them asap (the consultation period ends on Monday anyway).
- I would suggest Ed Richards from Ofcom (and possibly [Redacted]) and Clive Maxwell from OFT (and possibly [Redacted]). To some extent it depends on how many people the SoS wants at the meeting. I expect that the opponents will want to bring a cast of thousands so you may want to manage expectations. That said, however, I would try and accommodate their wishes as far as possible so that cannot subsequently argue that the meeting was in some way perfunctory.
- [Redacted] are the PR people coordinating the opponents and who asked for the meeting so, yes, the contact is correct.

[redacted]  

---

**From:** OLDFIELD PAUL **On Behalf Of** SECRETARY OF STATE'S OFFICE

**Sent:** 18 March 2011 17:54

**To:** [redacted]

**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [redacted]  
[redacted] SMITH, Adam; BEEBY, Sue; [redacted]

**Subject:** RE: NEWS CORP/BSKYB MERGER

[redacted]  
SoS signed the letters this afternoon and [redacted] as kindly issued with the attachments.

SoS has also said he'd be happy to see the Slaughter and May represented group. A few practical questions on that

- What timescale are we talking about here – do we have to see them before the consultation closes?
- Who from OFCOM and OFT should be there?
- Can I just check the contact – it is a [redacted] email address. Is that right?

Could you confirm with [redacted] and then we'll look to set something up.

Paul.

---

**From:** [redacted]

**Sent:** 17 March 2011 17:39

**To:** [redacted]

**Cc:** STEPHENS JONATHAN; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [redacted]; [redacted]  
[redacted] OLDFIELD PAUL; SMITH, Adam; BEEBY, Sue

**Subject:** NEWS CORP/BSKYB MERGER

**Importance:** High

[redacted]  
Please find a submission on the above.

I have deliberately not attempted to summarise the main points of the letters at this point as I do not want to give the impression of pre-judging their arguments which will need careful consideration. The Slaughter & May and BT letters, however, have executive summaries if the SoS would like to get an early indication of their concerns.

[redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[redacted]

[Redacted]

**From:** SMITH, Adam  
**Sent:** 24 March 2011 12:40  
**To:** OLDFIELD PAUL; BEEBY, Sue; ZEFF JON; [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: List of attendees from [Redacted]

No public affairs advisors from News Corp were in any of our meetings with them. It was News employees plus lawyers wasn't it? So I still feel they shouldn't be there.

---

**From:** OLDFIELD PAUL  
**Sent:** 24 March 2011 12:39  
**To:** BEEBY, Sue; ZEFF JON; SMITH, Adam; [Redacted]  
**Cc:** [Redacted]  
**Subject:** FW: List of attendees from [Redacted]

Views pls....

---

**From:** [Redacted]  
**Sent:** 24 March 2011 12:20  
**To:** OLDFIELD PAUL  
**Cc:** [Redacted]  
**Subject:** RE: List of attendees from [Redacted]

Hello Paul

Perhaps there is a misunderstanding about our role. There is nothing in [Redacted] presence that would make the meeting indirect or non-confidential (if that is the basis of the discussion). We would not normally speak in such a setting and we routinely conduct meetings in confidence. Our role is one of co-ordination and reporting for the alliance.

If, notwithstanding this clarification about our role, it is still felt not appropriate that we attend, then we are, of course, quite happy to accede to that request - on the understanding that you have placed an equivalent stricture on the public affairs advisers to News Corporation and BSkyB plc.

Best wishes

[Redacted Signature]

---

Chairman Corporate & Public Affairs  
Fox Court  
14 Gray's Inn Road  
London  
WC1X 8WS

[Redacted]

[Redacted]

Advocacy starts here.

Global Agency of the Year, The Holmes Report, 2009, 2010  
International Consultancy of the Year, PRCA Awards, 2009, 2010  
Public Relations Agency of the Year in Europe, International Business Awards 2010  
PR Lion Winner, Cannes Lions International Advertising Festival, 2009, 2010

Please consider the environment before printing this email.



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**From:** OLDFIELD PAUL [mailto:[Redacted]]  
**Sent:** 24 March 2011 09:22  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: List of attendees from [Redacted]

Thanks for sending over this list.

We don't feel it is appropriate for you and your colleague from Weber Shandwick to join the meeting this afternoon. SoS is of course happy to meet with the media groups below and their legal representatives. He would like to conduct the meeting direct, and in confidence with them.

We'll look forward to seeing Ms Bailey, Mr Miller, Lord Black, Mr Beatty and Mr Louveaux this afternoon.

Regards

Paul.

Paul Oldfield  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport.

[Redacted]

---

**From:** [Redacted]  
**Sent:** 23 March 2011 15:17  
**To:** [Redacted]  
**Subject:** Re: Meeting with the Secretary of State for Culture, Media, Olympics and Sport.

Hello [Redacted]

The current line-up is:

- [Redacted] Trinity Mirror
- [Redacted] - Guardian Media Group
- [Redacted] Telegraph Media Group
- [Redacted] - Associated News and Media
- [Redacted] Slaughter and May
- [Redacted] - Weber Shandwick
- [Redacted] Weber Shandwick

Apologies from [redacted] who is in the US.

emergencies, just email me.

Best wishes

[redacted]

---

**From:** [redacted]  
**Sent:** Wednesday, March 23, 2011 09:56 AM  
**To:** [redacted]  
**Subject:** RE: Meeting with the Secretary of State for Culture, Media, Olympics and Sport.

[redacted]

Understand you're out of the office at an event today. I am seeking confirmation that the clients you represent will be attending the meeting with the Secretary of State, Jeremy Hunt at 15:45 tomorrow.

To make the necessary arrangements, I require a list of your attendees by close of play today.

Kind regards,

[redacted]

Secretary of State for Culture, Media, Olympics & Sport |

Department for Culture, Media & Sport | 2-4 Cockspur Street, London, SW1Y 5DH [redacted]

---

**From:** [redacted]  
**Sent:** 22 March 2011 15:50  
**To:** [redacted]  
**Subject:** RE: Meeting with the Secretary of State for Culture, Media, Olympics and Sport

Dear [redacted]

Thank you – I will check with the parties and come back to you.

Regards

[redacted]

---

**From:** [redacted]  
**Sent:** 22 March 2011 14:49  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Meeting with the Secretary of State for Culture, Media, Olympics and Sport

Dear N [redacted]

I would like to schedule a meeting between the Secretary of State, Jeremy Hunt, and individuals represented by [redacted] to discuss their representations in relation to the Secretary of State's recent decision on the proposed News Corp acquisition of BSkyB.

The Secretary of State is available from 15:45 until 16:45 on Thursday 24 March at the Department for Culture, Media & Sport, 2-4 Cockspur Street, London, SW1y 5DH.

[redacted] will act as your point of contact and can be contacted on [redacted]

In the meantime, if I can be of assistance, please call me on the number below.

Kind regards,

[redacted signature]

Secretary of State for Culture, Media, Olympics & Sport | Department for Culture, Media & Sport, 2-4 Cockspur Street, London, SW1Y 5DH | [redacted]

\*\*\*\*\*

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Department for Culture, Media and Sport  
Media Directorate

RESTRICTED

To Secretary of State

cc Jonathan Stephens

From

Jon Zeff

Rita Patel

Carola Geist-Diwer

Adam Smith

Sue Beeby

File Ref

Date 18 April 2011

### NEWS CORP/BSKYB MERGER

This minute is a brief update on progress and likely timings. We explored this morning with the OFT and OFCOM the outstanding issues, the process of handling them between News Corp, OFT/Ofcom and you, and the timetable.

2 We assumed that you would want to move as early as possible to a decision on the UILs, even if there was a subsequent need for a further, short (7 day) consultation on agreed changes to the undertakings (likely), subject to following due and secure process. You will also need to assess the risk involved in agreeing the UILs before the operational agreements (see below). On the other hand, the longer before your decision, the more opportunity for other difficulties to arise.

3 The carriage and brand licensing agreements must, according to the UILs on which we consulted, be agreed prior to the date the UILs are themselves accepted (if they are accepted) by you. OFT/Ofcom have had two rounds of clarification with News Corp on these agreements to ensure that they are meeting what they committed to in the UILs and associated Business Plan. These agreements depend on a number of operational agreements (eg ad sales and broadcast and technical services). These operational agreements could be agreed before or after a decision on the UILs: the News Corp assumption is that they would follow, and your decision could then be made more quickly (though there need be no impact on the overall timetable to completion). The OFT will advise, in the light of their discussions, on the level of risk involved, since, once the UILs are approved, your leverage over the essential operational agreements would be considerably reduced.

4 OFT have identified four key issues: Finance (especially the inflation cap); levels of Marketing and Promotion; Diversification (extent to which New Co will be able to diversify); and the mechanics of the process – there are complex interactions between the timings of the bid process and the establishment of New Co which have to happen in a sensible order if risks are to be minimised and the UILs have the desired effect.

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Department for Culture, Media and Sport

5 Our current expectation of the timetable is:

W/c 18 April – OFT will be communicating with News Corp in relation to points raised in the consultation.

W/c 3 May - DCMS appoints external lawyers to examine the carriage and licensing agreements from a contractual perspective.

W/c 9 May DCMS conference with Counsel on proposed consultation responses.

W/c 16 May (or possibly the week before): the OFT proposed this morning that they submit to you their initial advice on the agreements (including whether amendments to the UIIs should be pursued).

6 This suggests that a final decision might be possible (just) by the end of May, if you leave the operational agreements to be agreed by you subsequently.

#### Implications of the Phone-Hacking investigations

7 The Phone-hacking issues as currently admitted by News Corp cannot properly be considered by you when making your decision on the matters of plurality which were the subject of the public interest intervention. However, it is the nature of undertakings that they depend to a certain extent on trust. Our advice is therefore that those activities may be relevant to your decision, but only to the extent that they suggested that you could not reasonably expect News Corp to abide by their undertakings, for example if the wrong-doing was known of and endorsed or ordered at a senior level within News Corp. This might also be relevant to the level of risk you want to assume in relation to the operational agreements (see above).



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MOD300010081

[Redacted]

**From:** Adam Smith [Redacted]  
**Sent:** 18 May 2012 11:14  
**To:** [Redacted]  
**Subject:** Fwd: Comms Meeting Actions

Begin forwarded message:

**From:** [Redacted]  
**Date:** 18 May 2012 11:06:28 GMT+01:00  
**To:** [Redacted]  
**Subject:** FW: Comms Meeting Actions

**From:** OLDFIELD PAUL  
**Sent:** 18 April 2011 10:42  
**To:** SMITH, Adam; [Redacted] ZEFF JON; [Redacted]  
**Cc:** [Redacted] [Redacted] [Redacted]  
**Subject:** Comms Meeting Actions

Actions for our Comms meeting this morning

- <!--[if !supportLists]-->• <!--[endif]-->Adam to speak to M Gove's SpAd re changes in curriculum affecting number of children studying Sports, Arts and Music. **ACTION - Adam**
- <!--[if !supportLists]-->• <!--[endif]-->SoS asked whether we could/ should look to invoke the PI test re 'fit and proper person' re Newscorp/ Sky merger. SoS also asked for a likely timetable in concluding the process- ie what are next steps and dates. **ACTION - [Redacted]**

[Redacted]

Paul Oldfield  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport

[Redacted]

\*\*\*\*\*

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18/05/2012

MOD300010082

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To: Secretary of State

From:

Team: Media

Tel:

Date: 13/05/2011

## NEWS CORP/BSKYB MERGER

### Issue

To update you on progress.

### Recommendation

2. To note.

### Timing

3. In the course of business.

### Advice

4. We met Ofcom, OFT and Pinsent Masons (our external lawyers) on Wednesday to discuss progress to date and next steps on the proposed merger.

5. Both Ofcom and OFT report that there has been good progress in the discussion with News Corp who have now responded positively to virtually all the key issues and (eventually) provided all the documentation requested, including full forms of the brand licensing and carriage agreements and the Articles of Association. Ofcom's view is that they are now down to drafting points with News Corp and OFT also say that agreement has been reached on almost all the important issues, including changes to the UILs. The most significant change to the UILs is provision for the appointment of an independent "monitoring trustee" to ensure that News Corp complies with its undertakings in respect of all the operation agreements (i.e., not the carriage and brand licensing agreements which you have to approve, but the other agreements covering, for example, advertising sales and leasing of land and buildings which have to be agreed before spin-off).

6. Pinsent Masons have been looking at the Agreements from the commercial perspective of Newco (which, of course, does not exist yet) and have raised a number of good points which we have instructed them to raise with News Corp's lawyers.

7. Both OFT and Ofcom propose to provide final written advice after the UILs and key Agreements have been agreed. In terms of timing, OFT and Ofcom think this will take at least another 2-3 weeks.

### Next Steps

8. When you receive the advice from the regulators and officials on the Agreements

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and the UILs, you will need to decide whether to:

- refer the merger to the Competition Commission;
- accept the UILs as they currently stand and agree that the merger can proceed; or
- accept the regulators' advice that the UILs require amendment and have a further consultation period of (at least) 7 days.

9. All options will require a statement (though a written one should suffice if the merger is referred) and the publication of various documents. In the case of a referral:

- the OFT and Ofcom reports
- a summary of the representations made on the UILs.

10. If you are accepting the UILs (with or without amendment), in addition to the above you will also need to publish:

- the UILs
- a reasoned response to the points raised in the consultation
- the draft Articles of Association (probably: we will advise further on this)

11. We do not propose to publish the carriage and brand licensing agreements as they contain commercially sensitive information.

12. Any statement will also need to cover phone-hacking and its relationship to your decision.

#### Possible Time Line

13. For illustrative purposes, if we are in a position to put advice to you about 3 weeks from now, and you decided to consult on revised UILs, the timeline could look like this:

- advice w/c 6 June
- decision w/c 6 June
- oral statement w/c 6 June
- consultation ends c. 17 June
- advice on consultation w/c 20 June
- final statement (may not need to be oral) and decision w/c 20 June

#### Handling

14. We should continue to take the line that we will announce a decision as soon as possible once we have carefully considered all the representations on the UILs and Ofcom and OFT's advice on the UILs and brand licensing and carriage agreements.

cc:

Jonathan Stephens

Jon Zeff

[redacted]  
[redacted]  
Carola Geist-Divver

[redacted]  
[redacted]  
Adam Smith

Sue Beeby

## News Corp B SkyB merger

### Lines to take

- Phone hacking is wrong and illegal. The law is quite clear and the prosecuting authorities should follow it wherever it leads.
- The Culture Secretary has to make a quasi-judicial decision about the impact of the proposed merger on media plurality issues alone. The Culture Secretary will only allow this transaction to proceed and accept the undertakings in lieu if they are legally robust and enforceable, and address media plurality concerns.
- The Culture Secretary has at all times sought and followed advice from OFT and Ofcom, the independent and expert regulators. He has been as transparent as possible, publishing much more than required to do by the legislation.
- He has already consulted on the undertakings and, having carefully considered representations, has further strengthened them. Nothing raised in the consultation exercise led the regulators to reconsider their earlier advice.
- In line with the legislation, he is now having a further consultation period which ends on 8 July.
- This decision is to be made by my RHF the Culture Secretary. I have no role in it. The Culture Secretary did not discuss this decision with me or any other Cabinet colleague.
- The Secretary of State takes the view that News have offered serious undertakings and discussed them in good faith. In all the circumstances and given that the implementation of those undertakings will be overseen by the Monitoring Trustee and thereafter monitored and if necessary enforced by the OFT, he takes the view that there are sufficient safeguards to ensure compliance with the undertakings. Furthermore, the various agreements entered into pursuant to the undertakings will each be enforceable contracts. Therefore whilst the phone hacking allegations are very serious they were not material to his consideration.

### Background

On 3 March the Culture Secretary announced that, on the basis of the advice he had received from OFT and Ofcom, he believed that the proposed undertakings given by News Corp as part of their proposed merger with B SkyB addressed the media plurality concerns that Ofcom had identified in its report of 31 December 2010, and were practically and financially viable for up to 10 years.

The undertakings provide that Sky News be spun-off as an independent public limited company. Shares are to be distributed amongst the existing shareholders of Sky in line with their existing shareholdings. The effect of this would be that, after the proposed News/BSkyB merger was completed, the shareholdings in Sky News would remain as if the merger transaction had not happened. The new company would have a majority of independent non-executive directors and have long-term carriage and brand licensing agreements with the newly-merged News/BSkyB company so as to ensure its financial viability. The undertakings specify that News would not be able to increase its shareholding in the new company without the permission of the Secretary of State for a period of 10 years. After that period, any reacquisition would be subject to the general legislative merger control provisions, including a reference to the Competition Commission on plurality grounds depending on circumstances at that time.

As the Enterprise Act 2002 requires, the Secretary of State published these undertakings for a public consultation which ended on 21 March. He received over 40,000 representations to this consultation, including a very large number of near-identical responses as a result of internet campaigns. He also met representatives from Trinity Mirror, Guardian Media Group, Telegraph Media Group, Associated News and Media, and Slaughter and May on 24 March and met Avaaz on 15 April.

A number of constructive changes were suggested to strengthen the editorial independence and financial viability of Sky News which the Secretary of State has accepted. In line with the legislation, he is having a further consultation period ending at midday on Friday 8 July 2011. Once this second consultation process is completed, he will decide whether to accept the undertakings or refer the merger to the Competition Commission.

The Secretary of State's decision in this case has to be based on media plurality issues, as this was specified in the notice issued. The Secretary of State has said that he is satisfied that these undertakings were offered in good faith to address the issues of media plurality raised by Ofcom in its original report, and that they address those issues.



## News Corporation's proposed acquisition of BSkyB

### Supplementary Q&A

#### *Phone hacking*

**Phone hacking allegations show that News Corp cannot be trusted to honour the undertakings they have given as part of the BSkyB merger?**

The Culture Secretary has to look at the safeguards contained in the undertakings News Corp have given as part of the merger process based on their merits, and consider whether these safeguards are sufficient to ensure compliance. Both the UIL and Articles of Association contain robust safeguards, the UIL and Articles of Association are legally binding agreements.

Safeguards include:

- Independent directors
- A corporate governance and editorial committee
- A Monitoring Trustee.
- OFT's on-going monitoring

Ofcom also has a role in ensuring that all persons who hold a broadcasting licence should be and continue to remain "fit and proper persons".

**The decision on the merger should be delayed until the results of the phone-hacking inquiries are known?**

The merger has been investigated on the basis of the effect it could have on media plurality.

The Secretary of State takes the view that News have offered serious undertakings and discussed them in good faith. In all the circumstances and given that the implementation of those undertakings will be overseen by the Monitoring Trustee and thereafter monitored and if necessary enforced by the OFT, he takes the view that there are sufficient safeguards to ensure compliance with the undertakings. Furthermore, the various agreements entered into pursuant to the undertakings will each be enforceable contracts. Therefore whilst the phone hacking allegations are very serious they were not material to his consideration.

**The merger should be looked at again in terms of the need for a genuine commitment to the broadcasting standards objectives, as set out in the Communications Act 2003?**

Restricted – Market Sensitive









Paul.

Paul Oldfield  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport



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[Redacted]

**From:** [Redacted]  
**Sent:** 29 June 2011 14:04  
**To:** SMITH, Adam; [Redacted] PATEL RITA  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Adam,

Have you heard anything from News on this? I'm getting a little concerned as I haven't heard anything from A&O, and the UIL changes have a knock on effect to the possible redactions to the OFT report.

Thanks,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** SMITH, Adam  
**Sent:** 29 June 2011 10:12  
**To:** [Redacted] PATEL RITA  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Spoke to Fred and he saw our point. He's going to have a chat to their lawyers to see how much of an issue it is for them.

---

**From:** [Redacted]  
**Sent:** 29 June 2011 10:00  
**To:** SMITH, Adam; [Redacted] PATEL RITA  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Will push back to A&O at the same time, and see where we get to...

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** SMITH, Adam  
**Sent:** 29 June 2011 09:59  
**To:** [Redacted] PATEL RITA; [Redacted]  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

I'll give him a bell now and let you know how I get on.

---

**From:** [Redacted]  
**Sent:** 29 June 2011 09:54  
**To:** PATEL RITA; [Redacted] SMITH, Adam  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

I agree. The Agreement with Sky news is very much a one-off. It is intended to go beyond the normal market rate to keep it financially viable so it has no read-across to other contracts.

[redacted] I think a two-prong approach is best. I suggest you push back with Cerry now and Adam or (or Rita?) I speak to Fred. **Adam:** will you speak to him or do you want me to?

[redacted]  
DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[redacted]

---

**From:** PATEL RITA  
**Sent:** 29 June 2011 09:26  
**To:** [redacted]; [redacted] SMITH, Adam  
**Cc:** ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

I agree with your assessment [redacted] The detail in the UIL on proposed caps is directly relevant and is something we should be consulting on.

Rita

---

**From:** [redacted]  
**Sent:** 29 June 2011 08:51  
**To:** [redacted] SMITH, Adam  
**Cc:** PATEL RITA; ZEFF JON; GEIST-DIVVER CAROLA  
**Subject:** FW: News Corporation/BSkyB Merger (0012561-0000367)

[redacted] Adam,

[redacted] seems from the below that we are broadly agreed on redactions to the Ofcom report. I've prepared a version with nifty scissor marks (unlike the one attached by A&O) which can be published. I've thought about whether redactions should be agreed by us, and, whilst the reports are reports by OFT and Ofcom, it's right to say that it's our responsibility to ensure that there can be a proper consultation, and therefore there are not such redactions that the advice is capable of being misunderstood, or factors which were important to the regulators are redacted out.

I am concerned about the redactions which have been made to the UILs. These are consultation documents (and the only documents on which we are obliged to consult). It seems to me that there is a risk that we would not be able to fulfil our statutory duty to consult (given that this is a duty to consult on the proposed modifications and the reasons for them. There's no mechanism in the legislation which suggests that it should be possible to redact some of the information on which one is consulting. The date of the ending of the contract with Arqiva is, I think, in a different category, since that isn't material to the whole cost analysis. Moreover, we consulted before with this date redacted, and no-one has raised an issue on it.

You'll see below that I have asked News for justification of the harm which would accrue if this information were consulted on. I must say, I am not overwhelmingly convinced by the response, which mirrors in some ways the response given to publication of the carriage and brand licensing agreements.



There I do see that there is some merit in the arguments put forward by News, as Sky will have similar agreements with others. However, in relation to the UILs, it seems to me that it should be perfectly possible for Sky to cogently argue in any negotiations that nothing about this particular provision creates a precedent, it was designed to remedy a media plurality point, rather than being a point taken in negotiating a solely commercial deal.

When we consulted last time, I wasn't party to the redaction process, and I wonder if it might be possible to have a discussion with News directly about this, as I do think it's an important point. We do need to resolve this relatively quickly, as the redaction from the UILs has an on-going effect on the proposed redactions from the OFT report. Ideally, I would want to resolve both by lunchtime, so we can be in the best position possible to be making an announcement tomorrow. I had a quick word with Nick Scola at the OFT yesterday, and he and Sheldon would be available for a telephone conversation with A&O early this afternoon, but I wonder if we can make any headway in advance of such a conversation? I think it's probably a matter for you rather than me though, as I've already pushed back on the point. Nick's email is also attached so that copyees not copied to that email can see the importance which the OFT placed on the point.

Happy to discuss.



Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted]

**From:** Cerry.Darbon [Redacted]  
**Sent:** 28 June 2011 21:06  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

The date appearing in paragraph 5.1(iv) was redacted from the version of the UILs which was previously published. (The version of 14 June 2011 was not intended to be a version ready for publication.) For completeness/ease, we attach a mark-up version as requested.

<<CO-#14381461-v1-Ofcom\_Report\_-\_News\_Redaction\_Requests.PDF>> <<CO-#14381481-v1-Redacted\_DV\_UIL\_1\_March\_-\_UIL\_14\_June.pdf>>

As for our proposed redaction in 5.3(iii) the disclosure of the details of the costs cap would be harmful to News and/or Sky's interests as it would prejudice their position in any future commercial negotiations with third parties. Sky, in particular, enters into commercial discussions with many counterparties. One of the fundamental issues that arise in such discussions is the level of costs that are payable and any increase during the contractual term. To the extent that the costs inflation cap were made public, Sky would be prejudiced in future discussions with third parties, who might seek to rely on the Sky News agreements as a precedent for more beneficial outcomes to their own negotiations with Sky. The fact of the cap (although not the details thereof) will be clear from the version of the UILs News is proposing.

News would have no objection to the reinstatement of the wording which you suggest in paragraph 29 of the Ofcom report.

Kind Regards

Jerry

Cerry Darbon  
Counsel  
Allen & Overy LLP

[www.allenoverly.com/antitrust](http://www.allenoverly.com/antitrust)

One Bishops Square  
London  
E1 6AD



---

From:   
Sent: 28 June 2011 16:07  
To: Darbon, Cerry:CO (LN)  
Cc:   
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear Cerry,

Thank you for this. I hope to be in a position to let you know the Secretary of State's position in relation to the Carriage and Brand Licensing Agreements by close of play today.

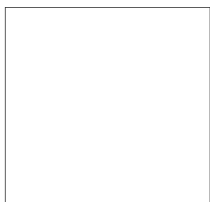
In relation to your proposed redactions of the UILs, we have noted the proposal in relation to paragraph 5.3(iii). We think it preferable, if the Secretary of State so decides, to re-consult with as few redactions as possible, particularly in relation to important parts of the UILs. You state below that disclosure would harm your client's legitimate commercial interests. I would be grateful, as with the Agreements, if you could set out what harm you assess would follow from such disclosure.

I also note that in the version of the UILs attached to your email the date of November 2014 appearing in paragraph 5.1(iv) was redacted, whereas the date was included in the version of the UILs dated 14 June 2011. Could you please clarify?

It would be of immense assistance if you could provide us, once these matters are resolved, with a mark-up version of the UILs showing the changes made from the consultation version to date, as, if the Secretary of State decides to re-consult, we would want to do so on the basis that changes to the UILs were clearly marked.

In relation to the redactions from the Ofcom report, whilst this is not our document, our view is that it would be clearer if there were some indication of what had been redacted from paragraph 29, so the paragraph would read "Internationally, Newco would also have opportunities for diversification, including" and then be snipped.

Regards,



Legal Advisers to the Department for Culture, Media and Sport

Email:

From: Cerry.Darbon

Sent: 27 June 2011 22:17

To:

Cc:

Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear

I attach versions of the OFT and Ofcom reports in which those parts of the reports which News believes to be confidential have been excised.

News would also request that paragraph 5.3(iii) be redacted from the published version of the UILs (as attached).

<<CO-#14370097-v1-Redacted\_version\_of\_14\_June\_draft UIL.DOC>> <<CO-#14373295-v1-Ofcom\_Report\_-\_News\_Redaction\_Requests.PDF>> <<CO-#14362030-v2-OFT\_Report\_-\_News\_Redaction\_Requests.DOC>>

News considers that disclosure of the information which has been removed from these documents would harm its legitimate commercial interests.

I can, however, confirm that News has no objection to publication of the Articles of Association in their entirety.

News remains very concerned at the suggestion that the Carriage and Brand Licensing Agreements might be made public when there are no grounds for arguing that this is necessary and there are very good reasons to avoid publication of the agreements in order to protect the legitimate commercial interests of the companies involved.

News is aware of no other regulatory context where it would be common practice to force detailed commercial documents to be publicly disclosed. On the contrary, to the extent they are referred to at all, it is common practice for competition authorities and other regulatory authorities to redact any references to commercial terms of current/future commercial agreements from published reports.

The terms of existing/future commercial agreements is a clear example of documents containing information which is commercially sensitive, the disclosure of which is likely to hard the legitimate interests of the companies involved. In this case, for example:

\* Disclosure of the Carriage Agreement would prejudice Sky's existing and future arrangements with other broadcasters for the distribution of their content on its platforms – other broadcasters might seek to rely on the Sky News agreements as precedent for more beneficial outcomes to negotiations.

\* Disclosure of the Brand Licence Agreement would prejudice Sky's ability to exploit its brand in other territories if the terms of the arrangements are known to other potential licensees.

\* Disclosure of either agreement would prejudice Sky News/NewCo in relation to negotiations with third parties on syndication and other arrangements – NewCo's negotiations with third parties would be conducted in an environment where the scope of their rights and duties would be known to all parties. For example, a third party negotiating a content syndication deal would be aware of the terms under which Newco could offer such syndication and would use this as the basis for negotiation.

\* Disclosure of either agreement would prejudice NewCo's future negotiations with third party platforms since those other platform operators would be aware of the terms upon which Sky News is being made available on Sky's platform and would be likely to use this as a starting point for negotiations with NewCo.

Moreover, as noted in my email of 24 June, News considers that "redacted"/non-confidential versions of those documents, in so far as they could realistically be prepared at all, would need to be so heavily redacted as to be meaningless.

News therefore requests again as a matter of urgency that DCMS confirm the Secretary of State's position on this matter.

Kind Regards



Cerry Darbon  
Counsel  
Allen & Overy LLP



[Hub.aspx?aofeID=38891&selectedPage=Antitrust%](#)

From: [redacted]

Sent: 27 June 2011 13:02

To: [redacted]

Cc: [redacted]

Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [redacted]

Thank you for your email.

I note your assertion that disclosure of the Carriage and Brand Licensing Agreements (even on a non-confidential basis) would harm the legitimate business interests of News/Sky and/or Sky News (by which I infer you mean Newco) in the longer term. In order for the Secretary of State to fully consider this, I should be grateful if you could let me know what you assess the harm to be.

Your email does not refer to the proposed Articles of Association of Newco, and I assume therefore that similar considerations do not apply to that document and that you will be in a position to provide non-confidential versions of the Articles.

For planning purposes, it would be of great assistance if you could let me know when you anticipate being in a position to agree non-confidential versions of the OFT and Ofcom report.

Regards,

[redacted signature]

Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]

<mailto:[redacted]>

|Tel: 0[redacted]

From: [redacted]

<mailto:[redacted]>

Sent: 24 June 2011 19:50

To: [redacted]

Cc: [redacted]

Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [redacted]

News is very concerned about the suggestion that the Secretary of State might want to publish the Brand Licence and Carriage Agreement.

These documents are clearly very sensitive commercial documents which are confidential to News and to Sky and the disclosure of these documents would harm News/Sky and/or Sky News' legitimate business interests in the longer term. That such information should be excluded from disclosure is provided for in section 244 of the Enterprise Act 2002. It would be unprecedented for sensitive commercial documents of this nature to be disclosed during a merger review process.

News submits that the disclosure of these documents is not necessary or even desirable for the Secretary of State to properly carry out his functions. The Secretary of State has heard views from OFT, Ofcom and from independently instructed legal advisors. For DCMS to, in effect, solicit input from any additional third party who wishes comment will not improve the administrative process.

News also considers that "redacted"/non-confidential versions of those documents, in so far as they could realistically be prepared at all would need to be so heavily redacted as to be meaningless.

News wishes to avoid any further delay in the process but it cannot accept a request that would damage the business of both Sky and NewCo for no reasonable public interest consideration. It would therefore requests that DCMS confirms its position as a matter of urgency.

Regards

[redacted]  
Counsel  
Allen & Overy LLP

file:  
ofelD  
<http  
20an

From: K [redacted]

Sent: 24 June 2011 14:19

To: [redacted]  
Cc: [redacted]

Subject: News Corporation/BSkyB Merger

Dear [redacted]

As you're aware, the Secretary of State has yet to make a decision as to how to proceed to the next stage of this matter, having only just received the OFT and Ofcom's reports (as discussed with Dominic, the Secretary of State was out of the country during the middle part of this week). We've already asked you to consider redactions to the OFT and Ofcom reports, which the Secretary of State will, we anticipate, wish to publish whatever decision he makes.

If the Secretary of State decides to consult on the revised UILs for a further period of time he may wish to, in line with his desire for maximum transparency, also publish the carriage and brand licence agreements and the draft Articles of Association. I should emphasise that a decision on this basis has not yet been made, but I'd be grateful if you could prepare redacted versions of these documents in case the Secretary of State does make this decision.

I'd be grateful if you could prepare redactions of all the documents by midday on Wednesday. If this is not possible, please could you let me know as soon as possible, and also let me know when you would be able to prepare redactions by.

Regards,

[redacted signature box]

Legal Advisers to the Department for Culture, Media and Sport  
Treasury Solicitor's Department | 2-4 Cockspur Street | London | SW1Y 5DH

Email: [redacted]

\*\*\*\*\*  
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[Redacted]

**From:** [Redacted]  
**Sent:** 29 June 2011 17:16  
**To:** SMITH, Adam  
**Subject:** FW: News Corporation/BSkyB Merger (0012561-0000367)

FYI, so you're aware of what I've said to A&O.

[Redacted]  
**Legal Advisers to the Department for Culture, Media and Sport**  
**Email:** [Redacted]

---

**From:** [Redacted]  
**Sent:** 29 June 2011 17:16  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

Thanks for your email.

We are not content, I fear, with the redactions from the OFT report for the following reasons.

We firstly consider that the information in relation to the revenue indexation (and cap) and the symmetrical indexation of Sky-related costs are very important factors in the advice given by the OFT in relation to this matter. Whilst we appreciate that the information does, in some cases, refer to matters within the Carriage Agreement, are not considering publishing that document itself. We think that it is important for consultees to understand the points made here. Moreover, some of these points relate clearly to paragraph 5.3(iii) of the UILs, which is now not redacted. We further do not understand why the stress-testing analysis in paragraphs 10 – 12 of Annex 2 needs to be removed.

I note that you have not expressed further why you consider this information to be commercially sensitive. Unless you are able to expand on what you have already said, we confirm that we consider that the OFT report should be published in its entirety.

Regards,

[Redacted]  
**Legal Advisers to the Department for Culture, Media and Sport**  
**Email:** [Redacted]

---

**From:** [Redacted]  
**Sent:** 29 June 2011 16:27  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

I attach revised versions of the UILs for publication - clean and showing changes from the last published version - reinstating 5.3(iii).

We have also reinstated the reference to 5.3(iii) in the redacted version of Annex 1 to the OFT report and we attach an amended non-confidential version accordingly.

Please could you let us know whether you have any other comments on the OFT report?

Kind Regards



Counsel  
Allen & Overy LLP

[www.allenoverly.com/antitrust](http://www.allenoverly.com/antitrust)

One Bishops Square  
London  
E1 6AD



---

**From:** [Redacted]  
**Sent:** 29 June 2011 15:06  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

Thanks for this. We do consider that the provisions at 5.3(iii) should not be redacted (and would be grateful if you could provide a revised UIL to this effect).

In relation to the OFT report, obviously some of the redactions you asked us to consider were dependant on 5.3(iii) being redacted, and we would be grateful if you could consider what now can be included within that report. It is likely that we will not therefore accept all the redactions to the OFT report which you have suggested.

Many thanks,



Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** [Redacted]  
**Sent:** 29 June 2011 14:44  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

News (and Sky) still believe that the disclosure of the detail of 5.3(iii) can lead to potential commercial harm. However we note your position on this.

If the request for confidential treatment of 5.3(iii) is not granted, in News view, this will make it even more important that its request for confidential treatment on aspects of the OFT report are accepted.

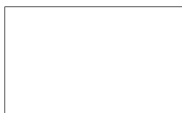
Please could you confirm whether DCMS has reached a view on our requested redactions from the OFT report?

News is content with the publication of the Ofcom report that you sent at 11.38 this morning.

Sky has no further submissions on confidentiality.

We will revert separately on the points that you have raised on the Articles of Association.

Kind Regards





Counsel  
Allen & Overy LLP

[www.allenoverly.com/antitrust](http://www.allenoverly.com/antitrust)

One Bishops Square  
London  
E1 6AD



---

From:   
Sent: 29 June 2011 10:10  
To: Darbon, Cerry:CO (LN)  
Cc:  Bavasso, Antonio:CO (LN); Long, Dominic:CO (LN)  
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear Cerry,

Thanks for getting back to us on this point.

We do consider that, if further consultation is to take place, it is vital to consult on the entirety of the UILs as agreed, which would include the whole of paragraph 5.3(iii). We do consider this to be an important issue, which informs the basis of the consultation. Moreover, the Secretary of State is required to consult on

modifications, and explain the reasons for such modifications. We consider that there is a risk that he would not adequately be able to comply with this duty if there is a redaction from this section. We are not convinced by the prejudice you set out. We note you assert that third parties might seek to raise this issue as a precedent. We think it clear that this is a resolution to a particular issue, and not a precedent for commercial negotiations. Thus, we consider that this provision does sit differently from the position in relation to disclosure of the Carriage and Brand Licensing Agreements which, as you appreciate, the Secretary of State would not seek to publish.

In relation to the Articles of Association, we have not yet commented on those documents (although the Secretary of State must obviously give prior approval to them). We had a couple of, very minor, comments, as follows:

1. In Articles 111(3) and 111(6) we were not clear what the Committee being referred to is. We infer that this should be either or both of the Audit Committee or the Governance and Editorial Committee. We consider that this should be clarified.
2. Article 119, dealing with the appointment of additional directors to the board should be made subject to the remaining provisions of the Articles, and particularly Article 99.

I hope that amendments reflecting these comments can be agreed in relatively short order.

Regards,



Legal Advisers to the Department for Culture, Media and Sport

Email:



From:



Sent: 28 June 2011 21:06

To:

Cc:



Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear



The date appearing in paragraph 5.1(iv) was redacted from the version of the UILs which was previously published. (The version of 14 June 2011 was not intended to be a version ready for publication.) For completeness/ease, we attach a mark-up version as requested.

<<CO-#14381461-v1-Ofcom\_Report\_-\_News\_Redaction\_Requests.PDF>> <<CO-#14381481-v1-Redacted\_DV UIL\_1\_March\_-\_UIL\_14\_June.pdf>>

As for our proposed redaction in 5.3(iii) the disclosure of the details of the costs cap would be harmful to News and/or Sky's interests as it would prejudice their position in any future commercial negotiations with third parties. Sky, in particular, enters into commercial discussions with many counterparties. One of the fundamental issues that arise in such discussions is the level of costs that are payable and any increase during the contractual term. To the extent that the costs inflation cap were made public, Sky would be prejudiced in future discussions with third parties, who might seek to rely on the Sky News agreements as a precedent for more beneficial outcomes to their own negotiations with Sky. The fact of the cap (although not the details thereof) will be clear from the version of the UILs News is proposing.

News would have no objection to the reinstatement of the wording which you suggest in paragraph 29 of the Ofcom report.

Kind Regards



Counsel  
Allen & Overy LLP



One Bishops Square  
London  
E1 6AD



---

From



Sent: 28 June 2011 16:07

To:

Cc:

Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear



Thank you for this. I hope to be in a position to let you know the Secretary of State's position in relation to the Carriage and Brand Licensing Agreements by close of play today.

In relation to your proposed redactions of the UILs, we have noted the proposal in relation to paragraph 5.3(iii). We think it preferable, if the Secretary of State so decides, to re-consult with as few redactions as possible, particularly in relation to important parts of the UILs. You state below that disclosure would harm your client's legitimate commercial interests. I would be grateful, as with the Agreements, if you could set out what harm you assess would follow from such disclosure.

I also note that in the version of the UILs attached to your email the date of November 2014 appearing in paragraph 5.1(iv) was redacted, whereas the date was included in the version of the UILs dated 14 June 2011. Could you please clarify?

It would be of immense assistance if you could provide us, once these matters are resolved, with a mark-up version of the UILs showing the changes made from the consultation version to date, as, if the Secretary of State decides to re-consult, we would want to do so on the basis that changes to the UILs were clearly marked.

In relation to the redactions from the Ofcom report, whilst this is not our document, our view is that it would be clearer if there were some indication of what had been redacted from paragraph 29, so the paragraph would read "Internationally, Newco would also have opportunities for diversification, including" and then be snipped.

Regards,



Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]



---

From: [redacted]



Sent: 27 June 2011 22:17

To: [redacted]

Cc: [redacted]

Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear

I attach versions of the OFT and Ofcom reports in which those parts of the reports which News believes to be confidential have been excised.

News would also request that paragraph 5.3(iii) be redacted from the published version of the UILs (as attached).

<<CO-#14370097-v1-Redacted\_version\_of\_14\_June\_draft UIL.DOC>> <<CO-#14373295-v1-Ofcom\_Report\_-\_News\_Redaction\_Requests.PDF>> <<CO-#14362030-v2-OFT\_Report\_-\_News\_Redaction\_Requests.DOC>>

News considers that disclosure of the information which has been removed from these documents would harm its legitimate commercial interests.

I can, however, confirm that News has no objection to publication of the Articles of Association in their entirety.

News remains very concerned at the suggestion that the Carriage and Brand Licensing Agreements might be made public when there are no grounds for arguing that this is necessary and there are very good reasons to avoid publication of the agreements in order to protect the legitimate commercial interests of the companies involved.

News is aware of no other regulatory context where it would be common practice to force detailed commercial documents to be publicly disclosed. On the contrary, to the extent they are referred to at all, it is common practice for competition authorities and other regulatory authorities to redact any references to commercial terms of current/future commercial agreements from published reports.

The terms of existing/future commercial agreements is a clear example of documents containing information which is commercially sensitive, the disclosure of which is likely to harm the legitimate interests of the companies involved. In this case, for example:

- \* Disclosure of the Carriage Agreement would prejudice Sky's existing and future arrangements with other broadcasters for the distribution of their content on its platforms – other broadcasters might seek to rely on the Sky News agreements as precedent for more beneficial outcomes to negotiations.

- \* Disclosure of the Brand Licence Agreement would prejudice Sky's ability to exploit its brand in other territories if the terms of the arrangements are known to other potential licensees.

- \* Disclosure of either agreement would prejudice Sky News/NewCo in relation to negotiations with third parties on syndication and other arrangements – NewCo's negotiations with third parties would be conducted in an environment where the scope of their rights and duties would be known to all parties. For example, a third party negotiating a content syndication deal would be aware of the terms under which NewCo could offer such syndication and would use this as the basis for negotiation.

- \* Disclosure of either agreement would prejudice NewCo's future negotiations with third party platforms since those other platform operators would be aware of the terms upon which Sky News is being made available on Sky's platform and would be likely to use this as a starting point for negotiations with NewCo.

Moreover, as noted in my email of 24 June, News considers that "redacted"/non-confidential versions of those documents, in so far as they could realistically be prepared at all, would need to be so heavily redacted as to be meaningless.

News therefore requests again as a matter of urgency that DCMS confirm the Secretary of State's position on this matter.

Kind Regards

[Redacted signature box]

Counsel  
Allen & Overy LLP

[Large redacted content box]

---

From: [Redacted]

Sent: 27 June 2011 13:02  
To: Darbon, Cerry:CO (LN)  
Cc: [Redacted] Bavasso, Antonio:CO (LN); Long, Dominic:CO (LN)  
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear Cerry/Antonio,

Thank you for your email.



I note your assertion that disclosure of the Carriage and Brand Licensing Agreements (even on a non-confidential basis) would harm the legitimate business interests of News/Sky and/or Sky News (by which I infer you mean Newco) in the longer term. In order for the Secretary of State to fully consider this, I should be grateful if you could let me know what you assess the harm to be.

Your email does not refer to the proposed Articles of Association of Newco, and I assume therefore that similar considerations do not apply to that document and that you will be in a position to provide non-confidential versions of the Articles.

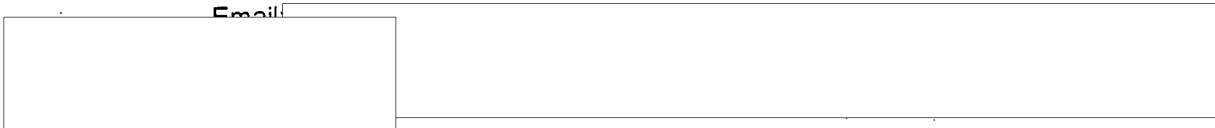
For planning purposes, it would be of great assistance if you could let me know when you anticipate being in a position to agree non-confidential versions of the OFT and Ofcom report.

Regards,



Legal Advisers to the Department for Culture, Media and Sport

Email:



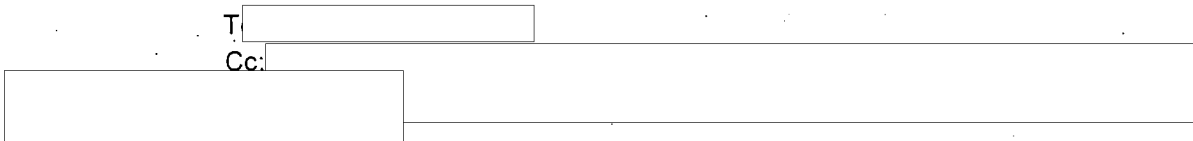
From:



Sent: 24 June 2011 19:50

To:

Cc:



Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear



News is very concerned about the suggestion that the Secretary of State might want to publish the Brand Licence and Carriage Agreement.

These documents are clearly very sensitive commercial documents which are confidential to News and to Sky and the disclosure of these documents would harm News/Sky and/or Sky News' legitimate business interests in the longer term. That such information should be excluded from disclosure is provided for in section 244 of the Enterprise Act 2002. It would be unprecedented for sensitive commercial documents of this nature to be disclosed during a merger review process.

News submits that the disclosure of these documents is not necessary or even desirable for the Secretary of State to properly carry out his functions. The Secretary of State has heard views from OFT, Ofcom and from independently instructed legal advisors. For DCMS to, in effect, solicit input from any additional third party who wishes to comment will not improve the administrative process.

News also considers that "redacted"/non-confidential versions of those documents, in so far as they could realistically be prepared at all would need to be so heavily redacted as to be meaningless.

News wishes to avoid any further delay in the process but it cannot accept a request that would damage the business of both Sky and NewCo for no reasonable public interest consideration. It would therefore requests that DCMS confirms its position as a matter of urgency.

Regards

[Redacted signature box]

Counsel  
Allen & Overy LLP

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One Bishops Square  
London  
E1 6AD

Tel: [Redacted]  
DDI: [Redacted]  
Fax: [Redacted]

From: [Redacted]

Sent: 24 June 2011 14:19

To: [Redacted]  
Cc: [Redacted]

Subject: News Corporation/BSkyB Merger

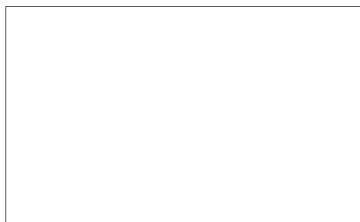
Dear [Redacted]

As you're aware, the Secretary of State has yet to make a decision as to how to proceed to the next stage of this matter, having only just received the OFT and Ofcom's reports (as discussed with Dominic, the Secretary of State was out of the country during the middle part of this week). We've already asked you to consider redactions to the OFT and Ofcom reports, which the Secretary of State will, we anticipate, wish to publish whatever decision he makes.

If the Secretary of State decides to consult on the revised UILs for a further period of time he may wish to, in line with his desire for maximum transparency, also publish the carriage and brand licence agreements and the draft Articles of Association. I should emphasise that a decision on this basis has not yet been made, but I'd be grateful if you could prepare redacted versions of these documents in case the Secretary of State does make this decision.

I'd be grateful if you could prepare redactions of all the documents by midday on Wednesday. If this is not possible, please could you let me know as soon as possible, and also let me know when you would be able to prepare redactions by.

Regards,



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Treasury Solicitor's Department |2-4 Cockspur Street |London |SW1Y 5DH  
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[Redacted]

---

**From:** Adam Smith [Redacted]  
**Sent:** 18 May 2012 11:15  
**To:** [Redacted]  
**Subject:** Fwd: SoS Comms Meeting - 4 July - Actions

Begin forwarded message:

**From:** "FRENCH, Rita" <[Redacted]>  
**Date:** 18 May 2012 11:07:27 GMT+01:00  
**To:** "adamsmith" [Redacted]  
**Subject:** FW: SoS Comms Meeting - 4 July - Actions

---

**From:** OLDFIELD PAUL  
**Sent:** 04 July 2011 09:44  
**To:** [Redacted] SPECIAL ADVISERS; [Redacted]; [Redacted]  
[Redacted] ZEFF JON; [Redacted]  
**Cc:** [Redacted]  
[Redacted]  
**Subject:** SoS Comms Meeting - 4 July - Actions

[Redacted]

[Redacted]

[Redacted]

Paul Oldfield  
Principal Private Secretary to the Secretary of State  
Department for Culture, Media and Sport



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[Redacted]

**From:** OLDFIELD PAUL  
**Sent:** 06 July 2011 07:38  
**To:** [Redacted] PATEL RITA  
**Cc:** ZEFF JON; [Redacted] BEEBY, Sue;  
 SMITH, Adam; Permanent Secretary  
**Subject:** RE: URGENT: Briefing for Phone Hacking Debate  
**Attachments:** BSKYB Briefing docx (3).doc; BSKyB Briefing.docx

[Redacted]

Thanks.

I think this looks good. I've also dug out the Q and A and edited down a bit/ amended for the AG's eyes. His PS tells me he is not very up to speed on this issue so a bit more info for him would be helpful I think. I attach both docs with track changes. Could you take a look and check they are OK.

One thing that seems to be missing from here is the answer to the fit and proper person test. Could add a Q and an about that pls. AG's office have asked for this by 9.30 so grateful for any comments before that.

I think our basic messages to the AG are

- Decision is a quasi judicial one for SoS.
- His decision must be made on media plurality grounds – not wider public interest – phone hacking is not material to his considerations on the merger.
- Has sought and published independent advice every step of the way.
- Has consulted, and responded to suggestions, to address media plurality concerns, and consultation is still ongoing.

Paul.

---

**From:** [Redacted]  
**Sent:** 05 July 2011 18:30  
**To:** [Redacted] PATEL RITA  
**Cc:** ZEFF JON; [Redacted] BEEBY, Sue; SMITH, Adam; OLDFIELD PAUL;  
 Permanent Secretary  
**Subject:** RE: URGENT: Briefing for Phone Hacking Debate

[Redacted]

I am not sure how much they want. As it is the SoS's decision and not a Government one, the Attorney General should not be getting drawn into the details of the case or implying that he has any influence over its course. Attached is the briefing we provided No.10 with.

[Redacted]

DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

[Redacted]



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**From:** [redacted]  
**Sent:** 05 July 2011 18:18  
**To:** PATEL RITA  
**Cc:** ZEFF JON; [redacted]; [redacted] BEEBY, Sue; SMITH, Adam;  
JLDFIELD PAUL; Permanent Secretary  
**Subject:** URGENT: Briefing for Phone Hacking Debate  
**Importance:** High

Hi Rita

We've just learnt that the Attorney General will be leading tomorrow's debate in the Commons on phone hacking.

His office has requested our lines on NewsCorp/BskyB. With apologies for the tight deadline, they need this info first thing tomorrow morning. Any chance you could let us have something by 9:30am?

Grateful if you could confirm receipt of this email.

Many thanks,

[redacted]  
[redacted]  
[redacted]  
**Department for Culture, Media and Sport**  
[redacted]

[Redacted]

From: OLDFIELD PAUL  
Sent: 06 July 2011 07:50  
To: [Redacted] BEEBY, Sue; SMITH, Adam; [Redacted]  
Subject: FW: Hacking: public inquiry decision

???

-----Original Message-----

From: Duncan Parish [mailto:[Redacted]]  
Sent: 06 July 2011 07:38  
To: [Redacted] OLDFIELD PAUL  
Cc: [Redacted] Peter Fish  
Subject: Hacking: public inquiry decision

[Redacted] Paul,

I ask who's taking the decision on whether to support a Phone Hacking Inquiry? It's going to be very difficult for the AG to rule one out completely in response during today's debate.

Arguing that the Police investigation should continue first is no problem, but Chris Bryant was last night asking for one to start, then adjourn and not do anything until after the Police investigation has concluded. Do we have a position yet?

Duncan

Duncan Parish  
Principal Private Secretary  
Attorney General's Office  
20 Victoria Street  
London  
SW1H 0NF

[Redacted]

\*\*\*\*\*

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[Redacted]

**From:** OLDFIELD PAUL  
**Sent:** 10 July 2011 11:38  
**To:** [Redacted] SMITH, Adam; [Redacted]  
**Subject:** Re: No.10/BSkyB

Great thanks. I just got message - been on tube for 20 mins - and have returned [Redacted] call.

Just so you know we are working on it - [Redacted] currently advising and talking to counsel and we're arranging for him to come in first thing on Monday to run through.

----- Original Message -----

**From:** [Redacted]  
**To:** OLDFIELD PAUL; SMITH, Adam; [Redacted]  
**Sent:** Sun Jul 10 11:32:15 2011  
**Subject:** No.10/BSkyB

● be aware.....

I've just had a call from [Redacted] No.10 are v worried about the vote on Weds - they think it's highly possible that Miliband will win.

[Redacted] said that he needs us to do more work on the legal position/fallback options, etc. No.10 are most worried about the line that the fit and proper person evaluation "is a matter for Ofcom" - they are not convinced that this argument is sustainable.

I've hooked up Jon Zeff and Simon to discuss this in greater detail.

Quiet week, anyone.....?

[Redacted]

-----  
● sent from my BlackBerry Wireless Handheld

[Redacted]

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**From:** OLDFIELD PAUL  
**Sent:** 10 July 2011 12:06  
**To:** [Redacted] BEEBY, Sue; [Redacted] PATEL RITA; ZEFF JON  
**Cc:** SMITH, Adam; AMOS, Stephen; GEIST-DIVVER CAROLA  
**Subject:** Re: Newscorp

No 10 been in touch and spoken direct to Jon Z. They want a note for the PM this evening on current situation and our assessment of available options re delay, fit and proper person, and Wed's vote.

Jon working on that now and will want to clear through JH before going to PM - I'll speak to him now to alert him.

Counsel meeting set for 8.30 tomorrow morning.

---

**From:** [Redacted]  
**To:** BEEBY, Sue; [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam; AMOS, Stephen; GEIST-DIVVER CAROLA  
**Sent:** Sun Jul 10 11:04:37 2011  
**Subject:** RE: Newscorp

Sue,

I cannot find any specific learning on this position (about which I am not remotely surprised, to be honest). I'm copying Stephen and Carola in in case they know of anything I do not. However, I wonder anyway whether we would be prudent to seek the Law Officers' view on this. I'll have a think about this also.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

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**From:** BEEBY, Sue  
**Sent:** 10 July 2011 10:39  
**To:** [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam  
**Subject:** Re: Newscorp

I'm afraid I don't have the details of the motion. But any guidance you can give would be gratefully received.

Thanks again  
Sue

---

**From:** [Redacted]  
**To:** BEEBY, Sue; [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam  
**Sent:** Sun Jul 10 10:24:40 2011  
**Subject:** RE: Newscorp

Sue,

Am just discussing electronically with [Redacted] now. Do we have the text of any motion yet?

Also, whilst I cannot see that the SoS would have to comply with it, it might well be that he couldn't ignore it (in public law terms). I know that sounds confusing, but I'll dig down into whether there's any particular learning about this, and see if I can come up with something more definitive.

[Redacted]  
Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** BEEBY, Sue  
**Sent:** 10 July 2011 10:22  
**To:** [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam  
**Subject:** Re: Newscorp

Many thanks for the swift reply. That is really helpful

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**From:** [Redacted]  
**To:** BEEBY, Sue; [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam  
**Sent:** Sun Jul 10 10:01:46 2011  
**Subject:** RE: Newscorp

Sue,

Adam's asked that we discuss this when Daniel Beard comes into the office tomorrow morning (waiting for confirmation of that, but he said it seemed manageable, so I imagine it will happen relatively early).

As far as this is concerned, the decision on the merger is one for the Secretary of State, and I do not see that a vote can have any legal effect in relation to his decision at all. The only thing which Parliament could do, I think, to affect his decision would be to vote in relation to legislative change.

I may well be speaking to Daniel this morning in relation to meeting tomorrow, so will check with him, and have a further think, but I cannot see that a vote would affect a decision at all.

[Redacted]  
Legal Advisers to the Department for Culture, Media and Sport  
Email: [Redacted]

---

**From:** BEEBY, Sue  
**Sent:** 10 July 2011 10:00  
**To:** [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL  
**Cc:** SMITH, Adam  
**Subject:** Re: Newscorp

Hi

Ed Miliband is proposing an opposition day debate on delaying the bskyb decision and a vote. Can you let me know what the legal position is on this. Would it have any impact given its a quasi judicial decision?

I need this urgently if possible.

Thanks  
Sue

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From: [redacted]  
To: [redacted] PATEL RITA; ZEFF JON  
Cc: [redacted] SMITH, Adam; BEEBY, Sue  
Sent: Fri Jul 08 12:33:38 2011  
Subject: Newscorp

All,

Please see attached received from Daniel Beard which perhaps we can discuss when we meet at 2.30.

Thanks,

[redacted]  
[redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted]

[REDACTED]

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**From:** OLDFIELD PAUL  
**Sent:** 12 July 2011 08:58  
**To:** [REDACTED] PATEL RITA; [REDACTED] ZEFF JON  
**Cc:** PERU Forward  
**Subject:** FW: Letter from Mr Murdoch  
**Attachments:** 120711\_JHunt FINAL.pdf

To see. I was thinking last night we better right to News Corp to confirm SoS' decision!

Can this also be logged on CMS pls and reply commissioned from Stuart.

---

**From:** SMITH, Adam  
**Sent:** 12 July 2011 08:54  
**To:** OLDFIELD PAUL  
**Subject:** FW: Letter from Mr Murdoch

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**From:** Michel, Frederic [REDACTED]  
**Sent:** 12 July 2011 08:50  
**To:** SMITH, Adam; [REDACTED]  
**Subject:** Letter from Mr Murdoch

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Rt Hon Jeremy Hunt MP  
Secretary of State for Culture, Olympics, Media and Sport  
Department for Culture Media and Sport  
2-4 Cockspur Street  
London  
SW1Y 5DH

11 July 2011

Dear Jeremy,

News Corporation - British Sky Broadcasting Group Plc.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

James Murdoch

James Murdoch  
Deputy Chief Operating Officer  
Chairman & CEO, International

News Corporation | 1211 Avenue of the Americas | New York | NY 10036  
News Corporation | 3 Thomas More Square | London | E98 1EX | T. +  
jrm@newscorp.com

[Redacted]



[Redacted]

**From:** OLDFIELD PAUL  
**Sent:** 12 July 2011 10:15  
**To:** PATEL RITA [Redacted]  
**Cc:** ZEFF JON [Redacted] SMITH, Adam  
**Subject:** FW: FINAL STATEMENT  
**Attachments:** JH oral statement 11 July 2011.doc

I've just re-read the transcript. I don't think Jeremy said anything wrong on fit and proper person but I do wonder whether it is worth writing to Jo Swinson to clarify the position with her as she explicitly said that he confirmed the CC could consider 'fit and proper' – which they can't and SoS didn't say – but he didn't explicitly put her right.

Not urgent in the grand scheme of things. Perhaps Helen could advise on appropriate timescale to send such a letter.

---

**From:** [Redacted]  
**Sent:** 12 July 2011 08:48  
**To:** SMITH, Adam; OLDFIELD PAUL; [Redacted] REERY, Sue; ZEFF JON; [Redacted] AMOS, Stephen;  
**Cc:** [Redacted]  
**Subject:** RE: FINAL STATEMENT

Dear All,

Please find attached the transcript of yesterday's oral statement.

[Redacted]

DCMS  
Ministerial Support Team  
Floor  
4 Cockspur Street  
London SW1Y 5DH

[Redacted]

11 July 2011 : Column 39

Phone Hacking and the Media

4.16 pm

The Secretary of State for Culture, Olympics, Media and Sport (Mr Jeremy Hunt): May I start by apologising to the Leader of the Opposition for the fact that he has only just received a copy of this statement? As he will find out, there was a development only about a half an hour ago that dramatically changed the contents of this statement—I have only just received my own copy—which is why we were not able to get him a copy in advance. [Interruption.]

Mr Speaker: Order. I want to hear the statement and I am sure that the House wants to hear it.

Mr Hunt: Mr Speaker, the events of last week shocked the nation. Our proud tradition of journalism, which for centuries has bravely held those in positions of power to account, was shaken by the revelation of what we now know to have happened at the News of the World. The perpetrators of those acts not only broke the law, but preyed on the grief of families who had lost loved ones either as a result of foul murders or giving their life for their country. I hope that the law shows no mercy to those responsible and no mercy to any managers who condoned such appalling behaviour.

As a result of what happened, the Prime Minister last week announced two independent inquiries to examine what went wrong and recommend to the Government how we can make sure that it never happens again. The first will be a full, judge-led, public inquiry into the original police investigation. Witnesses will be questioned under oath and no stone will be left unturned. As the Prime Minister announced on Friday, that inquiry will need to answer the following questions. Why did the first police investigation fail? What exactly was going on at the News of the World, and what was going on at other newspapers? The bulk of the work of this inquiry can happen only after the police investigation has finished, but we will start what we can now.

The second will be a separate inquiry to look at the culture, practices and ethics of the British press. In particular, it will look at how our newspapers are regulated and make recommendations for the future. That inquiry should start as soon as possible, ideally this summer. As the Prime Minister said, a free press is an essential component of our democracy and our way of life, but press freedom does not mean that the press should be above the law and in announcing this inquiry the Prime Minister has invited views on the way the press should be regulated in the future.

I also have to make a decision about News Corporation's plans to buy the shares it does not already own in BSkyB. I know that colleagues on both sides of the House and the public at home feel very concerned at the prospect of the organisation that allegedly allowed these terrible things to happen being allowed to take control of what would become Britain's biggest media company.

I understand that in the last few minutes News Corporation has withdrawn its undertakings in lieu. On 25 January, I said I was minded to refer News Corporation's proposed merger with BSkyB to the Competition Commission in the absence of any specific undertakings in lieu. As a result of News Corporation's announcement this afternoon, I am now going to refer this to the Competition Commission with immediate effect and will be writing to it this afternoon—

[

Interruption.

]

Mr Speaker: Order. Whatever opinion a Member has about this matter, it is a question of elementary courtesy that the Secretary of State should be heard.

Mr Hunt: Thank you, Mr Speaker. Today's announcement will be an outcome that I am sure the whole House will welcome. It will mean that the Competition Commission will be able to give further full and exhaustive consideration of the merger, taking into account all relevant recent developments.

Protecting our tradition of a strong, free and independent media is the most sacred responsibility I have as Culture Secretary. Irresponsible, illegal and callous behaviour damages that freedom by weakening public support for the self-regulation on which it has thrived. By dealing decisively with the abuses of power we have seen, hopefully on a cross-party basis, the Government intend to strengthen and not diminish press freedom—[ Interruption. ]

Mr Speaker: Order. The Secretary of State must be heard.

Mr Hunt: The Government intend to strengthen and not diminish press freedom, making this country once again proud and not ashamed of the journalism that so shapes our democracy.

Edward Miliband (Doncaster North) (Lab): I accept the Culture Secretary's apology for the late notice of his statement, but the truth is that it points to the chaos and confusion at the heart of the Government. After what we have heard and the questions that have been left unanswered, we all know that it is the Prime Minister who should be standing at the Dispatch Box today. It is quite wrong that he chose to do a press conference on Friday in Downing street about the issues but is unwilling to come to the House today. Instead, he chose to do a press conference at Canary Wharf, just 20 minutes down the road.

The Culture Secretary has no direct responsibility for the judicial inquiry that he talked about, and he has no direct responsibility for the police and the relationship with the media, but he has been left to carry the can by a Prime Minister who knows there are too many difficult questions for him to answer. It is an insult to the House and to the British public.

Let me ask the Culture Secretary a series of questions. First, on the subject the judge-led inquiry, as soon as an inquiry is established, tampering with or the destruction of any documents becomes a criminal offence. We already know that is relevant to the offices of the News of the World. It may also be relevant to any documents in No. 10 Downing street and Conservative headquarters. Will the Culture Secretary—[ Interruption. ]

Mr Speaker: Order. I said a few moments ago that the Secretary of State must be heard. The same goes for the Leader of the Opposition, and if Members are chuntering away or, worse, shouting, they had better stop it.

Edward Miliband: Will the Culture Secretary now agree that the judge-led inquiry should be established immediately? Any less means there is a risk that evidence will be destroyed.

Will he also confirm that the inquiry will be set up under the Inquiries Act 2005 so it can compel witnesses to attend? The inquiry must have the right terms of reference, including the unlawful and unethical practices in the newspaper industry and the relationship between the police and certain newspapers. Neither of those issues were in the terms of reference implied by the Secretary of State in his statement. Can he confirm that all these issues will be in the terms of reference?

Secondly, let me talk about BSkyB. Let us be clear: the trouble that the Government are in is of their own making. Any changes they make are not because they have chosen to do so but because they fear defeat in the House on Wednesday evening. The Culture Secretary chose not to follow the

recommendation of Ofcom to refer this bid to the Competition Commission and he has been insisting for months that he can proceed on the basis of assurances from News Corporation. On Friday, the Prime Minister said the same. Now the Culture Secretary has adopted the very position he has spent months resisting—and the confusion continues. The Deputy Prime Minister has joined the call I made yesterday for Rupert Murdoch to drop the bid. On BSkyB, the Government are in complete disarray. Does the Deputy Prime Minister speak for the Government? If so, is the Culture Secretary now asking Rupert Murdoch to drop the bid? Can the Culture Secretary now assure us that on the basis of his new position, no decision will be made on the BSkyB bid until the criminal investigation into phone hacking is complete? Nothing else can give the public the confidence they need.

Thirdly, will the Culture Secretary state his position to the House on the need for responsibility to be accepted at News International? The terrible hacking of Milly Dowler's phone happened on Rebekah Brooks's watch, while she was editor of the News of the World. Last Wednesday, the Prime Minister refused to say she should go, and on Friday all he offered were weasel words. Will the Culture Secretary say what the Prime Minister refused to—that Rebekah Brooks should take responsibility for what happened on her watch and resign from her post?

Fourthly, given the role of Andy Coulson in relation to phone hacking and other allegations of illegality, will the Culture Secretary clarify the following—[ Interruption. ] Government Members should listen to what I am saying because it is relevant to victims up and down the country. On Friday at his press conference, the Prime Minister said, about the appointment of Andy Coulson:

“No one gave me any specific information.”

Yet Downing street has confirmed that The Guardian newspaper had discussions with Steve Hilton, the Prime Minister's senior aide, before Andy Coulson was brought into government. Those conversations detailed Mr Coulson's decision to rehire Jonathan Rees—a man who had been jailed for seven years for a criminal conspiracy and who is alleged to have made payments to the police on behalf of the News of the World. This serious and substantial information was passed by Steve Hilton to the Prime Minister's chief of staff, Mr Ed Llewellyn. The information could not have been more specific. Now, can the Culture Secretary tell us whether Ed Llewellyn, the Prime Minister's chief of staff, told the Prime Minister about this evidence against Mr Coulson, or are we seriously expected to believe that Mr Llewellyn, an experienced former civil servant, failed to pass any of this information on to the Prime Minister? Frankly, that beggars belief as an explanation. This issue goes to the heart of the Prime Minister's integrity and we need answers from the Culture Secretary.

Can the Culture Secretary now tell us whether it is true that the Prime Minister also received warnings from the Deputy Prime Minister and the former leader of the Liberal Democrats, Lord Ashdown, about bringing Andy Coulson into government? Unless the Prime Minister can explain what happened with Mr Coulson and apologise for his terrible error of judgment in appointing him, his reputation and that of the Government will be permanently tarnished.

The Prime Minister was wrong not to come to the House today. As on every occasion during this crisis, he has failed to show the necessary leadership that the country expects. He saw no need for a judicial inquiry, he saw no need to change course on BSkyB and he has failed to come clean on Andy Coulson. This is a Prime Minister running scared from the decisions he made. This is a Prime Minister who is refusing to show the responsibility the country expects. The victims of the crisis deserve better, this House deserves better and the country deserves better.

Mr Hunt: Let me tell the Leader of the Opposition about what the Prime Minister has done—  
[Interruption.]

Mr Speaker: Order. I want everybody who wants to contribute to these exchanges to have the chance to do so, but people who shout and scream cannot then expect to be called, and it is a rank discourtesy. It must stop on both sides of the House.

Mr Hunt: We are fighting a war. The Prime Minister arrived back from Afghanistan at around 10 o'clock last Tuesday night. By Wednesday lunchtime he had established two public inquiries. That is doing more in less than one week than the right hon. Gentleman's party did in eight years.

The right hon. Gentleman talked about Andy Coulson. He should be very careful not to be someone who throws sticks in glass houses. In his comments he criticised me for being willing to accept assurances from News Corp. He was willing to accept assurances from the very same people about Tom Baldwin.

Let me answer some of the right hon. Gentleman's specific questions. Tampering with evidence does not need a judge-led inquiry to be set up. It is a criminal offence now. We are moving as fast as we can to set up a judge-led inquiry into all the actions that were illegal or improper. We also want to set up an inquiry, with cross-party support—hopefully—to look into the unethical behaviour by the press, and we want that to start work immediately. Inquiries into illegal actions have to wait until

after police investigations are complete. We are willing to talk to the right hon. Gentleman in order to get some kind of cross-party consensus so that that can happen as soon as possible. I said in my statement that we would like that to start as soon as this summer.

With respect to the BSkyB decision, I have at every stage in this process followed the procedures laid down in the Enterprise Act 2002 that was passed by the right hon. Gentleman's Government. Not only that, but I have done more than those processes require, because at every stage I have asked for independent advice from the expert media regulator, Ofcom, and after careful consideration at every stage I have followed that advice.

Let me say gently to the right hon. Gentleman that he needs to show some humility in this matter. He attended Rupert Murdoch's summer party and failed to bring up the matter of phone hacking. He was part of a Cabinet—[Interruption.]

Mr Speaker: Order. I want to hear the answer.

Mr Hunt: He was part of a Cabinet which, according to the then Culture Secretary, discussed phone hacking and decided not to act, and we now know why. According to the autobiography of Tony Blair's chief of staff, Jonathan Powell,

"We first started discussing...the failed relationship between the media and politics in 2002...We discussed the issue back and forth for the next three years, but Tony never felt the moment was right to speak out...Gordon, who was courting the press, had no intention of agreeing to anything that might upset them."

Now is not the time for party political posturing. We have all failed—politicians, journalists and media owners—and we must all work together to put the problem right.

Oliver Heald (North East Hertfordshire) (Con): Does my right hon. Friend agree that it is vital in his role that he should act within the law, taking independent advice—legal advice—because if he does not, any decision that he makes can be attacked in court? Does he agree that it is all very well for the Opposition to make their points today, but the spirit in the House last week was that there were faults on all sides and that we ought to do what is in the interests of the country? Does he agree that the Leader of the Opposition has betrayed that today?

Mr Hunt: I completely agree with my hon. Friend. If we are to tackle this very serious cancer that we have seen in our society in the past week, we need a responsible attitude from Members on both sides of the House, and if we are worried about newspapers getting above the law, Ministers need to set an example and ensure that they do not get above the law themselves.

Alan Johnson (Kingston upon Hull West and Hessle) (Lab): I am surprised that we have the monkey at the Dispatch Box and not the organ grinder—[ Interruption. ]

Mr Speaker: Order. Members are entitled to their own views on taste. There has been no breach of order.

Alan Johnson: The Prime Minister said on Friday that he received no "specific" information, but it is clear that that information was passed to Ed Llewellyn. If Ed Llewellyn failed to pass that information to the Prime Minister, will he be sacked or given "a second chance"?

Mr Hunt: I take being called a monkey very seriously, because in my wife's country they used to eat them.

With regard to what the Prime Minister did or did not know, he will answer for himself, but he has said that he takes full responsibility for the decisions he took and that he had no knowledge of any illegal or criminal activity by Andy Coulson when he decided to employ him.

Simon Hughes (Bermondsey and Old Southwark) (LD): Will the Secretary of State, whose behaviour so far on this matter has been beyond reproach, pass on to the Government and the leader of the Conservative party the request that they join my party in asking Rupert Murdoch to withdraw his bid, and will he confirm that it is entirely appropriate for the regulator, Ofcom, to consider illegality by any of the people employed by any title owned by News Corporation, meaning all its newspapers and not just the News of the World?

Mr Hunt: My right hon. Friend has asked a question that I cannot answer, because every Member of the House can have a view on whether the take-over should go ahead or be withdrawn except me, as I have a quasi-judicial role and so I am unable to pre-empt the decision by making a comment. With regard to illegality and the requirement under the Broadcasting Act 1990 that all people holding broadcasting licences be fit and proper, I wrote to Ofcom this morning to ask whether it stood by its original advice that the deal could go ahead, in view of the matters that came to light last week and had News Corporation not withdrawn its undertakings today. I am pleased to say that,



with this referral to the Competition Commission, all those issues will be considered properly and fully.

Margaret Beckett (Derby South) (Lab): Does the Secretary of State not recognise that at a time when wrongdoing was being very strongly alleged, and even more strongly denied, the Prime Minister's decision then to appoint Andy Coulson to No. 10 as director of communications reinforced the credibility of what we now know to be unjustified denials of wrongdoing? Is that not why the Prime Minister should be here today?

Mr Hunt: With respect to the right hon. Lady, there are all sorts of things that this Government and the previous Government have done that we might now review in the light of the allegations that have emerged in the past week. That is why it is incredibly important that we have these two public inquiries to get to the bottom of press ethics, which is why we are trying to ensure that we grapple with the problem and sort it out, rather than sit on it for a very long time.

Louise Mensch (Corby) (Con): In 2003 the predecessor of the current Culture, Media and Sport Committee, of which I am a member, warned of deplorable practices in the media, including payments by journalists to the police, and called for an inquiry. Does my right hon. Friend agree that we should have had an inquiry at that time?

Mr Hunt: Hindsight is a wonderful thing and I think that everyone will be reflecting on what has happened. In the last Parliament there were two Select Committee inquiries on the matter and two reports by the Information Commissioner stating that things were wrong and needed to be sorted out, but nothing happened. Let us hope that as a political class we are up to the challenge of sorting things out this time.

Mr Jack Straw (Blackburn) (Lab): Extraordinarily, the Secretary of State has come to the House without any briefing whatsoever to give further and better particulars behind the Prime Minister's statement on Friday that he had—very careful words—no “specific” knowledge that Mr Andy Coulson had appointed a known criminal to work at the News of the World. Given the absence of a briefing today, does the Secretary of State accept that it is his duty to go back to the Department and to Downing Street and insist that a full, detailed chronology of who informed whom—or failed to inform whom—by name and what they said is published by the close of play today?

Mr Hunt: I believe that the Prime Minister is a man of honour and integrity, and when he says that he had no knowledge of that particular episode, I believe him.

Duncan Hames (Chippenham) (LD): It is regrettable that undertakings that the Secretary of State had previously secured have been withdrawn today, but will he tell the House why, under the Competition Commission referral, it is possible for the "fit and proper person" test to be applied in the decision?

Mr Hunt: I will tell my hon. Friend why that is the case. Typically, when there is a referral to the Competition Commission, it could decide to block the deal entirely or it could negotiate undertakings, circumstances and conditions under which it would consider it acceptable for the merger to go ahead. The Competition Commission is considering media plurality, just as I did. It is not considering broader competition issues, but if as part of that consideration it decided to accept any undertakings, it would want to be sure that they were credible, which is why compliance with the "fit and proper person" requirements of the Broadcasting Act 1990 will be extremely important.

Mr Ben Bradshaw (Exeter) (Lab): Did the Secretary of State know about the dinner involving the Prime Minister, James Murdoch and Rebekah Brooks two days after he was handed responsibility for this policy area? Why, shortly after that dinner, did he abandon the previous approach by the Business Secretary and reject Ofcom's clear recommendation to send the matter to the Competition Commission?

Mr Hunt: I did not know about the dinner, and I did not reject Ofcom's recommendation. If the former Culture Secretary had been listening to my statement, he would know that I actually accepted its recommendation. On 25 January, I wrote to News Corporation saying that I was minded to accept what Ofcom were recommending, namely a referral to the Competition Commission.

Anna Soubry (Broxtowe) (Con): No party cosied up to the Murdoch press as much as the Labour party, and the Press Complaints Commission has been an inadequate, toothless body for far too long. Does the Secretary of State think that there is some connection in the failure of the previous Government to sort out the PCC, and will this Government take on that task?

Mr Hunt: My hon. Friend is absolutely right. I am sorry to say—and I am sure that she will agree with me—that the Leader of the Opposition got his tone absolutely wrong. The shameful events of last week are something for which both sides of the House need to take their share of responsibility, and working together, both sides of the House can make sure that we sort them out so that they never happen again.

Sir Gerald Kaufman (Manchester, Gorton) (Lab): May I remind the right hon. Gentleman that on 11 March 2003, Rebekah Brooks told the Select Committee on Culture, Media and Sport under my chairmanship:

"We have paid the police for information",

thereby admitting a criminal offence? She was then editor of The Sun, having just been editor of the News of the World. How is it possible for someone with that background to become chief executive of an organisation and for that organisation's bid to be accepted or even not brushed away totally?

Mr Hunt: What I would say to the right hon. Gentleman is how is it possible, when that happened under his Government, for them to do absolutely nothing about it for eight years?

Sajid Javid (Bromsgrove) (Con): I warmly welcome my right hon. Friend's statement. Will he confirm that any police investigation into this matter will cover the media practice of blagging?

Mr Hunt: I confirm to my hon. Friend that the intention is that the judge-led inquiry will cover all illegal and improper activity, and I am particularly keen that it should cover the practice of blagging, which is at the heart of many of the problems that we have been finding out about in the past week.

Mr Tom Watson (West Bromwich East) (Lab): As head of Operation Abelard, John Yates would be aware of paperwork showing convicted private investigator Jonathan Rees discussing the use of covert surveillance techniques, including computer hacking, with a close associate of Rebekah Brooks, Mr Alex Marunchak. Rees, while serving time in prison, discussed his contact with reporters from The Sunday Times. Far from this scandal being about wrongdoing at the News of the World, it is a story of institutional criminality at News International. John Yates' review of the Mulcaire evidence was not an oversight. Like Andy Hayman, he chose not to act. He misled Parliament. He misled readers of The Sunday Telegraph only yesterday. Does the Secretary of State agree that his position is untenable?

Mr Hunt: With great respect to the hon. Gentleman, who I commend for his tenacious campaign in this area, I do not think that that is a judgment that I, as Culture Secretary, should make. However, all the practices that he describes must be dealt with properly, in terms of both the specific criminal acts and the changes necessary to make sure that they do not happen again. He made one very important reference, in particular, when he pointed out the issue of computer hacking. We have to

be very careful to act with sufficient thoroughness to make sure that we do not find that e-mail hacking becomes the next big scandal.

Charlie Elphicke (Dover) (Con): Between 2003 and 2010, successive reports set out that there were serious problems. Can the inquiry cover the relationship between the media and the Government to look at why action was not taken before now?

Mr Hunt: Yes.

Pete Wishart (Perth and North Perthshire) (SNP): On behalf of the Scottish National party, we welcome the public inquiries and the referral back to the Competition Commission. Does the Secretary of State agree that there has been a systematic failure of successive Westminster Governments when it has come to the whole field of the regulation of the press? As long ago as 2006, the Information Commissioner found more than 3,000 breaches of data protection, but nothing was done. How can we have any faith that this House will in future get its press regulation fixed?

Mr Hunt: It is stretching it a bit to say that this is a Westminster issue and not something that affects the whole of the United Kingdom. We have to sort it out, and we are absolutely determined to do so.

Mrs Eleanor Laing (Epping Forest) (Con): The House fully appreciates why the Secretary of State cannot give his opinion on the BSkyB matter. Is he aware that the vast majority of people out there in the country are not the least bit interested in party political point-scoring, but believe that if Mr Murdoch had any decency at all, he would withdraw his bid for BSkyB?

Mr Hunt: As I said in my statement, I completely understand the horror with which many people viewed the thought of a company allegedly responsible for these appalling actions taking over what would become Britain's biggest media company. I completely understand where the public are on that. We now have a lengthy process that will get to the bottom of the media plurality issues. If any of the appalling events that have come up in the past week are linked to media plurality, I am sure that they will be considered in their entirety.

Chris Bryant (Rhondda) (Lab): I hope that the whole House will, like me, be scandalised by the facts that are emerging this afternoon about the former Prime Minister's son's medical records having been targeted by other newspapers in the News International stable.

One of the biggest problems that we have is that the police failed to act systematically. Assistant Commissioner Yates repeatedly lied to Parliament. He said that there were very few victims. He said that all the victims had been contacted. He said that all the mobile phone companies had been put on notice in relation to this. All of these things are lies, as he seems to have admitted in yesterday's edition of The Sunday Telegraph, and yet he has not had the decency to apologise to this House or, for that matter, the decency to apologise at all—surely he should. He is in charge of counter-terrorism in this country, for heaven's sake. Surely he should resign.

Mr Hunt: I completely understand the hon. Gentleman's anger on that issue, but obviously parliamentarians cannot tell the police what to do because we have the separation of powers. However, the judge-led independent inquiry will look fully at the way in which the police have behaved and it will get to the bottom of this. We must give it our full support.

Mr Don Foster (Bath) (LD): The House will have noted in the Labour leader's contribution the complete absence of any reference to the repeated failure by the Labour Government, despite repeated warnings to act in this area. Will my right hon. Friend confirm that, notwithstanding what has been announced today, which is frankly little more than another ruse by the Murdoch empire, there is nothing to prevent Ofcom from now investigating whether the Murdoch empire is fit and proper to own the 40% of BSkyB shares that it owns?

Mr Hunt: Ofcom is at liberty to investigate the "fit and proper" issue in the Broadcasting Act 1990 at any time. It will have to investigate that issue to see whether it is relevant to the potential acceptance of any undertakings subsequent to a Competition Commission inquiry. Those issues will therefore be looked at thoroughly and carefully.

Keith Vaz (Leicester East) (Lab): Will the Secretary of State confirm that the Home Affairs Committee and the Culture, Media and Sport Committee, both of which have held inquiries into these matters, will be consulted about the terms of reference of the public inquiry? I have just received a letter from the Director of Public Prosecutions confirming his view on the law of phone hacking. I see that the Attorney-General is beside the Secretary of State. Is it the Government's view that we should take the narrow interpretation of the law, as championed by the Metropolitan police, or the wider interpretation, as championed by the DPP?

Mr Hunt: The right hon. Gentleman will understand that that question is slightly above my legal pay grade. It is not for the Government to take a view on that matter, but for the courts. If the courts take a view that is not consistent with what we want to see, we are at liberty, as a Parliament, to change the law to ensure that the courts interpret it in the way that we want.

Stephen Hammond (Wimbledon) (Con): The previous Administration ignored reports from the Information Commissioner about 300 journalists across the national media being involved in illicit practices to gain information. Will the Secretary of State confirm that the inquiry he is setting up today will look across the national media and consider wider issues than just phone hacking?

Mr Hunt: Absolutely; we need to look at the kind of problems we may face in the information age, which might be very different from the tragic problems that were reported last week. We will look at all those issues. We recognise that our press has some of the finest traditions in the world, but has fallen sadly short of them. We want to do everything possible to ensure that we go back to having the finest journalism in the world.

Mr Michael Meacher (Oldham West and Royton) (Lab): Given that the criteria for media plurality are so narrowly drawn that they exclude such critical issues as the capacity to distort competition through cross-promotion, price bundling and preventing rivals from advertising, why cannot the Secretary of State use the delay created by the police investigation and sorting through 150,000 responses to the consultation to modernise the criteria for media plurality, either through a one-clause Bill or through an amendment to the communications legislation?

Mr Hunt: The issue of media plurality is not as narrowly drawn as the right hon. Gentleman might think. All the issues he talked about can be considered in so far as they affect media plurality. What we cannot consider under the Enterprise Act 2002 are competition issues, which are considered separately. In this case, they were decided by the European Union. We recognise that the law on media plurality needs to be looked at. Some of the processes that have come to light in the past few months have caused Ofcom to question whether the law is right on protecting media plurality, which we all think is very important. We will consider that as part of the communications Bill that we propose to bring before the House in the second half of this Parliament.

Conor Burns (Bournemouth West) (Con): Did my right hon. Friend in recent days take any advice on the potential legal consequences had he, as Secretary of State, followed the advice given in public by the Leader of the Opposition? If he did seek such advice, did it suggest that had he followed the advice of the Leader of the Opposition, he would have sought to place himself above the law?

Mr Hunt: My hon. Friend is right that had I, as was suggested by the Opposition on a number of occasions, immediately referred the matter to the Competition Commission without going through due process, I would have exposed the Government to potentially successful judicial review. I think it is incredibly important, when people are concerned about newspapers putting themselves above the law, that the Government do not do so.

Mr David Winnick (Walsall North) (Lab): Can I bring the Secretary of State back to earlier questions? Is it not an amazing situation when an organisation admittedly involved in criminality can even be considered for further ownership of the media? No one outside this place can really understand that. It is surely a matter for punishment, not for being rewarded.

Mr Hunt: The hon. Gentleman will be relieved to know that there is indeed a very important responsibility to ensure that everyone who holds a broadcasting licence is fit and proper. However, that is a responsibility not for politicians but for the independent regulator, Ofcom, which I know will discharge its responsibilities very carefully in that respect.

Steve Baker (Wycombe) (Con): Do the Government agree with me that the best way to improve media plurality and break the excessive power that has led to such repulsive behaviour is to eliminate all barriers to entry into the media market?

Mr Hunt: We want to encourage investment in the UK media sector in any way we can. I have to admit that right now, how to do that has not been at the top of my mind, but I agree that we want to stimulate plurality. The arrival of the internet makes that possible in a much lower-cost way than would otherwise have been the case.

Mr Dennis Skinner (Bolsover) (Lab): Is it not convenient that this absent Prime Minister has been able to dodge the real questions—what did he know about criminal activities from Murdoch, when did he know it, and is it not time, based upon the British public's reaction, that we sent this non-tax-paying Murdoch back from whence he came and, for the final humiliation, got the Secretary of State for Energy and Climate Change to drive him to the airport? [Laughter.]

Mr Hunt: I am not sure how I can follow that, but suffice it to say that the hon. Gentleman has the chance every Wednesday to ask the Prime Minister any question that he chooses.

Jo Swinson (East Dunbartonshire) (LD): The Secretary of State understands the huge public concern not just about the plurality issues of the BSkyB takeover but about the criminal and unethical behaviour of Murdoch's News International. I welcome the Secretary of State's assurance that the "fit and proper person" test can be taken into account by the Competition Commission, but as he has said, it is Ofcom's responsibility. In a letter on Friday, it seemed to say that it was reluctant to act while police investigations were ongoing, for fear of prejudicing them. Can the Secretary of State

confirm that if the "fit and proper person" test cannot be resolved while the police are still investigating, he will make no decision until the criminal investigations are complete?

Mr Hunt: I have to inform my hon. Friend that I am not legally allowed to put a pause in the process until any criminal proceedings have come to a conclusion. However, I will take as much time as I need. I am very well aware of public concern on this issue. The Competition Commission will report in six months' time, and there will then be a subsequent period of intensive discussions. During that period I am very hopeful that we will properly resolve the "fit and proper person" issue, because I am aware of how important it is to Members of all parties.

Helen Goodman (Bishop Auckland) (Lab): One of the reasons for operating a positive vetting system in Whitehall is to see whether officials might be susceptible to blackmail. Following the horrific revelations from News International, it appears that Mr Coulson would be a prime candidate for blackmail. Was he positively vetted?

Mr Hunt: I am afraid that I do not know the answer to that question.

George Eustice (Camborne and Redruth) (Con): May I welcome the decision to review the regulation of the media, which is central, long-term, to raising standards and restoring faith in journalism? However, is the Secretary of State aware that for the best part of 10 years, Alastair Campbell invited the Labour party to do just that—to review the regulation of the media—but that it failed to do so throughout its term in office?

Mr Hunt: My hon. Friend is absolutely right, which is why, with the greatest respect, I think the Opposition have got their tone completely wrong this afternoon. We have an opportunity to do something that many Opposition Members in their hearts know should have been done a very long time ago. We are determined to do that, and I would encourage them to work with the Government to ensure that this time, we get it right.

Mr George Howarth (Knowsley) (Lab): In view of the fact that the Secretary of State has a quasi-legal responsibility in some of these matters, why is he making this statement?

Mr Hunt: Just because I have a quasi-judicial role does not mean that I am not able to announce to Parliament important developments in the exercise of that role, which is what I have done this afternoon with, I see, Mr Speaker's approval.



Mr Speaker: I was not expressing approval or disapproval; I was just nodding benignly, as is my way.

Greg Hands (Chelsea and Fulham) (Con): When it comes to the wider inquiry, could we ensure that the press practice of blagging is included? It appears to mean using subterfuge and pretence to gain access to confidential and other personal information, and it has been alleged of other newspapers, including by a journalist who now works for the Leader of the Opposition.

Mr Hunt: We must absolutely ensure that we do everything necessary to stamp out blagging. One of the most awful parts of this whole process is that we have discovered just how easy it is. In that respect, I would add that I believe that the role of phone companies is very important as well. They need to ensure that they are co-operating fully to ensure that it stops.

Mr David Hanson (Delyn) (Lab): Could the Secretary of State advise me—if he cannot do so today, he could report back in future—as to whether or not the Prime Minister or any member of the Government has discussed these extremely serious allegations with Mr Coulson, or with Rebekah Brooks, since his resignation from the Downing street office in January of this year?

Mr Hunt: The Prime Minister has said that he has not spoken to Andy Coulson since he resigned his position—[ Interruption. ]

Mr Speaker: Order. The House has heard what has been said—[ Interruption. ] Order. I call Mr Christopher Pincher.

Christopher Pincher (Tamworth) (Con): Does my right hon. Friend think that it is a great pity that the very fine and bipartisan speech made last Wednesday by the hon. Member for Rhondda (Chris Bryant) was not repeated today by the Leader of the Opposition? Does not the contrast between those two speeches demonstrate who is the better and more thoughtful man on this issue?

Mr Speaker: Order. I am sure that the Secretary of State will want to focus not on character assessment and comparisons in relation to it, but on phone hacking and the media.

Mr Hunt: Any character assessment should be done by someone independent—as we have been discovering, independence is important.

May I take this moment to correct what I said earlier to the right hon. Member for Delyn (Mr Hanson)? I believe that what the Prime Minister said was that he has not spoken to Andy Coulson recently.

Mr Denis MacShane (Rotherham) (Lab): I do not think that the Secretary of State or the Leader of the Opposition were in the House about a decade ago, when there were quite a lot of references to, and discussions about, the occult financing of the Tory party by the then Mr Michael Ashcroft in Belize. That was quite properly investigated by The Times newspaper. Since then, the now Lord Ashcroft has had his second chance—we should leave it at that. In the second inquiry, will the Secretary of State focus a bit on how we can have an ethics of journalism that protects not us, but the little person? Those are the ones who are destroyed by The Sun, The Mail on Sunday, the News of the World and all those foul practices.

Mr Hunt: I am not quite sure that I understand the first and second halves of the right hon. Gentleman's question, but let me just say that the second inquiry will absolutely concentrate on the ethics of the press. The lesson from last week is that what changed the public mood was the fact that phone hacking moved from being something that affected celebrities and politicians to something that tragically affected members of the public.

Alun Cairns (Vale of Glamorgan) (Con): Does the Secretary of State regret that such serious and grave matters have been used for party political point scoring? Will he reassure the House that the investigations from hereon in will still contain an invitation to the Leader of the Opposition to contribute constructively to such an important debate that is in all our interests?

Mr Hunt: I absolutely give that assurance to the House because we want to solve this problem. The Leader of the Opposition has to make up his mind whether he wants to continue with his party political posturing or tackle this problem in the national interest.

Toby Perkins (Chesterfield) (Lab): Is it not a disgrace that the Secretary of State has come here to make a statement without basic answers to the questions being asked? He does not even know about conversations between Andy Coulson and the Prime Minister that anybody who reads a paper would have known. Why is the Prime Minister not here? What is his engagement that is more important than this House?

Mr Hunt: The Prime Minister is not here because today we have had an incredibly important development in a decision for which I am responsible. I therefore thought it important, as did he, that I came to speak to the House.

John Cryer (Leyton and Wanstead) (Lab): The Secretary of State will be aware that, in his statement last Friday, the Prime Minister said that he commissioned a company to do a basic background check on Andy Coulson, but

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he omitted to name the company. I am sure that it was a perfectly innocent omission, but will the Secretary of State place those details in the Library of the House this afternoon?

Mr Hunt: I will pass on the hon. Gentleman's request to the Prime Minister.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): I have a relatively simple question: did the Prime Minister's chief of staff, Ed Llewellyn, pass on details of the allegations of criminal activity to the Prime Minister? If the Secretary of State cannot answer that question, will he write to me to let me know?

Mr Hunt: The Prime Minister has said that he had no knowledge of any illegal activity by Andy Coulson before he offered him the job in Downing street.

Mr Michael McCann (East Kilbride, Strathaven and Lesmahagow) (Lab): You might recall, Mr Speaker, that on 27 April, I led an Adjournment debate in the House on the inadequacies of press self-regulation. Sadly that debate was very thinly attended. I learned from other Members afterwards that a lot of Members did not want to participate in case they were then targeted by the press. What reassurance can the Secretary of State give us that the review of press regulation will be free of intimidation?

Mr Hunt: The best reassurance I can give to the hon. Gentleman is the fact that the inquiry into illegal activity—and certainly the kind of pressure he is talking about would be illegal—will be conducted by a judge who will, without fear of favour, look at everything that has happened and make recommendations to ensure that it stops.

Helen Jones (Warrington North) (Lab): Further to the Secretary of State's answer to my right hon. Friend the Member for Delyn (Mr Hanson), now that he has said that the Prime Minister has not spoken to Andy Coulson "recently", will he undertake to place in the Library a log of any meetings and phone calls between the Prime Minister and Andy Coulson since his resignation from Downing street?

Mr Hunt: I will happily pass on the hon. Lady's request to the Prime Minister, who will make a decision on what he wishes to place on the public record.

Diana Johnson (Kingston upon Hull North) (Lab): Due to the confusion about who knew what and when in Downing street, is it not about time that the Minister for the Cabinet Office was asked to conduct a review and get to the bottom of who knew what and when?

Mr Hunt: With respect to the hon. Lady, we have two independent reviews, one of which is looking into all illegal and improper activity, and the other of which is looking into press ethics. I think that all the activities about which she is concerned will be covered.

Sheila Gilmore (Edinburgh East) (Lab): The Secretary of State indicated at the beginning of his statement that he had been late in preparing the statement because something had happened within the past half hour. He then went on to say that he was here instead of the Prime Minister because an important development had taken place. However, we were given to understand two or three hours ago that it would indeed be the Secretary of State making the statement. Surely these statements do not square.

Mr Hunt: Had News Corporation not withdrawn its undertakings half an hour before I spoke, I would have had another important announcement—one that is no longer valid—to make to the House about the operation of those undertakings. That is why the Prime Minister said that I was the appropriate person to make this statement.

Kerry McCarthy (Bristol East) (Lab): Little has been said today about the practice of journalists giving illegal backhanders to police officers and perhaps even to royal protection officers, which seems to be prevalent from the News of the World down to the smallest local paper. It is disappointing that the Home Secretary is not here for this debate. May we have assurances from the Secretary of State that before Parliament goes into recess we will get a statement from the Home Secretary about what actions she has taken to stamp out this practice and ensure that any police officers involved are held to account?

Mr Hunt: I hope that what I have announced today will reassure the hon. Lady, because we are having a judge-led inquiry that will look into all illegal and improper activities, including the kind of activities that she has mentioned. That inquiry will be statutory, and it will have the ability to compel witnesses, who will speak under oath, so we will get to the bottom of the kind of activities that she describes and ensure that we stamp them out.

Paul Blomfield (Sheffield Central) (Lab): Does the Secretary of State agree that it was wrong for ordinary staff at the News of the World to have been sacrificed in an effort by News International to protect those at the very top of the organisation who were really responsible for the scandal at that newspaper? Does he therefore agree that Rebekah Brooks should resign from her post forthwith?

Mr Hunt: I think everyone should be held to account for their actions, whether they are the people personally responsible for phone hacking or the people who authorised it.

#### Points of Order

5.10 pm

Chris Bryant (Rhondda) (Lab): On a point of order, Mr Speaker. One hon. Member has already referred to 11 March 2003. Also on that day, Andy Coulson and Rebekah Brooks appeared before the Culture, Media and Sport Select Committee and cited the Milly Dowler case as a prime example of good co-operation between the press and the police. In retrospect, that seems one of the most disgusting pieces of cynical manipulation of a Select Committee ever. In addition, there has subsequently been a series of lies by News International and by the Metropolitan police to Select Committees of this House. That means that Members from all parties have been led a merry dance. That is partly because witnesses are not required to give evidence on oath, and we are therefore unable to pursue someone for perjury if they have lied to a Select Committee.

There is now, however, going to be a judge-led inquiry in which the witnesses will have to give evidence on oath. Mr Speaker, can you ensure that it is perfectly possible for that inquiry to look at the issue of whether lies were told to Parliament, which might otherwise be covered by privilege— [ Interruption. ] I hear what the Clerk is saying, and I disagree with him. I urge you to disagree with him as well, because it is important that the judge-led public inquiry should be able to look at how Parliament could be so grossly misled, how Members could be intimidated and how people could refuse to give evidence. If that were to happen, we might come up with a stronger Parliament that is able to deal better with issues such as these in the future.

Mr Speaker: I am grateful to the hon. Gentleman for his point of order, but he is somewhat inclined to invest me with powers that I do not possess. Although it is generous of him to make that attempt, I think that in all wisdom, I should resist it. I will happily reflect on the particular points that he makes, but I would emphasise to him and to the House that there is a distinction between what the Chair can do and what the House as a whole can decide to do. The hon. Gentleman will know that a Member who wishes to raise a privilege complaint—he did not use those words, but I think that that concept was there in his point of order—is required to give me written notice. That is provided for on page 273 of "Erskine May". I understand, as I think the House now will, that the Select Committees involved in this matter—the Home Affairs Committee and the Culture, Media and Sport Committee—are themselves pursuing the matter. As the hon. Gentleman also knows, the Chair does not intervene in matters before Committees of the House. I must also add that it is of course always open to a Committee to report to the House on any matter it wishes, but that is a matter for the Committee and not for the Chair to decide. I will leave it there for today.

Several hon. Members rose —

Mr Speaker: In a moment. Patience will be rewarded. I call Mr Hilary Benn.

Hilary Benn (Leeds Central) (Lab): On a point of order, Mr Speaker. Could you advise the House whether you received any indication earlier today from the Prime Minister as to why he was unable or unwilling to come to the House this afternoon to make the statement that we have just heard? His refusal to do so means that the House has had no opportunity to question him about these matters, whereas last Friday he gave the press the chance to do that in a press conference. Is not that a gross discourtesy to the House? Furthermore, given the number of questions asked of the Secretary of State this afternoon that he was unable to answer—I feel sorry for him, because he has been dumped in it—can you confirm that you would make time available later today for the Prime Minister to come to the House to make a statement if he can finally find the time and the will to do so?

Mr Speaker: I am grateful to the shadow Leader of the House for his point of order. The answer to his first question is no. I received no communication of the kind to which he referred. The second point that I would make to him is that it is always open to a Minister, if he or she so wishes, to come to the House at any time to make a statement on an important matter that is of interest both to the Government and to the House.

Sir Gerald Kaufman (Manchester, Gorton) (Lab): Further to that point of order, Mr Speaker. I have had cause on a number of occasions recently to draw your attention to the fact that Ministers have

made statements and held press conferences outside this House—they have done so on a considerable number of occasions now—and then come to the House either later or not at all. We have now had the latest and worst example of this. The Secretary of State for Culture, Olympics, Media and Sport said in his last answer that everyone should be held accountable for their actions. The one person who refuses to be accountable for his actions in this is the Prime Minister. That being so—while I recognise that although you do not have power, you do have a remit—what action will you take, Mr Speaker, to make it plain to this Government that it is totally unacceptable for them constantly to insult this House by making statements outside the House and then perhaps coming here as an afterthought?

Mr Speaker: I am grateful to the right hon. Gentleman for his point of order. First, I have repeatedly stressed—and I do so again—that important statements of policy, including changes of policy, should be made first to the House. Secondly, the Prime Minister, to whom the right hon. Gentleman referred, will be here in the House, if not before Wednesday, then on Wednesday to respond to questions. The right hon. Gentleman and other Members may seek to catch my eye on that occasion if they are so minded. Thirdly, he will have noticed that when statements are made, in an attempt always to protect the interests of the House as a whole—and in particular the interests of Back-Bench Members—I am inclined to let them run fully, so that Back Benchers have a full and unvarnished opportunity to question the Minister, whoever that Minister may be, and however senior he or she may be.

Paul Farrelly (Newcastle-under-Lyme) (Lab): Further to the earlier point of order, Mr Speaker. The Select Committee on Culture, Media and Sport has followed phone hacking tenaciously. In February last year we issued a report that found it inconceivable that only one rogue reporter at the News of the World knew about phone hacking. During that inquiry very senior people at the News of the World and News International testified that a so-called second investigation, in 2007, found no further evidence of wrongdoing, and News International's lawyers wrote us a letter confirming that. However, documents passed to the Metropolitan police by News International and held by those self-same lawyers now show that this was a blatant untruth. Several inquiries into this whole affair have already been announced, but it also prompts the question whether Select Committee powers should be made more effective—from giving powers of summons through to imposing consequences when witnesses mislead and lie with impunity. On behalf of the House, may I ask you, Mr Speaker, to give some thought not only to future reform to make Select Committee powers more effective, but to discussing the issue urgently, so that we can learn the lessons of this affair with the Government and urge them to bring forward reforms to put Select Committees in this House on a par with congressional committees in the United States?