

EX-L01

[Redacted]

From: [Redacted]
Sent: 23 December 2010 15:02
To: [Redacted]
Cc: [Redacted]
 [Redacted] ZEFF JON
 KILGARRIFF PATRICK; [Redacted]
Subject: RE: News Corporation/ Sky: Ofcom

[Redacted]

As I believe you are aware, Jon Zeff is the lead policy official in DCMS dealing with this matter. I have spoken to him about your letter, and he has agreed the reply below.

Thank you for the letter from [Redacted] dated today to [Redacted] at BIS. As you know, DCMS is now leading on News Corporation's proposed acquisition of the remaining British Sky Broadcasting Group plc shares.

I confirm that Ofcom will prepare a redacted copy of the report which can be shared with NewsCorps, which they are planning to send to DCMS shortly after the unredacted version is delivered.

I can also confirm that the intention is for NewsCorp to be given reasonable opportunity to make written and oral representations before the Secretary of State takes his decision. You will be aware that there is an administrative target for the Secretary of State to take his decision within 10 working days from receipt of Ofcom's report.

Regards

[Redacted]

[Redacted]

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

[Redacted]

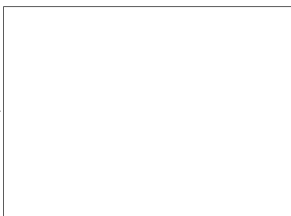
From: [Redacted]@hoganlovells.com]
Sent: 23 December 2010 13:43
To: Rees Andrew (CCP)
Cc: [Redacted]
 [Redacted] ZEFF JON; [Redacted]
 [Redacted] KILGARRIFF PATRICK
Subject: RE: News Corporation/ Sky: Ofcom

[Redacted]

Many thanks for your reply.

We will relay this information to News.

Regards



Counsel

Hogan Lovells International LLP
Atlantic House
Holborn Viaduct
London EC1A 2FG

Tel: [Redacted]
Direct: [Redacted]
Mobile: [Redacted]
Fax: [Redacted]
Email: [Redacted]@hoganlovells.com
www.hoganlovells.com

From: [Redacted]
Sent: 23 December 2010 13:41
To: [Redacted]
Cc: Bannister Paul (CCP); Pheasant, John; Howard, Jan; Ricard, Stephanie; Chambers Sarah (CCP); Evans Peter [Redacted] ZEFF JON; [Redacted] KILGARRIFF PATRICK
Subject: RE: News Corporation/ Sky: Ofcom

[Redacted] Thank you. On your question about future process, DCMS officials will now be handling this case and the relevant contacts are Jon Zeff, [Redacted] and Patrick Kilgarriff. I have forwarded your letter to them and they will reply shortly. In the meantime I can confirm receipt of your FOI request.



From: [Redacted]
Sent: 23 December 2010 11:39
To: [Redacted]
Cc: [Redacted]
Subject: News Corporation/ Sky: Ofcom



Please find attached a letter for your attention.

Regards



EX.L02

[Redacted]

From: [Redacted]
Sent: 23 December 2010 15:25
To: [Redacted] ZEFF JON; [Redacted] KILGARRIFF PATRICK
Cc: john.pheasant@[Redacted]; christopher.hutton@[Redacted]
 Antonio.Bavasso@[Redacted]; Paul.Dacam@[Redacted]
 suzanne.r@[Redacted]; Dominic.Long@[Redacted]
Subject: RE: News Corporation/ Sky: Letter to Secretary of State (0012561-0000367)
Attachments: RE: News Corporation/ Sky: Ofcom

Dear [Redacted]

I attach an email sent to [Redacted] at Hogan Lovells this afternoon, which I think addresses the issue raised in your letter.

Regards,

[Redacted Signature]

Legal Advisers to the Department for Culture, Media and Sport
Email: [Redacted] Tel: 0[Redacted]

From: [Redacted]
Sent: 23 December 2010 14:55
To: ZEFF JON; [Redacted] KILGARRIFF PATRICK; [Redacted]
Cc: [Redacted]
Subject: News Corporation/ Sky: Letter to Secretary of State (0012561-0000367)

Dear Jon, [Redacted] and Patrick

Please find attached a letter which has just been sent to the Secretary of State on behalf of News Corporation.

Kind Regards

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

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

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**Hogan
Lovells**

Hogan Lovells International LLP
Atlantic House
Holborn Viaduct
London EC1A 2FG
T +44 20 7296 2000
F +44 20 7296 2001
www.hoganlovells.com

EX.L03

23 December 2010

Andrew Rees
Deputy Director, Consumer and Competition Policy
Department for Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

[Redacted]
[Redacted]
D [Redacted]
Our ref [Redacted]
Matter ref [Redacted]

Dear Mr. Rees

NEWS CORPORATION - BRITISH SKY BROADCASTING – OFCOM REPORT

I refer to the European intervention notice of 4 November 2010 concerning the proposed acquisition by News Corporation ("News") of the remaining shares in British Sky Broadcasting Group plc that News does not already own ("Transaction").

As News has made clear in its public statements, it has been shocked and dismayed by the views of the Secretary of State for Business, Innovation and Skills, Dr Vince Cable, which came to light during the course of 21 December.

We note the 21 December announcement by the Prime Minister that 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, Olympics, Media and Sport. We also note that this transfer of responsibility includes full responsibility for Ofcom's activities in these areas, including in relation to the Transaction.

While the removal of the Secretary of State for Business, Innovation and Skills and his department from a decision-making role in relation to the Transaction was clearly required, News still finds itself in the entirely unsatisfactory position that the original decision to issue an intervention notice under section 67 of the Enterprise Act 2002 was taken by a Secretary of State who was motivated by bias.

Ofcom is now in the process on preparing a report ("Report") by 31 December 2010 on "the media public interest consideration mentioned in the European intervention notice concerned", which in this case is:

"the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience".

News provided detailed submissions to Ofcom on 23 November and had meetings with Ofcom on 22 November and 2 December.

Ofcom sent its Issues Letter on 10 December. News met Ofcom on 15 December to provide its initial comments on the Issues Letter and to seek clarification of the issues identified by Ofcom

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The word "partner" is used to refer to a member of Hogan Lovells International LLP, or an employee or consultant with equivalent standing and qualifications. A list of the members of Hogan Lovells International LLP and of the non-members who are designated as partners, and of their respective professional qualifications, is open to inspection at the above address.

Hogan Lovells refers to the international legal practice comprising Hogan Lovells International LLP, Hogan Lovells US LLP, Hogan Lovells Worldwide Group (a Swiss Verein), and their affiliated businesses with offices in: Abu Dhabi Alicante Amsterdam Baltimore Beijing Berlin Boulder Brussels Caracas Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanoi Ho Chi Minh City Hong Kong Houston London Los Angeles Madrid Miami Milan Moscow Munich New York Northern Virginia Paris Philadelphia Prague Rome San Francisco Shanghai Silicon Valley Singapore Tokyo Warsaw Washington DC Associated Offices: Budapest Jeddah Riyadh Ulaanbaatar Zagreb

Andrew Rees

- 2 -

23 December 2010

and the reasons, in the light of the relevant legal test, why Ofcom expressed these to be "concerns" relevant to the application of that test.

News formed the clear view from the meeting on 15 December that Ofcom has identified issues which are not relevant for the application of the relevant legal test, correctly understood. Ofcom's failure to relate its preliminary analysis to the overriding issue of the sufficiency of media plurality for a relevant audience in the UK effectively deprived News of any opportunity to understand and comment on Ofcom's analysis before Ofcom reports to the Secretary of State. In addition, News considers that in its Issues Letter Ofcom did not carry out a proper analysis of the range and variety of voices available to a UK audience. News submitted a further written submission on 17 December setting out the errors in Ofcom's approach and identifying what it believes to be the correct approach to the application of the relevant legal test.

News continues to believe that, focusing on the legal test rather than the plethora of unsubstantiated assertions that are made by complainants, the issues in this case are in fact quite well defined and straightforward and that the Transaction cannot be said to lead to any reduction in the sufficiency of plurality.

Notwithstanding the opportunity to make submissions to Ofcom, News remains deeply concerned that the approach adopted by Ofcom will result in a Report which will not provide a proper basis on which the Secretary of State (now the Secretary of State for Culture, Olympics, Media and Sport) can exercise his judgment as to whether the relevant legal test is or is not satisfied or, therefore, whether to refer or not to refer the Transaction to the Competition Commission. News will in parallel be issuing a Freedom of Information Act request aimed at establishing whether and how, and if so in what terms, the biased approach of the Secretary of State for Business Innovation and Skills may have been communicated to Ofcom in relation to its review.

In the light of these deep concerns, and in view of the transfer of responsibility of relevant functions, we would be grateful if you could please confirm the relevant contact(s) at the Department for Culture, Media and Sport with whom we should liaise in the first instance in relation to the ongoing public interest review of the Transaction. In particular, it is imperative that News receives a copy of the Report to afford it the adequate opportunity to make written and oral submissions to the Secretary of State for Culture, Olympics, Media and Sport before he exercises his judgment and makes a decision. In the absence of such an opportunity, News respectfully submits that its rights of defence and due process will have been infringed.

We therefore formally request you to confirm that the Department will ensure that:

- (a) a copy of the Report will be made available to News; and
- (b) News will be afforded the adequate opportunity to make written and oral submissions on it before the Secretary of State for Culture, Olympics, Media and Sport exercises his judgment and takes a decision.

Yours sincerely

cc Allen & Overy LLP

11R0 612625.9

Hogan Lovells

MOD300007169

EX-L04
ALLEN & OVERY

STRICTLY CONFIDENTIAL

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

Our ref B/0012561-0000367 CO:13190266.4

23 December 2010

Dear Mr Hunt,

News Corporation - British Sky Broadcasting Group Plc

I write on behalf of News Corporation (News) in connection with its proposed acquisition of the remaining shares in British Sky Broadcasting Group Plc (Sky) that News does not already own (the Transaction). As News has made clear in its public statements, it has been shocked and dismayed by the views of the Secretary of State for Business, Innovation and Skills, Dr Vince Cable MP which came to light during the course of Tuesday 21 December.

While the removal of the Secretary of State for Business, Innovation and Skills and his department from a decision making role in relation to the Transaction was clearly required, News still finds itself in the entirely unsatisfactory position that the original decision to issue an Intervention Notice under section 67 of the Enterprise Act 2002 was taken by a Secretary of State who was clearly biased against the business interests of News and viewed himself as having "declared war" on Rupert Murdoch. News is particularly concerned by the following comments which were made by the Secretary of State for Business, Innovation and Skills and which suggest that Dr Cable's thinking and intentions may have been known to others, possibly including complainants waging a campaign against News:

"I have declared war on Mr Murdoch and I think we are going to win"

"I have blocked it using the powers that I have got and they are legal powers that I have got. I can't politicise it but from the people that know what is happening this is a big, big thing."

"His whole empire is now under attack... So there are things like that we do in government, that we can't do... all we can do in opposition is protest."

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Allen & Overy LLP or an affiliated undertaking has an office in each of: Abu Dhabi, Amsterdam, Antwerp, Bangkok, Beijing, Bratislava, Brussels, Bucharest (associated office), Budapest, Dubai, Düsseldorf, Frankfurt, Hamburg, Hong Kong, London, Luxembourg, Madrid, Mannheim, Milan, Moscow, Munich, New York, Paris, Prague, Riyadh (associated office), Rome, São Paulo, Shanghai, Singapore, Tokyo and Warsaw.

MOD300007170

The initial decision to intervene was taken contrary to published DTI Guidance on Media Mergers and without a statement being made to Parliament providing any indication of the reasons for intervention departing from published Statutory Guidance. Previous submissions made to the Department for Business, Innovation and Skills in this regard will be made available to the appropriate officials in your department. The decision was also in stark contrast to the treatment of the recent acquisition of Channel 5 by Northern & Shell, in relation to which no public interest intervention was made, suggesting discriminatory and unfair treatment of News compared with other companies in broadly analogous situations.

News has always believed, and continues to believe, that, focussing on the correct legal test, and approaching the matter from a fair minded and rigorous standpoint, the issues in this case are well defined and straightforward and it is clear that the Transaction would not result in insufficient plurality for any audience in the UK. News is, of course, aware that during the review process which has so far been conducted a large number of complaints have been received, many from vocal and powerful media organisations. But these complaints are clearly self-serving. They reflect particular political and business agendas or personal hostility against the News group. These emotional arguments should play no part in decision making as to the sufficiency of plurality in the UK.

News wishes to reserve its rights and so would request that the Secretary of State for Culture, Olympics, Media and Sport informs News on or before the 31 December 2010 how he intends to proceed.

News will, in parallel, be writing to Ofcom and issuing Freedom of Information Act requests aimed at establishing whether or how, and if so in what terms, the biased approach of the Secretary of State for Business, Innovation and Skills may have been communicated to Ofcom in relation to its review or whether any of the complainants have had undue access or influence over the process.

Yours sincerely

[Redacted signature box]

PP

[Redacted signature box]

EX-L05

[Redacted]

From: [Redacted] <[Redacted]>
Sent: 27 December 2010 20:33
To: [Redacted]
Cc: [Redacted]
 [Redacted] ZEFF JON; E
Subject: KILGARRIFF PATRICK; [Redacted]
 RE: News Corporation/ Sky: Ofcom

Dear [Redacted]

Thank you for your email.

With regard to the provision of the redacted copy of Ofcom's report to News Corp, we would be grateful if you could confirm when you anticipate being in a position to make this available to News Corp. I note from your email below that Ofcom are planning to provide a redacted version to DCMS shortly after the unredacted version is made available. We appreciate that the precise timing of provision of the report to DCMS may not be clear at this stage. In order to assist planning on 31 December and in the period immediately thereafter, we would be grateful if you could confirm that you propose to make the redacted copy available to News Corp and its advisers on 31 December (subject to its receipt from Ofcom on that day).

It would be very helpful if you could include each of News Corp's external counsel on your circulation of the report when this is available (i.e. the copy recipients above [Redacted])

Best regards

[Redacted Signature]

Counsel

Hogan Lovells International LLP
Atlantic House
Holborn Viaduct
London EC1A 2FG

Tel: +44 20 7296 2000

Fax: +44 20 7296 2001
Email: [Redacted]@hoganlovells.com
www.hoganlovells.com

From: [Redacted]
Sent: 23 December 2010 15:02
To: [Redacted]
Cc: [Redacted]

[redacted] ZEFF JON; [redacted]

[redacted] KILGARRIFF PATRICK; Rees Andrew (CCP)

Subject: RE: News Corporation/ Sky: Ofcom

[redacted]

As I believe you are aware, Jon Zeff is the lead policy official in DCMS dealing with this matter. I have spoken to him about your letter, and he has agreed the reply below.

Thank you for the letter from [redacted] dated today to Andrew Rees at BIS. As you know, DCMS is now leading on News Corporation's proposed acquisition of the remaining British Sky Broadcasting Group plc shares.

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I can also confirm that the intention is for NewsCorp to be given reasonable opportunity to make written and oral representations before the Secretary of State takes his decision. You will be aware that there is an administrative target for the Secretary of State to take his decision within 10 working days from receipt of Ofcom's report.

Regards

[redacted]

[redacted]

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

[redacted]

From: [redacted] [redacted]

Sent: 23 December 2010 13:43

To: Rees Andrew (CCP)

Cc: [redacted]

[redacted] ZEFF JON; [redacted]

[redacted] KILGARRIFF PATRICK

Subject: RE: News Corporation/ Sky: Ofcom

[redacted]

Many thanks for your reply.

We will relay this information to News.

Regards

[redacted]

[Redacted]

Counsel

Hogan Lovells International LLP

Atlantic House
Holborn Viaduct
London EC1A 2FG

Tel: +44 20 7296 2000

Direct: [Redacted]

Mobile: [Redacted]

Fax: +44 20 7296 2001

Email: [Redacted]

www.hoganlovells.com

From: Rees Andrew (CCP) [Redacted]

Sent: 23 December 2010 13:41

To: [Redacted]

Cc: [Redacted]

ZEFF JON; [Redacted]

[Redacted] KILGARRIFF PATRICK

Subject: RE: News Corporation/ Sky: Ofcom

[Redacted] Thank you. On your question about future process, DCMS officials will now be handling this case and the relevant contacts are Jon Zeff, [Redacted] and Patrick Kilgarriff. I have forwarded your letter to them and they will reply shortly. In the meantime I can confirm receipt of your FOI request.

Andrew Rees

From: [Redacted]

Sent: 23 December 2010 11:39

To: Rees Andrew (CCP)

Cc: [Redacted]

Subject: News Corporation/ Sky: Ofcom

[Redacted]

Please find attached a letter for your attention.

Regards

[Redacted]

Counsel

Hogan Lovells International LLP

Atlantic House
Holborn Viaduct
London EC1A 2FG

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Direct:
Mobile:
Fax:
Email:
www.hoganlovells.com

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EX-L06

CASSELTON ALAN

From: [redacted]
Sent: 31 December 2010 14:02
To: [redacted]; Rab, Suzanne; [redacted]
Cc: [redacted]
 [redacted] ZEFF JON; [redacted] KILGARRIFF PATRICK; Rees Andrew (CCP);
 [redacted]
Subject: RE: News Corporation/ Sky: Ofcom

Dear [redacted]

Thank you for your email to [redacted]

Both this firm and Allen & Overy are instructed by News to advise and represent them on all UK aspects of this matter.

you are able to provide only one copy of the redacted report, may I suggest that you send it to [redacted] (copied) at Allen& Overy who will make sure the we all receive a copy.

Yours sincerely,

[redacted]

Hogan Lovells International LLP
 Atlantic House
 Holborn Viaduct
 London EC1A 2FG

Tel: +44 20 7296 2000
 Direct: [redacted]
 Fax: [redacted]
 Email: [redacted]
www.hoganlovells.com

From: [redacted]
Sent: 31 December 2010 13:55
To: [redacted]
Cc: [redacted] ZEFF JON; [redacted]
 [redacted] KILGARRIFF PATRICK; Rees Andrew [redacted]
Subject: RE: News Corporation/ Sky: Ofcom

Dear [redacted]

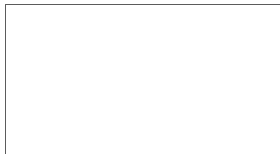
Thank you for your email.

Redactions to the report in order to be able to pass a copy to News Corp are being undertaken by Ofcom, and we cannot therefore confirm when we will be in a position to pass this to you. However, indications are that it will certainly not be today, and is likely to be towards the tail-end of next week.

We have received communications both from yourselves (Hogan Lovells) and Allen and Overy. Could you please confirm that both firms are representing News Corp, and whether representation is on different

matters relating to the merger? As you will appreciate, we wish to address communications to the appropriate recipient. You ask in your email that we include each of News Corp's external counsel in circulation of the report. We may only provide one hard-copy of the report to a named individual. If so, it will therefore be for you and your client to discuss to whom the report should then be disseminated. I should be grateful if you could confirm that you, at Hogan Lovells, would be the appropriate person to whom that report should be addressed.

Regards,



Legal Advisers to the Department for Culture, Media and Sport

Email: [redacted] Tel: ([redacted])

From: [redacted]@hoganlovells.com]

Sent: 27 December 2010 20:33

To: [redacted]

CC: [redacted]

ZEFF JON; [redacted]

[redacted] KILGARRIFF PATRICK; Rees Andrew (CCP); [redacted]

Subject: RE: News Corporation/ Sky: Ofcom

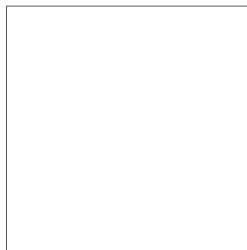
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Best regards



Counsel

Hogan Lovells International LLP
Atlantic House
Holborn Viaduct
London EC1A 2FG

Tel: +44 20 7296 2000

Direct: [Redacted]
Mobile: [Redacted]
Fax: [Redacted]
Email: [Redacted]

www.hoganlovells.com

From: [Redacted]

Sent: 23 December 2010 15:02

To: [Redacted]

Cc: [Redacted]

ZEFF JON; [Redacted]

[Redacted] KILGARRIFF PATRICK; Rees Andrew (CCP)

Subject: RE: News Corporation/ Sky: Ofcom

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Regards

[Redacted]

[Redacted]

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

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From: [Redacted]

Sent: 23 December 2010 13:43

To: [Redacted]

Cc: [Redacted]

ZEFF JON; [Redacted]

[Redacted] KILGARRIFF PATRICK

Subject: RE: News Corporation/ Sky: Ofcom

[Redacted]

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We will relay this information to News.

Regards

[Redacted]

Counsel

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Atlantic House
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direct: [Redacted]
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Email: [Redacted]

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From: [Redacted]

Sent: 23 December 2010 13:41

To: [Redacted]

Cc: [Redacted]

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Subject: RE: News Corporation/ Sky: Ofcom

[Redacted] Thank you. On your question about future process, DCMS officials will now be handling this case and the relevant contacts are Jon Zeff, [Redacted] and Patrick Kilgarriff. I have forwarded your letter to them and they will reply shortly. In the meantime I can confirm receipt of your FOI request.

Andrew Rees

From: [Redacted]

Sent: 23 December 2010 11:39

To: Rees Andrew (CCP)

Cc: [Redacted]

Subject: News Corporation/ Sky: Ofcom

Andrew

Please find attached a letter for your attention.

Regards



Counsel

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Direct: +

Mobile: +

Fax: +

Email: s

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EX.L 08

From: [redacted]
 Sent: 05 January 2011 16:54
 To: [redacted]; ZEFF JON
 Cc: [redacted] KILGARRIFF
 PATRICK; GEIST-DIVVER CAROLA; [redacted]
 [redacted]
 Subject: News Corporation/ Sky (0012561-0000367)
 Attachments: Letter to Jon Zeff at DCMS.pdf

Dear All

We attach a letter addressed to Jon Zeff which also partially responds to [redacted] etter of yesterday.

Kind Regards

[redacted signature box]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000
DDI: +
Fax: + [redacted]

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EX-L09

BY EMAIL ONLY

STRICTLY CONFIDENTIAL

Mr Jon Zeff
Department for Culture Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Allen & Overy LLP
One Bishops Square
London E1 6AD United Kingdom

Tel +44 (0)20 3088 0000

Fax

Direct

@allenoverly.com

Our ref [redacted] 0012561-0000367 CO:13223776.4

5 January 2011

Dear Mr Zeff,

News Corporation - British Sky Broadcasting Group Plc

We understand from the e-mail, received from [redacted] on 23 December 2010, that you will be the lead policy official within the Department for Culture, Media and Sport (DCMS) dealing with the Secretary of State's public interest intervention concerning the proposed acquisition by News Corporation (News) of the remaining shares in British Sky Broadcasting Group (Sky) that it does not own (the Transaction).

It would be helpful if you could confirm whether you should be our first point of contact on matters concerning the public interest review of the Transaction or whether we should, instead, approach someone in your legal team.

As was explained to your colleague, [redacted] before Christmas, Allen & Overy LLP and Hogan Lovells International LLP both represent News in this matter and the core team to which correspondence should be addressed consists of [redacted]

[redacted] at Allen & Overy and [redacted]

[redacted] from Hogan Lovells. As you will be aware, at this stage, News has not yet received a copy of Ofcom's report which was delivered to the Secretary of State on 31 December 2010. News would hope to receive a copy of the report as soon as possible so that it is in a position to make submissions to the Secretary of State. We would therefore request that DCMS encourage Ofcom to produce and deliver a non-confidential version of the report to News with the shortest possible delay. In order to ensure timely consideration of the report by News and its advisors, we request that the non-confidential version of the report be sent by email to the above addressees. We note that DCMS is in a position to send one hard copy only of the report to News' advisors. In response to the letter received from [redacted] on 4 January 2010 I can confirm that, as indicated by [redacted] on 31 December 2010, this should be sent for the attention of [redacted]

We would also be grateful if you could send us a copy of the report delivered by the Office of Fair Trading as soon as possible.

Naturally, the delay in News receiving a copy of the report may well also impact on the timing of the Secretary of State's decision if the Secretary of State is to allow an appropriate time period for consideration of the issues and for discussions with News.

News appreciates the opportunity it will have, as confirmed in the letter of 4 January 2011 from [redacted] to make written and oral submissions to the Secretary of State before he takes his decision on whether or not to refer the Transaction to the Competition Commission. Once we have received the Ofcom report, we will be contact to arrange a suitable time.

In that regard also we note that in [redacted] e-mail of 23 December 2010, [redacted] referred to the 10 day administrative target for taking a decision which is acknowledged, albeit in the context of a merger which is subject to review by the UK authorities rather than the European merger authorities, in the DTI's Guidance on Public Interest Intervention in Media Mergers (the **Guidance**) at paragraph 4.11. This 10 day time limit has also been widely reported in the press.

Given the importance of this matter, News would urge the Secretary of State to take the necessary time to review the facts of the case and to hear submissions from News, whose commercial interests would be significantly impacted by any decision which is taken to refer the Transaction to the Competition Commission, before taking his decision.

News would also note that in the only other case in which a media public interest consideration has been applied in the UK – the case of Sky/ITV - the Secretary of State did not take a decision within 10 days. Indeed, in that case, a decision to refer was made almost a month after the Secretary of State received reports from the OFT and from Ofcom and just before the statutory deadline of 4 months from completion which applied in that case (because it was a completed merger). In this case, no legal time limit is running at all as the acquisition of shares by News has not yet taken place.

If Ofcom's report (the content and conclusion of which are not known to News at this time) recommends that the Secretary of State refer the Transaction to the Competition Commission, and as the Secretary of State will want to give due consideration to Ofcom's advice before taking a final decision on reference, News believes that a 10 day period for consideration is likely not to be sufficient for the Secretary of State to take a decision in a contested case such as this one. This is particularly the case in the present circumstances where News is concerned by the issues set out in the letter from Hogan Lovells to the Department for Business, Innovation and Skills on 23 December 2010 and where the administrative process leading up to the issue by Ofcom of its report has, by any measure, been seriously flawed, with responsibility having to be transferred from the Secretary of State for Business, Innovation and Skills (who had taken the initial decision to intervene in relation to the Transaction) to the Secretary of State for Culture, Olympics, Media and Sport.

In the contrary case, should Ofcom's report conclude that the Secretary of State need not refer the Transaction to the Competition Commission, it may be that in that scenario, the Secretary of State's decision is in fact quite straightforward. News continues to be confident that the proposed Transaction poses no threat whatsoever to the sufficiency of plurality when considered on an impartial and objective basis and in the framework of the applicable statutory test.

Yours sincerely

[redacted]

[redacted]

cc:

[redacted] DCMS

[redacted] News Corporation

[redacted] Hogan Lovells International LLP

[redacted] Allen & Overy LLP

EX.L 10

[Redacted]

From: [Redacted]
Sent: 05 January 2011 18:27
To: [Redacted]
Cc: [Redacted] ZEFF JON;
 KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)
Attachments: 110105 Letter A&O.pdf; OFCOM'S REPORT ON NEWS CORP/BSKYB PROPOSED MERGER

Dear [Redacted]

Please see attached letter, together with attachment.

Regards,

[Redacted]

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

From: [Redacted]
Sent: 05 January 2011 16:54
To: [Redacted], ZEFF JON
Cc: [Redacted], KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted] CASSELTON ALAN; andrea.appella [Redacted]
Subject: News Corporation/ Sky (0012561-0000367)

Dear All

We attach a letter addressed to Jon Zeff which also partially responds to [Redacted] letter of yesterday.

Kind Regards

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000
DDI: [Redacted]
Fax: [Redacted]

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EX-L 11



The Treasury Solicitor
Broadcasting

2-4 Cockspur Street Tel [redacted]
London SW1Y 5DH
www.culture.gov.uk [redacted]

Allen & Overy LLP

One Bishops Square
London
E1 6AD

Your Ref [redacted] 0012561-0000367
CO:13223776.4

Our Ref

5 January 2011

Dear [redacted]

News Corporation – British Sky Broadcasting Group Plc

Thank you for your letter of today's date addressed to Jon Zeff.

I should be grateful if you could address correspondence from either your firm or from Hogan Lovells to me. Correspondence from your client to the Department should be addressed in the first instance to Mr Zeff, and copied to [redacted]

We are aware that your client has not yet received a copy of Ofcom's report. We are aware that Ofcom is working on the appropriate redactions to prepare both a copy for your client and for Sky, together with an appropriately redacted report for publication. Ofcom are, of course, aware of the necessity to provide both these documents as quickly as possible, but it is, of course, important that the redactions are effectively made. We will make the report available to you as soon as we are able to do so.

You mention the timetable in your letter under reply. As we have already indicated the Secretary of State does not wish to delay in making a decision, and I enclose a copy of an email sent to your client today which makes clear that the Secretary of State is prepared to meet your client to discuss process and also, subsequently, to receive representations, and, if your client wishes, to meet further to discuss the substance of the report.

I hope that this clarifies the issues raised in your letter, but please do let me know if you have further queries.

Yours sincerely

[redacted signature box]



EX.L13

[Redacted]

From: [Redacted]
Sent: 05 January 2011 19:49
To: [Redacted]
Cc: [Redacted]; ZEFF JON;
 KILGARRIFF PATRICK; GEIST-DIVVER CAROLA [Redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)

Dear [Redacted]

We note from your letter that Ofcom is, in parallel with preparing a version of its report for News, preparing a version for publication.

In previous cases, it has been the practice of the Secretary of State to publish a version of Ofcom's report simultaneously with taking his decision on reference (albeit in circumstances where a summary of the Ofcom report had been made public at an earlier stage). Please could you confirm what DCMS's intentions are as regards the timing of publication of a redacted version of the Ofcom report in this case?

Best regards

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Wednesday, January 05, 2011 6:27 PM
To: Darbon, Cerry:CO (LN)
Cc: [Redacted]; ZEFF JON; KILGARRIFF PATRICK;
 GEIST-DIVVER CAROLA [Redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)

Dear [Redacted]

Please see attached letter, together with attachment.

Regards,

[Redacted]

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted] Tel: 01 [Redacted]

From: [Redacted]

Sent: 05 January 2011 16:54

To: [Redacted] ZEFF JON

Cc: [Redacted] ILLGARRIFF PATRICK; GEIST-DIVER CAROLA; [Redacted]

Subject: News Corporation/ Sky (0012561-0000367)

Dear All

We attach a letter addressed to Jon Zeff which also partially responds to [Redacted] letter of yesterday.

Kind Regards

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000
DDI: [Redacted]
Fax: [Redacted]

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EX.L 14

[Redacted]

From: [Redacted]
Sent: 06 January 2011 16:56
To: [Redacted]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: [CJSM] RE: IMMEDIATE: news corp./BSkyB merger: "minded to" letter
Attachments: SB 11 01 06 - JH minded to letter to News Corp dbamdt.docx

I have no problem with short. I think the double may test needs to be a bit clearer (and I have suggested an amendment to that effect). Also, in the light of s.104(3), I thought it was worth making clear that it was on the basis of , or having regard to that Ofcom reasoning that the reference would be made. Also I moved to "proposed" rather than "preliminary" since that is the language of s.04.

One point that is not put is whether in fact the dynamic analysis might contribute to a decision to refer (rather than being merely neutral). Obviously if the Secretary of State does not make that clear it might be harder to rely on later. Equally ! I recognise that there are parts of the report he may be less happy about and not mentioning them when mentioning something which goes against NC might seem a bit odd (albeit procedurally fine I would have thought). In the circumstances I have not inserted any suggested wording.

On the timetable, I can see that it might fray a bit at the back end – say you accept NC's response and move to proposed non-reference then t'others come back and you flip again, the 7 Feb date drops away because you might need to talk to NC...again. But I think for present purposes that is all too arcane, remote and lawyerly so I am not worried.

We have spoken about timetable confidentiality and problems with non-publication.

[Redacted]

From: [Redacted]
Sent: Thursday, January 06, 2011 4:14 PM
To: [Redacted]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: [CJSM] FW: IMMEDIATE: news corp./BSkyB merger: "minded to" letter
Importance: High

[Redacted]

Please see below (and attached). Ofcom have confirmed that nothing in the Executive Summary will be redacted for Newscorp, so that will be handed out this afternoon. Personally, I don't have an issue with the letter being brief at this stage; it being a minded to letter and all that, but what do you think?

Am around for about another hour if you want to discuss.

Ta,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport
 Email [Redacted] Tel: 02 [Redacted]

From: [redacted]
Sent: 06 January 2011 16:02
To: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [redacted] [redacted]
Cc: [redacted] ZEFF JON; SMITH KEITH; Rees Andrew (CCP)
Subject: IMMEDIATE: news corp./BSkyB merger: "minded to" letter
Importance: High

Dear all,

Please find attached a short "minded to" letter.

I have discussed this with [redacted] and we think that it is better to base the decision on the report as a whole and not seek to summarise or cherry-pick. I would be grateful for views. Can lawyers ask [redacted] for his views, please.

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EX.L17

[Redacted]

From: [Redacted]
Sent: 07 January 2011 12:41
To: [Redacted]
Cc: [Redacted]om; ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; andrea.appella [Redacted] Jeff.Palker [Redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)

Dear [Redacted]

Thank you for your email.

You will be aware that the Secretary of State has a duty to publish Ofcom's report (in its redacted form) no later than the date on which he makes his decision. The Secretary of State has not taken a final view as to when he proposes to publish the report, but this will be at a later date than he sends a copy of the report to our client.

Regards,

[Redacted Signature]

Legal Advisers to the Department for Culture, Media and Sport
Email: [Redacted] | Tel: 020 [Redacted]

From: [Redacted]
Sent: 05 January 2011 19:49
To: [Redacted]
Cc: [Redacted] ZEFF JON; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [Redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)

Dear [Redacted]

We note from your letter that Ofcom is, in parallel with preparing a version of its report for News, preparing a version for publication.

In previous cases, it has been the practice of the Secretary of State to publish a version of Ofcom's report simultaneously with taking his decision on reference (albeit in circumstances where a summary of the Ofcom report had been made public at an earlier stage). Please could you confirm what DCMS's intentions are as regards the timing of publication of a redacted version of the Ofcom report in this case?

Best regards

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [redacted]
Sent: Wednesday, January 05, 2011 6:27 PM
To: [redacted]
Cc: [redacted]; ZEFF JON; KILGARRIFF PATRICK;
GEIST-DIVVER CAROLA; [redacted]
[redacted]
Subject: RE: News Corporation/ Sky (0012561-0000367)

Dear [redacted]

Please see attached letter, together with attachment.

Regards,



Legal Advisers to the Department for Culture, Media and Sport
Email: [redacted] Tel: 020 [redacted]

From: [redacted] [redacted]
Sent: 05 January 2011 16:54
To: [redacted]; ZEFF JON
Cc: [redacted]; KILGARRIFF PATRICK; GEIST-DIVVER CAROLA; [redacted]; [redacted]; Jeff.Palker([redacted])
Subject: News Corporation/ Sky (0012561-0000367)

Dear All

We attach a letter addressed to Jon Zeff which also partially responds to [redacted] letter of yesterday.

Kind Regards



Allen & Overy LLP
www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

EX.L18

[Redacted]

From: [Redacted]
Sent: 19 January 2011 10:50
To: [Redacted]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: RESTRICTED: Newscorp
Attachments: 1695_001.pdf

[Redacted]

Just to let you know, we've had proposals in today from Newscorp on UILs. The proposal is that Sky News would be spun off as an independent UK plc, with publicly traded shares, distributed as far as possible in the same proportions as the existing shareholding in Sky (i.e. in particular 39.1% to Newscorp). The letter (and proposed undertakings) are attached. I've got to go to a meeting now, but perhaps we can discuss later?

Cheers,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport
Treasury Solicitor's Department | 2-4 Cockspur Street | London | SW1Y 5DH
Email: [Redacted] | tel: 020 [Redacted] | www.culture.gov.uk

EX.L19
ALLEN & OVERY

BY COURIER

STRICTLY CONFIDENTIAL

Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

18 January 2011

Our ref ABB/0012561-0000367 CO:13298735.6

Dear

News Corporation - British Sky Broadcasting Group Plc

On Friday 14 January 2011, we filed - on behalf of News Corporation (News) - News' submission (the **Submission**) to the Secretary of State for Culture, Olympics, Media and Sport (the **Secretary of State**) in response to Ofcom's report dated 31 December 2010 (the **Report**) on News' proposed acquisition of those shares in British Sky Broadcasting Group plc (**Sky**) that it does not already own (the **Transaction**).

News submitted that, having reviewed the Submission and applying the legal test objectively on the basis of the relevant evidence, the Secretary of State can reasonably and should: (i) decide that the Transaction will not result in insufficient plurality for any audience in the UK; and/or (ii) decide that the Transaction will not operate against the public interest; and/or (iii) exercise his discretion not to refer.

As mentioned in the Submission, and without prejudice to the views expressed therein, should the Secretary of State otherwise be minded to refer the Transaction to the Competition Commission (CC), News is prepared to submit undertakings in lieu (**UIL**) in order to remedy, mitigate or prevent such of the potential effects adverse to the public interest which Ofcom identifies in its Report as potentially resulting from the Transaction which the Secretary of State still believes to be of concern.

A decision on UIL rests with the Secretary of State under paragraph 3 of Schedule 2 of the Enterprise Act (Protection of Legitimate Interests) Order 2003 (the **Order**):

"The Secretary of State may, instead of making such a reference and for the purpose of remedying, mitigating or preventing any of the effects adverse to the public interest which have or may have resulted, or which may be expected to result, from the creation of the European relevant merger situation concerned accept from such of the parties concerned as [he] considers appropriate undertakings to take such action as [he] considers appropriate."

News is submitting the attached UIL proposal at this stage to ensure that the Secretary of State has ample time to consider the UIL.

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MOD300007197

The attached UIL proposal involves a commitment from News that Sky News will be spun off as an independent UK public limited company (Newco), with its shares publicly traded. Shares in Newco would be distributed to the existing shareholders of Sky, as far as possible, in the same proportions as their existing shareholding (so that News will retain only the same shareholding in Sky News as it currently has in Sky, 39.1%).

The corporate governance structure of Newco will also replicate the effect of the existing governance structure of Sky, which has been in place for a number of years. In particular, after closing:

- (a) the voting agreement dated 21 September 2005 between the Sky and News which prevents News from exercising more than 37.19% of the votes in Sky will be replicated in respect of Newco;
- (b) a majority of the board of Newco shall comprise non-executive Directors determined by the board to be independent;
- (c) material transactions between Newco and News/Sky will require the approval of Newco's Audit Committee, which will consist exclusively of independent non-executive Directors. In addition Newco's constitutional documents will provide that such transactions may, depending on materiality, require an independent fairness opinion or Newco independent shareholder approval (by virtue of Newco applying controls that have equivalent effect to those imposed by Chapter 11 of the Listing Rules).

There will also be a number of commercial agreements between News/Sky and Newco, including a long-term carriage agreement which will provide Newco with a significant and committed long term revenue stream. None of the commercial agreements between News/Sky and Newco will give News/Sky any right to influence the editorial content of Sky News.

A business plan for Sky News and a letter from News' financial advisers regarding the suitability of Sky News for admission to trading will be made available to the Secretary of State in due course.

Ofcom states in paragraph 5.46 of the Report that: "*As a result, today [Sky News] makes a strong and positive contribution to plurality. [...] The proposed transaction would result in Sky ceasing to be a distinct media enterprise from News Corp.*" The attached UIL proposal, under which Sky News would be spun off as an independent legal entity, will fully safeguard the status quo as regards the editorial independence of Sky News and will ensure that Sky News remains as a distinct media enterprise and independent broadcast voice. This fully addresses all of the concerns identified by Ofcom in its Report and relied upon by Ofcom in recommending to the Secretary of State that he refer the Transaction to the CC.

The UIL will therefore remedy, mitigate or prevent any purported effects resulting from the Transaction which have been identified by Ofcom as potentially adverse to the public interest.

With such a robust structural remedy being offered by News, it is clear that a reference to the CC would serve no useful purpose. News submits that even if the Secretary of State would otherwise be minded to refer the Transaction to the CC, the only reasonable course in light of this offer of remedies is for the Secretary of State to accept UIL at this stage.

Yours sincerely

[Redacted signature box]

[Redacted name box]

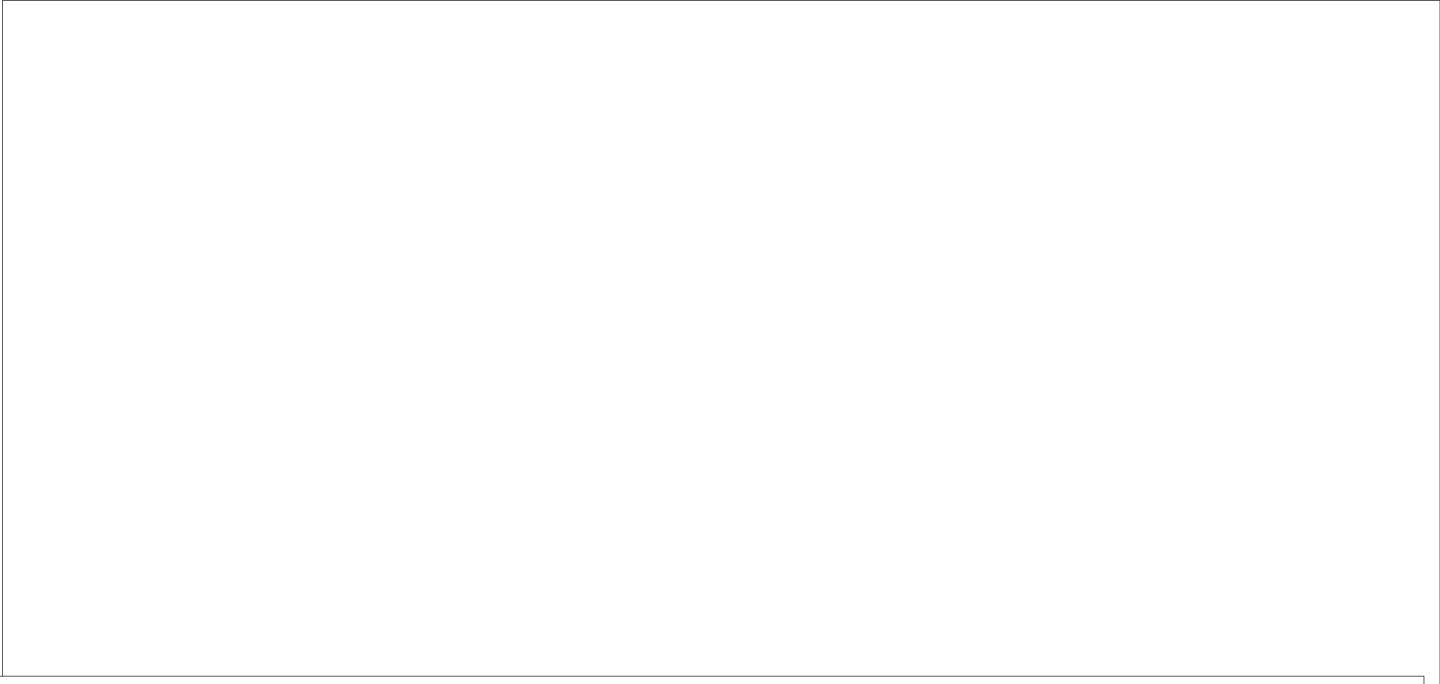
cc: [Redacted] - News Corporation; [Redacted] Hogan Lovells International LLP [Redacted] Allen & Overy LLP

Strictly Confidential

EX.L 20

NEWS/SKY

UNDERTAKINGS IN LIEU PROPOSAL



EX.L21

SLAUGHTER AND MAY

One Bunhill Row
 London EC1Y 8YY
 T +44 (0)20 7600 1200
 F +44 (0)20 7090 5000

Confidential

20 January 2011

Rt Hon Jeremy Hunt MP
 Secretary of State
 Department for Culture, Media & Sport
 2-4 Cockspur Street
 London SW1 5DH

Your reference

Our reference

Direct line

Dear Mr Hunt,

News Corporation/BSkyB

I write to you further to my letter of 12th January. As before, I write on behalf of BT, Guardian Media Group, Associated Newspapers Limited, Trinity Mirror Plc, Northcliffe Media and Telegraph Media Group (together the "Concerned Parties").

It is now being reported (notably in today's Financial Times) that News Corporation has offered to divest Sky News – by way of remedial undertakings in lieu of reference to the Competition Commission ("CC").

This suggests a recognition by you of the substantial plurality issues raised by the proposed merger.

In order to be an effective remedy to those issues however, a divestment of Sky News would require editorial, operational, financial and commercial independence:

- Freedom from direct editorial influence – this would require, at least, that News Corporation (i) has no role in appointing or dismissing editors, (ii) has no role in setting editors' remuneration or other terms of employment, (iii) be prohibited from offering financial inducements such editors, such as positions in other News Corporation outlets (iv) be prohibited from communicating its preferences to the editor.
- Operational independence – this would require that News Corporation could not impede the operation of Sky News in order to influence content. For example, it would not be acceptable for (i) Sky News to be reliant on a pool of journalists shared with News Corporation; or (ii) Sky News to be reliant on News Corporation's broadcasting infrastructure, where News Corporation could provide less favourable distribution in the event that it wished to influence Sky News.

CFI Saul
 SM Edge
 NPC Boardman
 GW James
 EA Coddington
 RMG Goulding
 GES Seligman
 PFJ Bennett
 RM Fax
 RJ Thornhill
 CJ Ains
 CP White
 NJ Ascher
 AC Balfour
 CM Horton
 EA Barrett

PP Chappatte
 RPH Cripps
 P Jalliffe
 CD Sandell
 WSM Robison
 BV Carson
 SL Edwards
 JM Featherby
 F Murphy
 PH Olney
 PH Stacey
 CWY Underhill
 OA Wareham
 RJ Clark
 SJ Cooke
 DL Finkler

CW Harvey-Kealy
 JD Rice
 MA Whetton
 MD Bennett
 RD de Carta
 SP Hill
 WJ Soree
 RC Stern
 JR Triggs
 EGL Wythe
 A Beare
 JD Boyce
 MEM Hatfield
 KJ Hodgson
 N von Bismarck
 FWH Brien

JM Fenn
 AN Hyman
 AC Johnson
 EF Keeble
 KR Davis
 SR Calverth
 NDF Gray
 MS Hutchinson
 SRB Powell
 AC Ryde
 JAD Marks
 SD Warna-kula-suriya
 DA Wittmann
 TS Boxell
 SJ Luder
 AJ McClean

JC Thewissen
 CN Ebborn
 HK Griffiths
 STM Lee
 AC Cleaver
 EJC Holden
 KM Hughes
 G Iversen
 DR Johnson
 RE Levitz
 S Middlemiss
 RA Swallow
 DCR Waterfield
 DJ Sticknell
 CS Cameron
 CA Connolly

PJ Cronin
 BJ PF Louveaux
 MS Rowe
 MST Leung
 B Doughty
 E Michael
 RR Ogle
 SL Peterson
 PC Steel
 HL Davies
 JC Pletnis
 RA Sumray
 CP Brown
 JC Corzon
 RJ Tumitt
 WNC Watson

MJ Dwyer
 CNR Jeffs
 SR Nicholls
 MJ Tobin
 DC Wadkins
 BAP Yu
 EC Brown
 RA Chaplin
 J Edwards
 AD Jolly
 S Maudgali
 JS Nevin
 JA Papanicolaou
 JM Zaman
 RA Byrt
 CA Miles

CE O'Keefe
 F Pharoah
 MD Zarin
 SFL Cardell
 RL Cousin
 BJ Kingdey
 IAM Taylor
 DA Ives
 MC Lane
 LMC Chung
 RJ Smith

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 Regulation Authority
 Firm SRA number 53388

Document number
 EC 506501293

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SLAUGHTER AND MAY

- Financial independence – this would require Sky News to have access to sufficient sources of income to continue to fund its own news-gathering and distribution. It would not be acceptable for Sky News to be reliant on News Corporation for a substantial portion of its income, such that News Corporation could threaten to reduce funding in the event that it wished to influence Sky News. On the other hand, it is difficult to see how Sky News would be viable as a stand alone operation. I note here that in its submission to Ofcom, BSKyB emphasised how reliant Sky News is on financial support from BSKyB:

"It is also relevant that Sky has invested for many years, and continues to invest, in the operation of Sky News as a distinct, impartial and independent news service, despite the unattractive returns available from such investments given the presence (among other services) of publicly funded rivals such as BBC News. Indeed, the Board of Sky (including the members of the Board connected to News Corporation) have for many years authorised growing investment in Sky News to that end as part of Sky's overall annual budgeting process."

- Commercial independence – this would require Sky News to have its own market presence e.g. with its own marketing capability. For example, it would not be acceptable for Sky News to rely on News Corporation to market its advertising slots, such that News Corporation could materially affect Sky News' commercial success. Any commercial deal with News Corp would have to be at arms length.

The Concerned parties find it difficult to see how that could be achieved without wholesale divestment of BSKyB.

Divestment of stand alone Sky News would also not address concerns around bundling and other forms of exclusionary behaviour.

More generally, the issues are complex and not "clear cut". As per my earlier letter, the only sensible procedure in such a case is to refer the matter to the CC where those issues can be fully debated.

Yours sincerely,

[Redacted signature block]

[Redacted line]

[Redacted line]

cc. [Redacted line]

PP.

Annex 2 - Behavioural Remedies

1. Introduction

- 1.1 The Concerned Parties have not yet been informed of the nature of any undertakings in lieu ("UILs") of reference to the Competition Commission ("CC") proposed by News Corporation in respect of its proposed takeover of BSKyB (the "Takeover").
- 1.2 However, the Concerned Parties wish to make some general observations on the risks of accepting behavioural undertakings without a full investigation by the CC.

2. UILs Must Provide a Clear-cut Remedy

- 2.1 The low threshold for a CC reference¹ means that a reference will be appropriate unless the UILs clearly eliminate all potential plurality concerns.

- 2.2 This is consistent with the approach of the OFT in merger cases. The OFT states that:

*"Undertakings in lieu of reference are...appropriate only where the...concerns raised by the merger and the remedies proposed to address them are clear-cut, and those remedies are capable of ready implementation."*²

- 2.3 The OFT explains that the clear-cut requirement has two dimensions:

- (i) *Effectiveness* - There must be no "material doubts about the overall effectiveness of the remedy".³ Importantly, it goes on to explain that the greater the potential harm "the greater the belief must be on the part of the OFT that the undertakings comprehensively resolve" the concerns. Since news plurality is fundamentally important to the operation of a liberal democracy, the error risk of accepting inadequate UILs in respect of the Takeover is very high. As a result, UILs will only be appropriate where the Secretary of State is certain that they address the issues.
- (ii) *Complexity* - A remedy must not be so complex as to require unworkable resources during the first phase review.⁴ Given the challenges of ensuring editorial independence whilst under 100% ownership, any behavioural undertaking would inevitably be too complex to constitute an appropriate UIL.

¹ A referral is appropriate if it "is or may be the case" that the Takeover "operates or may be expected to operate against the public interest" (Article 5(3) The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003.

² Paragraph 8.5 OFT Mergers Jurisdictional and Procedural Guidance.

³ Paragraph 5.5 OFT Guidance on Exceptions to the Duty to Refer and Undertakings in Lieu of Reference.

⁴ Paragraph 5.5 OFT Guidance on Exceptions to the Duty to Refer and Undertakings in Lieu of Reference.

2.4 The OFT has noted that a behavioural remedy is especially unlikely to constitute an appropriate UIL, emphasising that *"it is difficult to design them so as to ensure that there are no loopholes and, even if this is achieved, circumvention can go undetected."*⁵

3. Remedy Must Ensure Sky News is Genuinely Independent

3.1 Ofcom advised that following the Takeover there may not be a sufficient plurality of persons providing news and current affairs to UK audiences.⁶ Ofcom was especially concerned about bringing together one of the three main providers of TV news (BSkyB) and the largest provider of newspapers (News Corporation).⁷

3.2 It is clear that in order to address these concerns in a clear-cut manner, any UIL must ensure the separation of at least the news and current affairs operations of BSkyB's TV business from News Corporation's newspapers. Unless Sky News is entirely free from control or influence by News Corporation, the undertaking will not address the concerns identified by Ofcom.

4. Essential Requirements to Ensure Independence of Sky News

4.1 In the absence of information on News Corporation's remedy proposals, we assume that any behavioural remedy would attempt to ring-fence (at least) Sky News from control or influence by News Corporation.

4.2 The Concerned Parties consider that Sky News could only be properly ring-fenced from News Corporation if it had (i) editorial, (ii) operational, and (iii) financial independence:

(i) Freedom from direct editorial influence – this would require that News Corporation (i) has no role in appointing or dismissing senior managers or editors, (ii) has no role in setting editors' remuneration or other terms of employment, (iii) be prohibited from offering financial inducements to editors, such as positions in other News Corporation outlets and (iv) be prohibited from communicating its preferences to editors.

(ii) Operational independence – this would require that News Corporation could not impede the operation of Sky News in order to influence content. The editors of Sky News could not pursue an independent agenda if, for example, they were reliant on a pool of journalists shared with News Corporation or if Sky News was reliant on News Corporation for its effective distribution.

⁵ Paragraph 5.41 OFT Guidance on Exceptions to the Duty to Refer and Undertakings in Lieu of Reference.

⁶ Paragraph 7.1 OFCOM Report.

⁷ Paragraph 5.124 OFCOM Report.

- (iii) Financial independence – this would require Sky News to have access to sufficient sources of income to continue to fund its own news-gathering and distribution. The editors of Sky News could not pursue an independent agenda if, for example, News Corporation could threaten to reduce funding.

The importance of financial influence has been noted by Andrew Neil (a former editor of The Sunday Times whose independence was notionally protected by a behavioural undertaking (see further below). Neil explained that if he sought to remain in post following a serious disagreement with Rupert Murdoch *“my position would have become untenable...he would have found ways of making life pretty intolerable for the editor. It would not have been a case of just being fired right away, but it would have been a case of money drying up, budgets not appearing.”*⁸

- 4.3 It is clear from the above that an undertaking relating only to editors or editorial staff would be wholly inadequate to ensure that Sky News was genuinely independent of News Corporation. First, even if the editors' positions were safeguarded, it would be unrealistic to expect that they would be indifferent to indirect influence. Secondly, even if the Sky News editor was entirely free from influence, News Corporation could still use operational or financial control to reduce Sky News' ability to contribute to plurality. There are a range of means that could be used to indirectly influence editors or reduce Sky News' contribution to news plurality. For example, even if News Corporation is restricted from appointing/dismissing editors, it could influence editors or otherwise reduce Sky News' contribution to news plurality if it was able to, for example:

- (i) Appoint other senior management who were hostile to the editors;
- (ii) Dismiss staff whom the editors considered to be important team members (but who are not covered by any undertakings);
- (iii) Cut the Sky News budget; or
- (iv) Reduce Sky News' distribution on the BSkyB network.

- 4.4 Furthermore, it is not sufficient to maintain Sky News in stasis – with the risk that its contribution to plurality gradually diminishes through lack of investment and innovation. Any effective remedy must ensure that it has the means to develop and innovate such that it can continue as a leading news provider in a rapidly evolving media market. For example, it would be necessary to ensure that News Corporation could not withhold any investment in Sky News which is essential to take advantage of future technological developments. If this investment is not guaranteed by the undertakings, the threat of

⁸ Paragraph 189 House of Lords Select Committee on Communications “The Ownership of the News” (2008).

withholding investment is another means by which News Corporation could influence Sky News or otherwise reduce its contribution to new plurality.

- 4.5 Finally, any behavioural undertaking needs to prevent not only deliberate attempts by News Corporation to influence Sky News but also address the risk that individuals at Sky News exercise voluntary (even subconscious) self-censorship such that it does not pursue a genuinely independent agenda. This process of self-censorship within News Corporation has been described by Bruce Guthrie (former editor of The Herald Sun) who explained that *"At News Limited, the almost instinctive reaction to everything is 'What will Rupert think?'. It doesn't matter whether you're an editor, or a commercial manager or a section head; you put your views through this kind of filter."*⁹ As outlined in the Concerned Parties submission to Ofcom dated 19 November 2010, this form of self-censorship seems inevitable given that any editor must be expected to give some regard to the views of the ultimate boss. It is not clear how a behavioural undertaking can guard against the Sky News agenda being influenced as a result of this type of self-censorship and such issues require a full investigation by the CC.
- 4.6 It is clear that any behavioural undertaking which sought to address the above issues would be immensely complex and therefore inappropriate as a UIL. For example, it would be necessary to specify the circumstances in which News Corporation would be required to invest in Sky News. This complexity in turn increases the risk that any behavioural undertaking could not be effectively enforced because it would be very difficult to distinguish a legitimate commercial decisions from illegitimate attempts to influence Sky News' policy. For example, in the event that News Corporation refused a proposed investment in Sky News it would be very difficult to discern whether this was an attempt to discipline an unsatisfactory editor or a legitimate decision based on a commercial analysis of the proposal.

5. Precedents Confirm Difficulties with Behavioural Undertakings

- 5.1 The above concerns in respect of behavioural undertakings are compounded by experience in previous cases where News Corporation has given behavioural commitments to safeguard editorial independence.
- 5.2 The Concerned Parties submission to Ofcom dated 19 November 2010 provides a range of evidence on the ineffectiveness of the editorial independence undertakings provided by News International when it purchased The Times in 1980. This includes evidence from two editors and one of the independent directors that the undertakings were ineffective. This evidence is consistent with the view of the House of Lords Committee on Communications which stated that *"it is questionable how effective the Independent National Directors [the system required by the undertakings] have been..."*¹⁰

⁹ Interview with Australian Broadcasting Corporation 12 October 2010.

¹⁰ Paragraph 217 House of Lords Select Committee on Communications "The Ownership of the News" (2008).

5.3 When News Corporation acquired Dow Jones (the company that owns The Wall Street Journal) it agreed to appoint a Special Committee. The Special Committee's approval is required (amongst other things) to dismiss an editor. However, reports suggest that News Corporation was able to change the editorial staff of the newspaper notwithstanding these arrangements. For example, it is reported that managing editor Marcus Brauchli was induced to resign (avoiding the need for approval from the Special Committee) shortly after the acquisition was completed.

6. Conclusion

6.1 In light of the above issues, the Concerned Parties consider that a behavioural remedy will not satisfy either limb of the OFT's "clear-cut" criteria.

6.2 First, given the range and complexity tactics that News Corporation might use to influence Sky News, it is not possible to draft behavioural undertakings which would effectively preserve Sky News' independence to the exclusion of any material doubt. Secondly, any undertaking which sought to address all of the relevant issues would be much too complex to be appropriate as a UIL.

6.3 Accordingly, it is clear that no behavioural undertaking would be appropriate in lieu of a reference to the CC.

508908394

EX.L 23

[Redacted]

From: KILGARRIFF PATRICK
Sent: 21 January 2011 12:45
To: [Redacted]
Cc: [Redacted] ZEFF JON
Subject: FW: Call

fyi

From: KILGARRIFF PATRICK
Sent: 21 January 2011 12:44
To: [Redacted]
Cc: [Redacted] GEIST-DIVVER CAROLA
Subject: RE: Call

[Redacted]

Thanks. Happy to host you here at 2-4 Cockspur St (DCMS) at 3pm if that works for you but if you prefer a telecom at 3pm that is fine. I tend to think face to face works better where time and geography permit.

Patrick

From: [Redacted]
Sent: 21 January 2011 12:38
To: KILGARRIFF PATRICK
Cc: [Redacted] GEIST-DIVVER CAROLA
Subject: RE: Call

Patrick -

Thank you. We will liaise with [Redacted] going forward as our principal point of contact.

We would like to have a discussion on timing and process as agreed at the meeting yesterday, and in particular, to give you our views on due process and the appropriate statutory framework for the review.

3pm work for us - if convenient, we would be happy to meet in person, or alternatively, we can discuss over the phone.

[Redacted] our external counsel, will be joining us.

Best

[Redacted]

[Redacted]
General Counsel, Europe & Asia
News Corporation
3 Thomas More Square
London E98 1EX

[Redacted]

From: KILGARRIFF PATRICK [redacted]
Sent: 21 January 2011 12:00 PM
To: [redacted]
Cc: [redacted]; [redacted] GEIST-DIVVER CAROLA
Subject: RE: Call

[redacted]

Apologies for not having a business card to give you yesterday – details below.

Can I suggest we have [redacted] as the main point of DCMS legal point of contact – [redacted] has already been dealing with [redacted] it would be helpful from our point of view to have a main contact on your part too. [redacted] email is above and her direct line is ([redacted] Carola, email above, direct line ([redacted] will also be very much involved.

I fear we cannot make a telecom at noon, would 3pm this afternoon work for you? We may or may not have external counsel with us. It would be helpful if you could send us a short note to form an agenda.

Two minor additional points. On further review of the legislation, we now believe that the timetable for consultation on any UILs the SoS would consider accepting is statutory in plurality issues too (rather than non-statutory best practice as we suggested yesterday).

And second, under government secure internet standards, these email addresses are not suitable for the communication of any sensitive commercial material. If that is necessary, we will need to put in place alternative arrangements

Best

Patrick

Patrick Kilgarriff
Legal Director
Department for Culture, Media and Sport
2-4 Cockspur St
London SW1Y 5DH

[redacted]

From: [redacted]
Sent: 21 January 2011 10:46
To: KILGARRIFF PATRICK
Cc: [redacted]
Subject: Call

Patrick -

We just tried to reach you in your office. We are hoping to set up a call with you and your external counsel to follow-up on our discussions from yesterday.

Would you be available at noon to discuss?

EX.L 24

[REDACTED]

From: [REDACTED]
Sent: 21 January 2011 17:39
To: [REDACTED]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: [CJSM] RE: RESTRICTED: Newscorp

Not sure I fully understand his first point on s.93 and I see your point but perhaps there is an issue here which links to the second point:

On the second point, isn't the situation this: the SoS must think that in outline the UIL's might be sufficient to resolve the issue and then says to the OFT, you go and see whether you can sort out something that would achieve the aim. In other words, he must think there is some potential before he goes into the negotiation on them. But if News are suggesting that we must conclude that the UIL is a success before we have finalised the terms of it (and involved the OFT) that seems very strange.

Looking at the OFT approach, the guidance says at 8.24 that where the OFT concludes that "in principle" the UIL a suitable remedy, it will indicate that the test for reference is met but that the duty to refer is suspended because it is considering whether to accept such UIL's. Perhaps what AB is saying that the SoS must have a view that, in principle, the UIL could remedy the PIC concern. As such, the UIL needs to be broadly acceptable and then OFT can be sent to see whether it can be achieved.

Perhaps what they are saying is: we will give you an undertaking that Sky News will be a viable free-standing hived entity (which shareholding as previously) and then we will negotiate on how this will be achieved if you, SoS, accept in principle that this is an acceptable remedy. I understand the SoS to be thinking that the remedy may be enough if it is workable. That leaves a funny sort of a situation where the negotiations could reveal the viability of the remedy or otherwise. However, I do not see this as a major problem because if we were to make clear that we saw the benefit of the remedy so long as it was workable, you would still be in a position to let the OFT negotiate and then conclude in due course whether it was viable.

In any event, their key position is smoking out the SoS on the principle of the remedy before the OFT becomes involved ie. their first point. Then when that is done, you can have the OFT to play.

!;
 Did they say anything about Ofcom at all? It is Ofcom as a wild card which may be more important.

There is one other point that bothers me: if the SoS says now that the hive down to existing shareholders in proportion is in principle fine, I can see him being beaten which that in due course (if negotiations break down, by NC and, if they don't, in due course by GMG Mail etc).

Give me a quick call if you would like to discuss.

In any event, I would work out with [REDACTED] and or OFT how the Sky/ITV stuff worked last time for reference (and, in practice how OFT do their job).

[REDACTED]

From: [REDACTED]
Sent: Friday, January 21, 2011 5:07 PM
To: Daniel Beard
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: [CJSM] RESTRICTED: Newscorp

[redacted]

We've just met with [redacted] and [redacted] and [redacted] and a couple of issues have been raised on which it would be useful to have your views.

The first is the stage at which the SoS can go to the OFT. [redacted] was quite forceful in suggesting that section 93 does not permit the SoS to go to the OFT before he has made a decision in principle that he will accept the undertakings. He's going to put something in writing, but my preliminary view on that is that it must be wrong, because section 93(1) refers to the SoS "considering whether to accept undertakings", rather than having made a decision in principle as to whether to do so or not. His analogy was with the OFT procedure under section 73, but I think we are rather in different (although I'd accept analogous) territory, given that section 93 is clearly predicated on the OFT not having a role. Moreover, the OFT does not request itself to consider undertakings. But I'm happy to be told (or content at least) that I'm wrong and he is right.

The further issue in relation to section 93, although I think it rather flows from the first, was that [redacted] considered that OFT must only consider undertakings which the SoS has decided he is minded to accept, and that its remit is narrow; it is effectively told what the SoS would accept, and then negotiates around that. I can see that view, although I think it slightly ignores section 93(6), which provides for the OFT to give appropriate advice to the SoS.

The other position on which we'd be grateful for views is that of Sky. [redacted] made clear that the deal with Sky is not yet finalised, and that they must be dealt with separately. It occurred to me that whilst the UILs on the table are clearly only for News (because they apply to a post-merger world), we need something from Sky (probably by way of parallel undertaking) indicating their intention not to do anything to undermine the undertakings given by News. Do you agree? If that's right, should we be publishing/approaching the OFT/Ofcom without an indication from Sky that they will do so?

As a final issue, [redacted] offered to speak to you directly to discuss. We'd considered this, and would prefer that conversations take place with us in the first instance. I thought it might be easier to confirm that you're not instructed to deal directly, so if there are attempts to do so, there's a clear line to take. This isn't a trying to be difficult point (as I'm sure you'll appreciate), but we need to know that we're sighted on everything.

Thanks!

[redacted]

Legal Advisers to the Department for Culture, Media and Sport
Treasury Solicitor's Department | 2-4 Cockspur Street | London | SW1Y 5DH
Email: [redacted] | Tel: 020 [redacted] | www.culture.gov.uk

! **

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EX.L 25

From: [REDACTED]
 Sent: 24 January 2011 08:40
 To: [REDACTED]
 Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
 Subject: [CJSM] RE: RESTRICTED: Newscorp

Further to the email below etc. I was thinking briefly about process over the weekend.

Is it overly simplistic to think of five broad options:

1. Publicise "intended to refer" and Ofcom Report and NC/Sky submissions; indicate *proposing* to accept these undertakings in lieu and start ! min 15 day consultation process;
2. Publicise "intended to refer" and Ofcom Report and NC/Sky submissions; indicate *proposing* to accept undertakings in lieu but say we are in process of discussing with NC and will follow process of consultation in due course ie. with a min 15 days from when indicate minded to accept developed UILs;
3. Publicise "intended to refer" and Ofcom Report and NC/Sky submissions; indicate *considering whether* to accept undertakings in lieu but say we are in process of discussing with NC and will follow process of consultation in due course ie. with a min 15 days in due course;
4. Publicise "intended to refer" and Ofcom Report and NC/Sky submissions; indicate considering whether to accept undertakings in lieu and say we are in process of discussing ! with NC; publish outline of proposed UIL's at this stage; indicate that if minded to accept UIL's will publish for further consultation ie. 15 days on details;
5. Publicise "intended to refer" and Ofcom Report and NC/Sky submissions; indicate considering whether to accept undertakings in lieu and say we are in process of discussing with NC and that an outline of the sort of UIL we might be minded to accept will be published in due course which will then be the subject of more detailed negotiations and further consultation ie. 15 days on details:

Option 1 is NC's preferred choice ie. delay announcement a week and then say intending to refer but think that in principle these UIL's could work and will hear views. Difficulty for SoS is that he would be saying even now when there are a couple of categories of concern in his mind, that he was in principle accepting a hive down of a viable entity. Further issues: legal, practical and political? ON law, if objections to the basic premises of the UIL (such as hive down to existing shareholders) only come out in 15 day consultation, risks being a messy iterative process (especially if Ofcom only comes in at that stage). If SoS later accepts UIL's could then face a greater risk of due process challenge. Also, on practicalities this option seems much faster than orthodox OFT approach (insofar as I understand it – this is from website not first hand knowledge) where OFT! initially indicates nature of UIL's they propose to accept and then negotiate – need to check with OFT. Given that some devil could be in the detail, that might be a cause for concern. On the other hand, speed is generally a virtue. Politically, I can see a number of attendant risks of this sort of acceleration to the benefit of NC but that is not for me.

Option 2 is closer to the orthodox OFT process (as I understand it) and so would avoid some of the practical issues which might arise (although it must be noted that NC seem to think they won't arise). Again, difficulty for SoS may be that he would be appearing at this stage to committing to the UIL's when he wants more thinking about them (and comment from others) before he says that (therefore attractiveness somewhat depends on where he has got to). Also political issues arise again I imagine.

Option 3, risks just tantalising the world and causing speculation but might avoid two rounds of submissions from interested parties (though I doubt it, the first round will just be based on leaks/rumours and include due process

pre-emptive indignation). This option (like option 2) would, however, give plenty of room to ensure any Ofcom concerns were smoked out.

Option 4, effectively indicates early what the gist of issue is but without commitment by minister (beyond, these UIL's are well worth exploring).

Option 5, extends process! further by introducing preliminary discussion stage. Doubt that will assist matters.

On balance I can see a lot of force in option 4 (which is effectively where we were pre-NC discussion). Two concerns though: (a) not following OFT route – is there a risk of criticism (yes but a lack of commitment by minister that he is in principle minded to accept UIL is unlikely to strengthen position of potential non-NC challengers and NC will probably live with it...what could they do JR for not making a preliminary decision?); (b) whether unlawful not to commit to UIL's in principle but merely "put them out there" – do not currently see that and await Antonio's missive.

Obviously, all of the above is a bit rough and ready (and could benefit from your talking to OFT about how things work in practice normally – even though we are not dealing with normal here), I just thought it might be of assistance when you are thinking about all of this.

Speak anon.

[Redacted]

From: [Redacted]
Sent: Friday, January 21, 2011 5:07 PM
To: Daniel Beard
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: [CJSM] RESTRICTED: Newscorp

[Redacted]

We've just met with [Redacted] and [Redacted] and [Redacted] and a couple of issues have been raised on which it would be useful to have your views.

The first is the stage at which the SoS can go to the OFT. [Redacted] was quite forceful in suggesting that section 93 does not permit the SoS to go to the OFT before he has made a decision in principle that he will accept the undertakings. He's going to put something in writing, but my preliminary view on that is that it must be wrong, because section 93(1) refers to the SoS "considering whether to accept undertakings", rather than having made a decision in principle as to whether to do so or not. His analogy was with the OFT procedure under section 73, but I think we are rather in different (although I'd accept analogous) territory, given that section 93 is clearly predicated on the OFT not having a role. Moreover, the OFT does not request itself to consider undertakings. But I'm happy to be told (or content at least) that I'm wrong and he is right.

The further issue in relation to section 93, although I think it rather flows from the first, was that [Redacted] considered that OFT must only consider undertakings which the SoS has decided he is minded to accept, and that its remit is narrow; it is effectively told what the SoS would accept, and then negotiates around that. I can see that view, although I think it slightly ignores section 93(6), which provides for the OFT to give appropriate advice to the SoS.

The other position on which we'd be grateful for views is that of Sky. [Redacted] made clear that the deal with Sky is not yet finalised, and that they must be dealt with separately. It occurred to me that whilst the UILs on the table are clearly only for News (because they apply to a post-merger world), we need something from

Sky (probably by way of parallel undertaking) indicating their intention not to do anything to undermine the undertakings given by News. Do you agree? If that's right, should we be publishing/approaching the OFT/Oftcom without an indication from Sky that they will do so?

As a final issue, [] offered to speak to you directly to discuss. We'd considered this, and would prefer that conversations take place with us in the first instance. I thought it might be easier to confirm that you're not instructed to deal directly, so if there are attempts to do so, there's a clear line to take. This isn't a trying to be difficult point (as I'm sure you'll appreciate), but we need to know that we're sighted on everything.

Thanks!



Legal Advisers to the Department for Culture, Media and Sport
Treasury Solicitor's Department |2-4 Cockspur Street |London |S! W1Y 5DH

Email [] |Tel: 0[] |fax: 020 []

[] www.culture.gov.uk

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EX.L26

[Redacted]

From: [Redacted]
Sent: 24 January 2011 21:27
To: [Redacted]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: RE: [CJSM] FW: News/Sky - Strictly Private and Confidential(0012561-0000367)
Attachments: 110124 Letter AO (2) db amdt 2.3 cln.docx; 110124 Letter AO (2) db amdt 2.2 trk.docx

[Redacted]

Following on from our helpful discussion, please find attached a draft with some suggested amendments and rearrangements. One thing I have not included is some sort of friendly but sufficiently neutral sign off. I do not know whether this would be appropriate.

Version 2.3cln is the more finalised (clean) version, v.2.2trk indicates where most of the changes are (one or two further changes were made to reach v2.3).

Let me now if you need anything else.

[Redacted]

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

From: [Redacted]
Sent: Monday, January 24, 2011 3:18 PM
To: [Redacted]
Cc: KILGARRIFF PATRICK; GEIST-DIVVER CAROLA
Subject: RE: [CJSM] FW: News/Sky - Strictly Private and Confidential(0012561-0000367)

[Redacted]

Draft response as attached,

[Redacted]

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

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

From: [Redacted]
Sent: 24 January 2011 13:36
To: [Redacted]
Subject: Re: [CJSM] FW: News/Sky - Strictly Private and Confidential(0012561-0000367)

Will call after court.

On 24 Jan 2011, at 11:07, [Redacted]
[Redacted]
wrote:

Not digested in any detail yet, but I'll let you know our thoughts here so that perhaps we can discuss at some point, Court commitments willing.

Just so that you are aware, the SoS plans to go with the Plan B discussed at the meeting.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

Email: [Redacted]

[Redacted]

From: [Redacted]

[mailto:Cerry.Darbon@redacted]

Sent: 24 January 2011 10:59

To: [Redacted]

Cc: [Redacted]

[Redacted]

Subject: News/Sky - Strictly Private and Confidential (0012561-0000367)

Dear [Redacted]

Please find attached a letter from [Redacted]

Kind Regards

[Redacted]

Allen & Overy LLP

[www.allenoverly.com/antitrust<http://www.allenoverly.com/AOWEB/AreasOfExpertise/ExpertiseHub.aspx?aofeID=38891&selectedPage=Antitrust%20and%20EU&prefLangID=410>](http://www.allenoverly.com/AOWEB/AreasOfExpertise/ExpertiseHub.aspx?aofeID=38891&selectedPage=Antitrust%20and%20EU&prefLangID=410)

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

DDI: + [Redacted]

Fax: + [Redacted]

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CO-#13326012-v9-Letter_to_DCMS_re UIL_Consultation.pdf>

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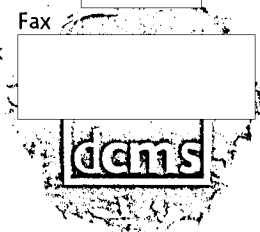
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The Treasury Solicitor
Broadcasting

2-4 Cockspur Street Tel [redacted]
London SW1Y 5DH Fax [redacted]
www.culture.gov.uk

EX.1 27



Allen & Overy LLP
One Bishops Square
London
E1 6AD

Your Ref [redacted] department for
Our Ref [redacted] culture, media
and sport
24 January 2011

Dear [redacted]

News Corporation – British Sky Broadcasting Group Plc

Thank you for your letter of 24 January 2011.

I note that draft undertakings will be received in these offices shortly.

We have taken on board the representations you made as to process, both at your meeting with the Secretary of State, and at our meeting on Friday. We understand that you are concerned that the process be transparent, expeditious and legally sound. The Secretary of State shares those concerns entirely.

Turning to the specific matters you raise:

Role of the OFT

We agree that the Secretary of State is not obliged, but has a discretion, to involve the OFT in process of consideration of undertakings. However, we do not agree that section 93 is as prescriptive as your letter implies. We do not read the section as requiring the Secretary of State to take an "in principle" decision to accept a proposal you have made before the OFT could become involved. Nor do we understand the basis for any suggestion that the OFT can only be involved in "issues regarding the implementation" of any UIL's, that does not seem to us consistent with the wording of s.93.

In addition, we would note that your reference to the words "...undertakings which [the Secretary of State] would be prepared to accept..." as support for an interpretation that the OFT can only be involved after an "in principle" decision seems to us not to recognise the impact of the directly preceding words of that sub-section: it is clear from them that the OFT can be required to consult with a view to discovering whether a person will offer such undertakings.

We consider that the statutory scheme permits the Secretary of State to take the view that he



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should consider whether to accept the undertakings your client has offered and allows him to involve the OFT in that process of consideration. If the Secretary of State reaches a position that he proposes to accept the undertakings in lieu of a reference, he will, of course, put them out for consultation as required under the terms of the Enterprise Act.

Role of Ofcom

We were not entirely sure we understood your observation that Ofcom does not have any defined statutory role in relation to undertakings. We consider that accepting any undertakings in lieu of a reference would amount to the taking of enforcement action by the Secretary of State and, as such, would fall within the scope of s.106B of the Enterprise Act (read with the Legitimate Interests Order). On that basis it would seem to us that the Secretary of State is clearly permitted to seek Ofcom's advice.

Quite apart from the statutory powers, however, it seems to us that there is a real benefit in understanding the views of Ofcom (and the OFT) in relation to any proposals you are making. It would seem to us that understanding those bodies' thoughts earlier rather than later in the process will ensure that any undertakings the Secretary of State might be minded to accept would be more fully worked out and any potential difficulties dealt with. Equally, if they raised concerns that the undertakings were unworkable or insufficient, it would, again be better to know sooner.

Publication of the Ofcom report

As we discussed on Friday, the Secretary of State is required to publish the Ofcom report either on or before publication of his own decision on whether to refer a transaction subject to a European Intervention Notice. We do not accept that a decision to publish the report in advance of a substantive decision would harm the process. It is clearly envisaged by the statutory regime. In the present case the Secretary of State considers such a step appropriate.

Conclusions

You have asked that we confirm whether the Secretary of State is minded to publish Ofcom's report in advance of the publication of any decision he may make in principle on the undertakings offered by your client. We can confirm that it will be published tomorrow [and we have already had contact with News Corporation and indicated that to them]. You indicated that upon such confirmation, you will provide a non-confidential bundle of News' submissions for publication alongside that report. We [understand from News Corporation that such a bundle has been prepared, for which we are grateful.]

In relation to your final question, we can confirm that the Secretary of State is concerned that the requirements of due process under the statutory scheme are complied with and will, therefore, ensure that if he proposes to accept undertakings in lieu from News Corporation, he will consult on those undertakings in line with the statutory procedure.

Yours sincerely

EX-L 29

[Redacted]

From: [Redacted]
Sent: 31 January 2011 16:50
To: [Redacted]
Cc: [Redacted]
Subject: RE: Newscorp/BSkyB merger
Attachments: letter to Slaughter & May 010211.docx

Dear [Redacted]

We've no additional comment on your letter.

I attach here the letter we propose to send to Slaughter & May first thing tomorrow too. If anyone has any comments please let me know.

[Redacted]

From: [Redacted]
Sent: 31 January 2011 16:40
To: [Redacted]
Cc: [Redacted]
Subject: RE: Newscorp/BSkyB merger

[Redacted]

Many thanks for sending this on.

I would query whether 'he proposes to follow the statutory provisions laid out in Schedule 10' is appropriate, given that the Secretary of State is *required* to follow Schedule 10? Perhaps more that 'Such an approach is provided for by Schedule 10 ..., which he will follow'?

I think we agreed that it would be helpful for Ofcom and OFT to be copied on the response? If so, is it worth adding 'I note that you have written a similar letter to Ofcom and the OFT. I am copying them in this response.'?

Thanks

[Redacted]

[Redacted] Office of Fair Trading
Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: + 44 (0)20 7211 8796

From: [Redacted]
Sent: 31 January 2011 14:43
To: [Redacted]
Cc: [Redacted]
Subject: Newscorp/BSkyB merger

Dear All,

As discussed at this morning's meeting, please see attached draft letter which we propose to send to Slaughter and May. I think this covers all the points. I have not set out the timescales within which the SoS asked for a response from each of you, largely because there is the possibility of further requests for

assistance. I understand that [redacted] is confirming separately that we have decided not, at this stage, to publish our letters. I will amend the letter to confirm that I am copying to each of OFT and Ofcom, and aim to send this out first thing tomorrow morning. In the meantime, if you have any comments, please do let me know.

Regards,



Legal Advisers to the Department for Culture, Media and Sport
Treasury Solicitor's Department 12-1 Cockspur Street | London | SW1Y 5DH
Email: [redacted] Tel: [redacted] www.culture.gov.uk

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EX.L 30

[Redacted]

From: [Redacted]
Sent: 01 February 2011 12:39
To: [Redacted]
Cc: [Redacted]
Subject: News Corporation/BSkyB
Attachments: 110201 Letter S&M.pdf

Dear [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 Cockspur Street | London | SW1Y 5DH**

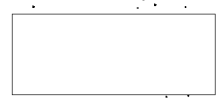
[Redacted]

EX.L31



The Treasury Solicitor
Broadcasting

2-4 Cockspur Street Tel [redacted]
London SW1Y 5DH
www.culture.gov.uk



Slaughter and May
One Bunhill Row
London EC1Y 8YY

Your Ref BJFL
Our Ref

1 February 2011

By email only

Dear [redacted]

News Corporation/BSkyB

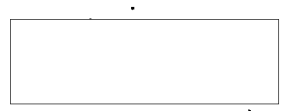
Thank you for your letter of 27 January 2011, addressed to the Secretary of State. I should be grateful if you could address future correspondence on this matter to me.

As the Secretary of State has made clear, his aim is to adopt a fair and even-handed approach to the consideration of this matter. Such an approach is laid out in Schedule 10 of the Enterprise Act in relation to consultation on proposed undertakings, which he will follow.

We consider that the requests made to Ofcom and the OFT, as set out in the Secretary of State's statement, set out the roles of each organisation in this process. So far as timing is concerned, the Secretary of State wishes to proceed as expeditiously as is consonant with his desire for a fair and even-handed approach.

I am copying this letter to the OFT and to Ofcom to whom I understand you have also written.

Yours sincerely,



EX-L32

[Redacted]

From: [Redacted]
Sent: 01 February 2011 12:07
To: [Redacted]
Cc: [Redacted]
Subject: News Corporation/BSkyB Merger - response from [Redacted] Dfcom
Attachments: Ltr [Redacted] 01.02.11.pdf

Dear [Redacted]

Please see the attached letter from [Redacted] in response to your letter of 27 January 2011.

Yours sincerely

[Redacted Signature Block]

:: Ofcom
 Riverside House
 2a Southwark Bridge Road
 London SE1 9HA
 020 7981 3000
www.ofcom.gov.uk

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1 February 2011

[redacted]
Slaughter and May
One, Bunhill Row
London
EC1Y 8YY

[redacted]
Direct line [redacted]
Email: [redacted]

Dear [redacted]

News Corporation/BSkyB merger

I refer to your letter of 27 January 2011, in which you asked how Ofcom sees its role in considering undertakings in lieu in relation to the proposed merger, and the timing for next steps.

In accordance with the process set out by the Secretary of State in his news release dated 25 January 2011, Ofcom has been asked to advise the Secretary of State, under section 106B of the Enterprise Act 2002, on the extent to which we think that undertakings in lieu proposed by News Corporation address the potential impact on media plurality identified in Ofcom's report.

I understand that the Secretary of State is responding to you separately on the timing for next steps.

Yours sincerely

[redacted signature]

Steve Unger

cc. [redacted] DCMS

Riverside House
2a Southwark Bridge Road
London SE1 9HA

Telephone + 44 (0)20 7981 3000
Facsimile + 44 (0)20 7981 3333
www.ofcom.org.uk

EX.L33

[Redacted]

From: [Redacted]
Sent: 02 February 2011 10:23
To: [Redacted]
Cc: [Redacted]
Subject: Letter from [Redacted]
Attachments: News - Sky - response to Slaughter and May letter of 27 January 2011.pdf
Importance: High

Dear [Redacted]

Please find attached a letter from [Redacted]:

anks

[Redacted]

[Redacted]

[Redacted] Office of Fair Trading | Fleetbank House | 2-6 Salisbury Square | London
 EC4Y 8JX | T: 0 [Redacted]

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[Redacted]

Slaughter and May
One, Bunhill Row
London
EC1Y 8YY

cc. [Redacted] DCMS, [Redacted] Ofcom

Your ref [Redacted]

Direct line [Redacted]

Our ref

Fax

Date 2 February 2011

Email [Redacted]

Dear [Redacted]

Proposed acquisition of BSkyB by News Corp

I refer to your letter of 27 January 2011 in relation to the above matter.

As stated by the Secretary of State in his public statement on 25 January 2011, I can confirm that the Secretary of State has asked the OFT to advise under section 93 Enterprise Act 2002 on whether the proposed undertakings in lieu offered by News Corporation are practically and financially viable such that they would be acceptable.

In terms of timing, may I refer you to the letter sent to you from [Redacted] yesterday on which I was copied.

Yours sincerely

[Redacted Signature]

[Redacted]

Mergers



INVESTOR IN PEOPLE

Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX
Switchboard: (020) 721 1 8000
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EX. L34

SLAUGHTER AND MAY

One Bunhill Row
 London EC1Y 8YY
 T +44 (0)20 7600 1200
 F +44 (0)20 7090 5000

9 February 2011

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

Your reference

Our reference

Direct line

Dear Mr Hunt

News Corporation / BSkyB (the "Takeover")

I write on behalf of BT, Guardian Media Group, Associated Newspapers Ltd, Trinity Mirror Plc, Northcliffe Media and Telegraph Media Group (the "Concerned Parties").

I refer to your news release of 25th January and to my subsequent correspondence with DCMS, OFT and Ofcom.

We understand that the process you envisage would require Ofcom (working with OFT) to assess undertakings in lieu of reference to the Competition Commission (the "CC") without the involvement of interested third parties. Third parties would instead only be consulted after Ofcom/OFT have reported to you and after you have concluded that you are minded to accept such undertakings.

It is our view that this process would be unfair and would fail to meet the normal procedural standards of merger control and public law more generally.

Those standards envisage that in the absence of a clear-cut remedy, a case raising potential concerns (as is clearly the case here) should be reviewed by the CC. As you will be aware, the CC process is transparent and provides for the full involvement of interested third parties.

At the very least, the Concerned Parties should be consulted upfront on the broad structure of any proposed remedy (consistent with our understanding with previous Ofcom practice).

CFI Saul
 SM Edge
 NPC Boardman
 GW James
 EA Codrington
 RMG Goulding
 GES Seligman
 PPJ Bennett
 RM Fox
 RJ Thornhill
 GJ Ains
 GP White
 NJ Archer
 AC Balfour
 CM Horton
 EA Barnett

PP Chappatte
 RJN Cripps
 P Jolliffe
 CD Randell
 WSM Robinson
 RV Carson
 SL Edwards
 JM Featherby
 F Murphy
 PM Olney
 PH Stacey
 CWY Underhill
 OA Warham
 RJ Clark
 SJ Cooke
 DL Finkler

CW Harvey-Kelly
 JD Rice
 MA Whelton
 MD Bennett
 RD de Carle
 SP Hall
 WJ Sibree
 RC Stern
 JR Triggs
 EGL Wylde
 A Beare
 JD Boyce
 MEM Hattrell
 KJ Hodgson
 N von Bismarck
 PWH Brien

JM Fenn
 AN Hyman
 AC Johnson
 EF Keeble
 KR Davis
 SR Galbraith
 NDF Gray
 MS Hutchinson
 SRB Powell
 AG Ryde
 JAD Marks
 SD Warno-tula-suriya
 DA Wittmann
 TS Boxell
 SJ Luder
 AJ McClean

JCTwentyman
 GN Eaborn
 HK Griffiths
 STM Lee
 AC Cleaver
 EJD Holden
 KM Hughes
 G Iversen
 DR Johnson
 RE Levitt
 S Middlemiss
 RA Swallow
 DCR Waterfield
 DJ Bicknell
 CS Cameron
 CA Connolly

PJ Cronin
 BJ-PF Louveaux
 MS Rowe
 MST Leung
 R Doughty
 E Michael
 RR Ogle
 SL Paterson
 PC Snell
 HL Davies
 JC Putnis
 RA Sumroy
 GP Brown
 JC Cotton
 RJ Tumill
 WNC Watson

MJ Dwyer
 CNR Jeffs
 SR Nicholls
 MJ Tobin
 DG Watkins
 BKP Yu
 EC Brown
 RA Chaplin
 J Edwards
 AD Jolly
 S Maudgil
 JS Nevin
 JA Papanichola
 JM Zaman
 RA Byk
 GA Miles

GE O'Keefe
 T Pharaoh
 MD Zerdin
 SFL Cardell
 RL Cousin
 BJ Kingsley
 IAM Taylor
 DA Ives
 MC Lane
 LMC Chung
 RJ Smiths

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Document number
 EC 50663112

MOD300007232

SLAUGHTER AND MAY

The Takeover raises substantive issues warranting a CC reference

Ofcom's advice to you was clear:

*"[W]e believe there is a need for a fuller second stage review of these [plurality] issues by the Competition Commission to assess the extent to which the concentration in media ownership may act against the public interest, and we advise the Secretary of State accordingly."*¹

It is apparent from your news release that you agree with that advice.

No clear-cut remedy has been proposed

A "clear-cut" remedy is one where the *"effectiveness or proportionality of the proposed undertakings in lieu may [not] be questioned"*.²

The Concerned Parties understand that no clear-cut remedy has been proposed. According to press speculation, the remedies being explored involve instead the divestment of Sky News or more likely, some form of behavioural commitment from News Corporation.

I have previously written to you outlining the concerns around a divestment of Sky News. A copy of my earlier letter is attached at Annex 1. I note that Ofcom also concluded that such a divestment would risk *"a potentially perverse outcome for plurality"*³ in the absence of a credible purchaser. It is clear that such a remedy cannot be "clear-cut".

The OFT's policy on behavioural remedies generally is clearly stated (and consistent with established procedure in other jurisdictions). The OFT considers it "unlikely" that such remedies would be acceptable absent a CC reference.⁴ Ofcom also reported that there *"was significant scepticism as to the effectiveness of behavioural remedies as a mean of guaranteeing the editorial independence of Sky News from News Corp"*.⁵ I attach at Annex 2 a paper which outlines the concerns with such a remedy in this case. Such concerns mean that a behavioural remedy

¹ Paragraph 7.2 Ofcom report on public interest test on the proposed acquisition of British Sky Broadcasting Group plc by News Corporation (the "Ofcom Report").

² Paragraph 8.4 OFT Guidance: Mergers – substantive assessment guidance

³ Paragraph 7.6 Ofcom Report.

⁴ Paragraph 8.10 OFT Guidance: Mergers – substantive assessment guidance

⁵ Paragraph 7.4 Ofcom Report.

SLAUGHTER AND MAY

cannot be "clear-cut" and is therefore inappropriate in the absence of a full investigation by the CC.

Accepted merger procedure requires a reference to the CC

Under the accepted merger procedure there is a reference to the CC whenever the initial investigation identifies potential concerns which are not subject to a clear-cut remedy. In respect of competition cases, the OFT's guidance notes that:

*"Undertakings in lieu of reference are...appropriate only where the...concerns raised by the merger and the remedies proposed to address them are clear-cut, and those remedies are capable of ready implementation."*⁶

Where no clear-cut remedy is available, the standard approach is to refer the case to the CC.

The current procedure fails to reflect these considerations

It appears that you envisage a process which would depart from the accepted practice of the competition authorities and which would as a consequence be unfair to third parties in several respects. In particular:

- The advice which Ofcom and OFT is to provide to you would not be able to take into account the views of third parties. It is not clear whether Ofcom/OFT would be required to review and revise their advice following the public consultation. Nor is it clear whether such advice will be published.
- You, as the decision maker, will therefore be reaching a provisional ("minded to accept") conclusion based solely on discussions with the merging parties. Third parties opposing any proposal will be fundamentally and unfairly disadvantaged by being denied the opportunity to make informed submissions in advance of such a decision.
- The proposed process only envisages a 15 day consultation period. We understand that the merging parties have been in discussions over remedies for several weeks already. As a result, third parties would have substantially less time/opportunity than the merging parties to consider the proposed remedies and to influence the OFT, Ofcom and the Secretary of State.

If your decision is to meet public law requirements of fairness, it is essential that interested third parties are properly consulted before Ofcom/OFT report to you and before you propose to accept undertakings.

⁶ Paragraph 8.5 OFT Mergers Jurisdictional and Procedural Guidance.

SLAUGHTER AND MAY

The procedure should therefore be changed to give interested third parties a meaningful opportunity to comment.

We are not suggesting that interested third parties should necessarily have access to the detailed drafting of any undertaking. Our position is only that it is essential that they should be aware of the key features of any remedy proposal so that they are able to comment in an informed and timely manner.

In order to remedy the defects in the current proposal, the Concerned Parties therefore request that:

- You provide an outline of the key features of any remedy proposals that are made by News Corporation; and
- The Concerned Parties are given the opportunity to discuss the remedy proposals with Ofcom and the OFT prior to them advising you.

In the absence of the above safeguards, the review will be procedurally unsound.

Yours sincerely

[Redacted signature block]

[Redacted contact information]

Copy to:

[Redacted] Ofcom
[Redacted] OFT

EX-L 35

[Redacted]

From: [Redacted]
Sent: 23 February 2011 16:22
To: [Redacted]
Cc: [Redacted]
Subject: RE: News/Sky - Strictly Private and Confidential (0012561-0000367)
Attachments: 110223 Letter A&O.pdf

Dear [Redacted]

Apologies for the delay, but please see letter attached in response.

Regards,

[Redacted]

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

From: [Redacted]
Sent: 17 February 2011 15:23
To: [Redacted]
Cc: [Redacted]
Subject: News/Sky - Strictly Private and Confidential (0012561-0000367)

Dear [Redacted]

Please find attached a letter from [Redacted]

Kind Regards

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000
DDI: [Redacted]
Fax: [Redacted]

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The Treasury Solicitor
Broadcasting

2-4 Cockspur Street Tel
London SW1Y 5DH
www.culture.gov.uk

Allen & Overy LLP
One Bishops Square

Your Ref

E1 6AD

23 February 2011

Dear

News Corporation – British Sky Broadcasting Group Plc

Thank you for your letter of 17 February; apologies for the delay in responding to you.

To confirm, if the Secretary of State proposes to accept UILs, he would intend to publish his decision to accept those UILs, the UILs in full, and reports received from the OFT and Ofcom. However, he is conscious that his decision and the reports might contain confidential information and that it may be necessary to publish non-confidential versions of those documents. However, it is clear that the UILs should be published in as full a form as possible in order to ensure that those wishing to respond to the consultation which would follow will be able to do so fully and effectively.

Insofar any decision of the Secretary of State is concerned, you will be given opportunity to make representations as to confidentiality in advance of such a decision being published, albeit that we will want to get that done quickly. So far as the reports from the OFT and Ofcom are concerned, the Secretary of State intends in any event to publish these reports in due course, and will ask those bodies to provide non-confidential versions for publication. I would ask you therefore to provide us with versions marked with those parts which you would wish to remain confidential as soon as you are able to. I would also ask you to ensure that only those figures, words or passages which are of real sensitivity are marked up.

I hope that this is clear, but do please let me know if you have further queries.

Yours sincerely



EX.L36

[Redacted]

From: [Redacted]
Sent: 01 March 2011 17:46
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

Dear [Redacted]

Thank you for your email.

We understand the concern that News Corp has about the publication of the first reports of OFT and Ofcom but a number of issues arise.

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 first and its final reports. In the circumstances, publishing only the Ofcom first report and not that of the OFT would seem inappropriate since it would provide a distorted view of the process that was followed.

In addition, we have taken the view that it is inevitable that the OFT's first report will be placed in the public domain. That is not least because of the operation of the Freedom of Information Act but, in addition, we consider that those parties which have previously raised concerns about the transaction are likely to press for such material. Indeed, we would anticipate that it would be disclosable in any legal proceedings.

I note that your objection to publication is expressed to be "at this stage", 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 or 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 militates 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. Nonetheless, in order to ensure that any consultation process which might follow from a decision to accept any UILs was effective, the Secretary of State's present thinking is that it will be necessary and appropriate to publish both the first and the final reports of both OFT and Ofcom and to do so at the time of any decision he might make to propose to accept UILs.

More generally in relation to the OFT, the Secretary of State has not sought to specify precisely how the OFT should provide its reports to him (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), and we have left to the OFT the form in which it wants to provide its advice.

Regards,

[Redacted]

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

From: [Redacted]
Sent: 28 February 2011 19:55
To: [Redacted]
Cc: [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: [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 [redacted] 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

[redacted]
 Office of Fair Trading
 Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: +44 [redacted]

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The Office of Fair Trading

Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX Switchboard (020) 7211 8000 Web Site: <http://www.oft.gov.uk>

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EX.L37

[Redacted]

From: [Redacted]
Sent: 02 March 2011 16:30
To: [Redacted]
Cc: [Redacted]
Subject: Documents to be published (0012561-0000367)

[Redacted]

I will discuss with News. We are in touch with the OFT and we will revert to them about redactions on their reports.

OFT was not clear as to whether any proposed redactions to the UIL (and previous versions) should be agreed with you or with them. Can you please clarify. If you intend to publish earlier version of the UIL we will need to provide you with redacted versions of those documents too.

Sky has been in touch directly with OFT about information which they provided to them.

Could you please provide the actual documents that you intend to publish (other than the OFT/Ofcom reports and the Draft UIL dated 1 March) so that we avoid any confusion and can make representations as to any redactions needed.

Best wishes

[Redacted]

From: [Redacted]
Sent: Wednesday, March 02, 2011 4:16 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: News/Sky - letter to SoS
Importance: High

[Redacted]

Just to be clear about what we are proposing to publish tomorrow, here is a full list of the documents. Let me know if anything must be redacted from the 18 and 24 January letters enclosing the UILs.

Can you also check that Sky are OK with the documents, or do we need to do that?

[Redacted]

From: [Redacted]
Sent: 02 March 2011 13:53
To: [Redacted]
Subject: RE: News/Sky - letter to SoS

Thank you [Redacted]

From: [Redacted]
Sent: 02 March 2011 13:21
To: [Redacted]

Subject: FW: News/Sky - letter to SoS
Importance: High

[Redacted]

OFT second report for confidential redaction only please.

[Redacted]

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EX.L38

[Redacted]

From: [Redacted]
Sent: 02 March 2011 16:43
To: [Redacted]
Cc: [Redacted]
Subject: RE: Documents to be published (0012561-0000367)

[Redacted]

Thanks We will then send to OFT (copied to you and [Redacted] in order to facilitate communications) our submissions on the two OFT reports and the 1 March UILs.

Have you been sent to Sky the second Ofcom report? If not I am happy to do so and ask them to confirm that they do not have confidentiality submissions to make.

Regards

From: [Redacted]
Sent: Wednesday, March 02, 2011 4:40 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Documents to be published (0012561-0000367)

[Redacted]

We have the final say on redactions to the UILs but they should be agreed OFT first, or at least we would want their view.

Do please provide redacted versions of earlier UILs.

I will send you copies of the other documents you request.

Would you be able to see if Sky are similarly happy with the Ofcom reports?

Thanks for your help.

[Redacted]

From: [Redacted]
Sent: 02 March 2011 16:30
To: [Redacted]
Cc: [Redacted]
Subject: Documents to be published (0012561-0000367)

[Redacted]

I will discuss with News. We are in touch with the OFT and we will revert to them about redactions on their reports.

OFT was not clear as to whether any proposed redactions to the UIL (and previous versions) should be agreed with you or with them. Can you please clarify. If you intend to publish earlier version of the UIL we will need to provide you with redacted versions of those documents too.

Sky has been in touch directly with OFT about information which they provided to them.

Could you please provide the actual documents that you intend to publish (other than the OFT/Ofcom reports and the Draft UIL dated 1 March) so that we avoid any confusion and can make representations as to any redactions needed.

Best wishes

[Redacted]

From: [Redacted]
Sent: Wednesday, March 02, 2011 4:16 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: News/Sky - letter to SoS
Importance: High

[Redacted]

Just to be clear about what we are proposing to publish tomorrow, here is a full list of the documents. Let me know if anything must be redacted from the 18 and 24 January letters enclosing the UILs.

Can you also check that Sky are OK with the documents, or do we need to do that?

[Redacted]

From: [Redacted]
Sent: 02 March 2011 13:53
To: [Redacted]
Subject: RE: News/Sky - letter to SoS

Thank you [Redacted]

From: [Redacted]
Sent: 02 March 2011 13:21
To: [Redacted]
Subject: FW: News/Sky - letter to SoS
Importance: High

[Redacted]

OFT second report for confidential redaction only please.

[Redacted]

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EX.L 39

[Redacted]

From: [Redacted]
Sent: 02 March 2011 17:08
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)
Attachments: CO-#13562397-v1-News_Sky_-_1_March_UIL_for_consultation.pdf; CO-#13553699-v2-News_proposed_redactions_to_OFT_First_Report.pdf

[Redacted]

Please find attached News' requests for confidentiality over certain information contained in the OFT's report to the Secretary of State dated 11 February 2011.

As noted in the document itself, News requests that the text highlighted yellow be redacted from the version of this report that is made public under s.244(3) of the Enterprise Act 2002. That information is commercially sensitive or relates News' private affairs and is not within the public domain, the disclosure of which would significantly harm News' legitimate business interests. News also notes that parts of this report may be commercially sensitive to Sky. News has not attempted to identify all such information as it understands that the OFT has been in touch with Sky directly on this point.

News has no representations to make as to the confidentiality of information contained in the OFT's report to the Secretary of State of 1 March 2011.

DCMS (copied into this email) has suggested that News agree with the OFT in the first instance any proposed confidentiality redactions to the final draft UIL of 1 March 2011 for the purposes of the public consultation. To that end, I also attach a proposed non-confidential version of the 1 March UIL. You will see that the only information News requests be kept confidential is at 5.1(iv) and relates to the end date of Sky's contract with Arqiva, which is highly commercially sensitive.

Kind regards

[Redacted]

From: [Redacted]
Sent: 01 March 2011 11:37
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions

Dear [Redacted]

As promised, and for the purposes of my email below, please find attached a clean word copy of the First Advice of the OFT to the Secretary of State.

Kind regards

[Redacted]

m: Nicholas Scola

t: 28 February 2011 19:20

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 [redacted] 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

[redacted]
 Office of Fair Trading
 Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: + 44 [redacted]

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EX.L 40

[Redacted]

From: [Redacted]
Sent: 02 March 2011 17:52
To: [Redacted]
Cc: [Redacted]
Subject: RE: Documents to be published (0012561-0000367)

[Redacted] following our conversation I can now confirm that News has no redaction requests in relation to the letters of 18 January and and 16 February that you propose to publish.

I can also confirm that Sky has no redaction requests in relation to the Ofcom reports.

We will wait to hear from you about the proposed minor redaction to the 1 March UIL so that we can provide a full set of UILs of 18 January, 24 January, and 16 February similarly redacted (and not marked "confidential")

Regards

From: [Redacted]
Sent: Wednesday, March 02, 2011 4:59 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Documents to be published (0012561-0000367)

[Redacted]

I have realised that we only have hard copies of your letters of 18 and 24 January. We are not, incidentally, proposing to publish your second, longer letter of 24. Happy to discuss over the phone if that would help, though I am just off to meeting (about this, needless to say).

I am assuming that the revisions to the UILs or very minimal if they are to be meaningful for consultation purposes, but let us see what you suggest.

I would be very grateful if you could send the second Ofcom report to Sky.

[Redacted]

From: [Redacted]
Sent: 02 March 2011 16:43
To: [Redacted]
Cc: [Redacted]
Subject: RE: Documents to be published (0012561-0000367)

[Redacted]

Thanks We will then send to OFT (copied to you and [Redacted] in order to facilitate communications) our submissions on the two OFT reports and the 1 March UILs.

Have you been sent to Sky the second Ofcom report? If not I am happy to do so and ask them to confirm that they do not have confidentiality submissions to make.

Regards

From: [redacted]

Sent: Wednesday, March 02, 2011 4:40 PM

To: [redacted]

Cc: [redacted]

Subject: RE: Documents to be published (0012561-0000367)

[redacted]

We have the final say on redactions to the UILs but they should be agreed OFT first, or at least we would want their view.

Do please provide redacted versions of earlier UILs.

I will send you copies of the other documents you request.

Would you be able to see if Sky are similarly happy with the Ofcom reports?

Thanks for your help.

[redacted]

From: [redacted]

Sent: 02 March 2011 16:30

To: [redacted]

Cc: [redacted]

Subject: Documents to be published (0012561-0000367)

[redacted]

I will discuss with News. We are in touch with the OFT and we will revert to them about redactions on their reports.

OFT was not clear as to whether any proposed redactions to the UIL (and previous versions) should be agreed with you or with them. Can you please clarify. If you intend to publish earlier version of the UIL we will need to provide you with redacted versions of those documents too.

Sky has been in touch directly with OFT about information which they provided to them.

Could you please provide the actual documents that you intend to publish (other than the OFT/Ofcom reports and the Draft UIL dated 1 March) so that we avoid any confusion and can make representations as to any redactions needed.

Best wishes

[redacted]

From: E [redacted]

Sent: Wednesday, March 02, 2011 4:16 PM

To: [redacted]

Cc: [redacted]

Subject: RE: News/Sky - letter to SoS
Importance: High

[Redacted]

Just to be clear about what we are proposing to publish tomorrow, here is a full list of the documents. Let me know if anything must be redacted from the 18 and 24 January letters enclosing the UILs.

Can you also check that Sky are OK with the documents, or do we need to do that?

[Redacted]

From: [Redacted]
Sent: 02 March 2011 13:53
To: [Redacted]
Subject: RE: News/Sky - letter to SoS

Thank you [Redacted]

From: [Redacted]
Sent: 02 March 2011 13:21
To: [Redacted]
Subject: FW: News/Sky - letter to SoS
Importance: High

[Redacted]

OFT second report for confidential redaction only please.

[Redacted]

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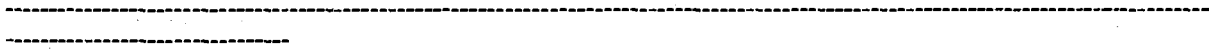
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EX.241

[Redacted]

From: [Redacted]
Sent: 02 March 2011 23:59
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)
Attachments: CO-#13336441-v1-Cover_letter_to_UIL.pdf; CO-#13298735-v6-Letter_to_DCMS.pdf; DOC160211.pdf

As discussed, please find attached electronic copies of the letters referred to in your email below.

Kind regards

[Redacted]

From: [Redacted]
Sent: 02 March 2011 23:20
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

I can confirm that we are happy with the proposed further redaction. However, I still need electronic copies of the letters of 18 and 24 Jan and 16 Feb, please

[Redacted]

From: [Redacted]
Sent: 02 March 2011 21:06
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

Further to your email below, please find attached non-confidential versions of the 18 January UIL Proposal, the 24 January draft UIL, the 16 February draft UIL and (for completeness) the 1 March final draft UIL.

In addition to the redaction below in relation to the 1 March UIL (which is also made to the 16 February UIL), please note that News requests that in the 18 January UIL proposal, the wording [Redacted] at 2.2(vi) be redacted from the public version of this document under s.244(3) of the Enterprise Act 2002 as that information is commercially sensitive or relates News' private affairs and is not within the public domain, the disclosure of which would significantly harm News' legitimate business interests. News

notes that this is a relatively minor redaction (to an interim document). However, please let us know if you would like us to also seek the OFT's views on this request.

We have dated each document as requested.

Kind regards

[Redacted]

From: [Redacted]
Sent: 02 March 2011 20:37
To: [Redacted] O (LN)
Cc: [Redacted] KILGARRIFF PATRICK;
[Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

[Redacted]

We can live with the redaction proposed. Grateful if we could now have final versions of the full set of UILs including those of 18 January, 24 January, and 16 February similarly redacted (and not marked "confidential"). It would be helpful if they could also be dated so as not to cause confusion.

[Redacted]

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

[Redacted]

From: [Redacted]
Sent: 02 March 2011 17:08
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

[Redacted]

Please find attached News' requests for confidentiality over certain information contained in the OFT's report to the Secretary of State dated 11 February 2011.

As noted in the document itself, News requests that the text highlighted yellow be redacted from the version of this report that is made public under s.244(3) of the Enterprise Act 2002. That information is commercially sensitive or relates News' private affairs and is not within the public domain, the

disclosure of which would significantly harm News' legitimate business interests. News also notes that parts of this report may be commercially sensitive to Sky. News has not attempted to identify all such information as it understands that the OFT has been in touch with Sky directly on this point.

News has no representations to make as to the confidentiality of information contained in the OFT's report to the Secretary of State of 1 March 2011.

DCMS (copied into this email) has suggested that News agree with the OFT in the first instance any proposed confidentiality redactions to the final draft UIL of 1 March 2011 for the purposes of the public consultation. To that end, I also attach a proposed non-confidential version of the 1 March UIL. You will see that the only information News requests be kept confidential is at 5.1(iv) and relates to the end date of Sky's contract with Arqiva, which is highly commercially sensitive.

Kind regards

[Redacted]

From: [Redacted]
Sent: 01 March 2011 11:37
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions

Dear [Redacted]

As promised, and for the purposes of my email below, please find attached a clean word copy of the First Advice of the OFT to the Secretary of State.

Kind regards

[Redacted]

From: [Redacted]
Sent: 28 February 2011 19:20
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 [redacted] 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

[redacted signature box]

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EX.L 42

[Redacted]

From: [Redacted]
Sent: 02 March 2011 23:33
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

[Redacted]

News has already confirmed that it does not have any redaction requests over the letters of the 18th Jan and 16th Feb (DCMS should already have electronic copies of those letters). Can you let me know which letter of the 24th Jan DCMS is intending to publish?

Many thanks

[Redacted]

From: B [Redacted]
Sent: 02 March 2011 23:20
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

[Redacted]

I can confirm that we are happy with the proposed further redaction. However, I still need electronic copies of the letters of 18 and 24 Jan and 16 Feb, please

[Redacted]

From: [Redacted]
Sent: 02 March 2011 21:06
To: [Redacted]
Cc: [Redacted] KILGARRIFF PATRICK; [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions (0012561-0000367)

Stuart,

Further to your email below, please find attached non-confidential versions of the 18 January UIL Proposal, the 24 January draft UIL, the 16 February draft UIL and (for completeness) the 1 March final draft UIL.

In addition to the redaction below in relation to the 1 March UIL (which is also made to the 16 February UIL), please note that News requests that in the 18 January UIL proposal, the wording [Redacted] at 2.2(vi) be redacted from the public version of this document under s.244(3) of the Enterprise Act 2002 as that information is commercially sensitive or relates News' private affairs and is not within the public domain, the disclosure of which would significantly harm News' legitimate business interests. News notes that this is a relatively minor redaction (to an interim document). However, please let us know if you would like us to also seek the OFT's views on this request.

We have dated each document as requested.

Kind regards

[Redacted]

From: [Redacted]
Sent: 02 March 2011 20:37
To: [Redacted]
Cc: [Redacted]

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

[Redacted]

We can live with the redaction proposed. Grateful if we could now have final versions of the full set of UILs including those of 18 January, 24 January, and 16 February similarly redacted (and not marked "confidential"). It would be helpful if they could also be dated so as not to cause confusion.

Stuart

[Redacted]

DCMS
2-4 Cockspur Street
London SW1Y 5DH

[Redacted]

From: [Redacted]
Sent: 02 March 2011 17:08
To: [Redacted]
Cc: [Redacted]

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

[Redacted]

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Kind regards

[Redacted]

From: [Redacted]
Sent: 01 March 2011 11:37
To: [Redacted]
Cc: [Redacted]
Subject: RE: Restricted - News / Sky - publication of reports / non-confidential versions

Dear [Redacted]

As promised, and for the purposes of my email below, please find attached a clean word copy of the First Advice of the OFT to the Secretary of State.

Kind regards

[Redacted]

From: [Redacted]
Sent: 28 February 2011 19:20
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 [redacted] 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



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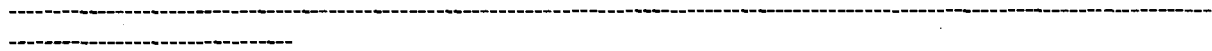
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EX.L.43
ALLEN & OVERY

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Allen & Overy LLP
One Bishops Square
London E1 6AD United Kingdom

Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088
Direct [redacted]

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

Our ref [redacted] 0012561-0000367 CO:13699847.2

21 March 2011

Dear [redacted]

News Corporation - British Sky Broadcasting Group Plc

Further to the draft undertakings in lieu submitted by News to the Secretary of State on 1 March 2011 in respect of the Transaction (the **Draft UIL**), please find enclosed drafts of the Carriage Agreement and Brand Licensing Agreement pursuant to sections 4.4 and 4.6 of the Draft UIL respectively. Please also find enclosed a schedule of assets provided pursuant to section 4.1 of the Draft UIL. Unless expressly stated otherwise, defined terms in this letter shall have the same meaning as in the Draft UIL.

Carriage Agreement

The undertakings set out in the Draft UIL in relation to the Carriage Agreement are given effect in the following sections of the enclosed draft Carriage Agreement:

- (i) the undertaking at 4.4 in sections A.2 and C.1,
- (ii) the undertaking at 4.5(i) in section B;
- (iii) the undertaking at 4.5(ii) in section H.3;
- (iv) the undertaking at 4.5(iii) in sections K.1.1 and K.2;
- (v) the undertaking at 4.5(iv) in section F.2.1; and
- (vi) the undertakings at 4.5(v) and 4.8 in sections K.1.2, K.1.3, K.1.4 and N.2.

Brand Licensing Agreement

The undertakings set out in the Draft UIL in relation to the Brand Licensing Agreement are given effect in the following sections of the enclosed draft Brand Licensing Agreement:

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- (i) the undertaking at 4.6 in sections 3.(a) and 3.(b);
- (ii) the undertaking at 4.7(i) in section 2;
- (iii) the undertaking at 4.7(iii) in section 4.(a) and 6.(a); and
- (iv) the undertaking at 4.7(iv) and 4.8 in sections 4.(b), 4.(c) and 4.(d).

News notes that, in accordance with the undertaking at 4.7(ii) of the Draft UIL, the draft Brand Licensing Agreement does not provide Sky or News with any ability to determine or influence the editorial content of Sky News output or the appointment or termination of editors or other staff of Newco.

Schedule of Assets

The enclosed schedule of assets (including its three annexes) sets out the assets to be transferred to Newco in accordance with the undertaking given at section 4.1 of the UIL. Specifically:

- (i) section 1 and Annex A of the schedule of assets sets out the tangible assets to be transferred to Newco pursuant to section 4.1(i) of the Draft UIL;
- (ii) section 6 and Annex C of the schedule of assets sets out the personnel to be transferred to Newco pursuant to section 4.1(ii) of the Draft UIL; and
- (iii) section 3 of the schedule of assets sets out the licenses, permits, consents and authorisations issued by governmental or regulatory organisations to be transferred to Newco pursuant to section 4.1(iii) of the Draft UIL.

In addition, the schedule of assets sets out:

- (i) at sections 4.1(iv) and 4.1(v) and Annex B, the carriage agreements between Sky and third parties, the benefit and burden of which will be transferred from Sky to Newco pursuant to the undertaking at section 4.3(i) of the Draft UIL;
- (ii) at section 4.1(i) and Annex B the wholesale contracts between Sky and third parties for the supply of news content, the benefit and burden of which will be transferred from Sky to Newco pursuant to the undertaking at section 4.3(iii) of the Draft UIL; and
- (iii) at section 4.1(iii) and Annex B the fixed newsgathering contracts between Sky and third parties, the benefit and burden of which will be transferred from Sky to Newco pursuant to the undertaking at section 4.3(iv) of the Draft UIL.

Please note that each of the agreements and the schedule of assets enclosed with this letter (including their various annexes and appendices) are strictly confidential and contain business secrets.

Yours sincerely



cc: News Corporation Allen & Overy
LLP
Enc.

EX.L 44

[Redacted]

From: [Redacted]
Sent: 21 April 2011 16:27
To: [Redacted]
Cc: GEIST-DIVVER CAROLA
Subject: [CJSM] RE: Newscorp

Not quite sure how power of amendment to include a further consideration could be implied in the face of s.66(5). It is very odd that there can be no recognition of a change of circumstances Perhaps it was thought that either a public interest issue existed or it did not and you should not be able to mess part way through. Anyway, at the moment, I can't see how you could amend to include a new consideration without entirely circumventing the specific restriction.

The alternative argument is that the specified consideration was in fact the whole of s.58(2C) rather than s.58(2C)(a). But there we have something of a "ronseal" argument: the intervention! notice does what it says on the tin – it specifies the public interest as s.58(2C)(a). And looking at the terms of s.66 (and s.41 etc) it seems it is for the SoS to decide what public interest consideration is relevant. It seems to me that that means that he can articulate the public interest consideration as he wishes save that if it is not already specified, he would need to specify it by modifying order (as happened with financial stability). If he articulates the public interest consideration as being a sub-section of (2C) rather than all of (2C) he would seem entitled to do so. Indeed the use of the plural "are specified" in the start of (2C) might reinforce the conclusion that there are several – related – considerations specified in (2C). It is also worth noting that – so far as I am aware -no-one to date has suggested that the whole of (2C) is in play. And in Sky/ITV it was only (2C)(c) which was specified and there no-one raised an issue on that so far as I recall.

The counter argument might be that each of (2A), (2B) and (2C) specify different public interest considerations – 2A: accuracy and free expression in newspapers; 2B: newspaper views plurality; 2C: broadcasting plurality issues. But as soon as you articulate it like this, you can see that this description (or any simple unitary description of the various parts of 2C) doesn't quite work. Indeed, you might look at 2C(a) as being the media enterprise equivalent of 2B; 2C(c) is more like 2A for newspapers but having regard to the different statutory regime under the Broadcasting Act; 2C(b) is just different from anything for newspapers.

Taking this together, at present my view is that the argument that the public interest consideration at issue must be of all of 2C in order to be of, inter alia, 2C(c) is not compelling. I prefer the ronseal analysis.

Happy to discuss.

[Redacted]

From: [Redacted]
Sent: Wednesday, April 20, 2011 2:49 PM
To: [Redacted]
Cc: GEIST-DIVVER CAROLA
Subject: [CJSM] Newscorp

[Redacted]

Sorry to bother you, but the question has arisen as to whether we can amend the European Intervention Notice so as to add an additional ground of public interest (the "genuine commitment" ground at s58(2C)(c) of the Enterprise Act) (in relation to phone hacking), further to the attached letter.

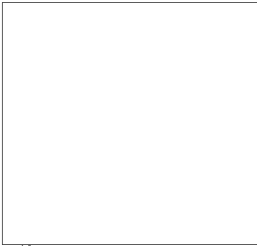
We have discussed that there can be only one European Intervention Notice (pursuant to section 68(5)). There's nothing express permitting an amendment to add a completely new ground, and it seems to me that

this would not be permissible as it would circumvent the requirement only to have one intervention notice. I'd be OK with the idea that we could make a ! minor procedural amendment, but that seems to me to be different from adding a new ground.

We discussed when last we spoke whether the considerations at section 58(2C) were cumulative, such that that section should be taken as a whole (meaning that (2C)(c) would not be a separate ground). We decided not, as I recall, because each of the specified considerations is in a different section merely because it was added by order at a different period, and the "and" at the end of (2C)(b) would in any event mitigate against that. I still take that view, because it seems to me that the considerations are qualitatively different, but views welcome.

Thanks, and sorry to be a pain.

Cheers,



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

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EX.L 46

[Redacted]

From: [Redacted]

Sent: 04 May 2011 17:53

To: [Redacted]

Cc: [Redacted]

Subject: Drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)
Attachments: LT-#6650291-v4-Revised_Carriage_Agreement.pdf; CO-#13928002-v1-DV_CA_21_March_-_CA_14_April.pdf; CO-#13890142-v5-Table_of_changes_to_the_CA.pdf; LT-#6646965-v6-Revised_Brand_Licence_Agreement.pdf; CO-#13928273-v1-DV_BLA_21_March_-_BLA_14_April.pdf; CO-#13915572-v2-Table_of_changes_to_the_BLA.pdf

Dear [Redacted]

I understand that you have asked for soft copies of the Brand Licensing Agreement and the Carriage Agreement.

Please find below the last versions that were submitted to OFT/Ofcom. There have been some subsequent changes to the Carriage Agreement following additional requests from OFT/Ofcom.

There have been no changes to the Brand Licensing Agreement and so far as we are aware there are no outstanding issues.

As you may be aware we are due to meet with OFT/Ofcom tomorrow afternoon and we hope that this will bring to a close any final outstanding issues on the Carriage Agreement and the UIL.

Kind Regards

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

3 Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

Fax: + 44(0) 20 3088 0088

From: [Redacted]
Sent: 14 April 2011 13:41
To: [Redacted]
Cc: [Redacted]
Subject: Revised drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)

[Redacted]

Further to News' responses to the OFT/Ofcom questions of 29 March and 8 April 2011, please find attached the revised Brand Licensing Agreement and Carriage Agreement, each attached as both a clean copy and showing changes against the versions submitted to DCMS for approval on 21 March 2011.

We have also attached two tables explaining the key changes made to each of the two agreements. As you will see, most of the changes have been made in response to the two sets of questions sent by the OFT/Ofcom, with some further amendments made for completeness / clarification.

Kind regards



1. Revised Carriage Agreement (clean)

<<LT-#6650291-v4-Revised_Carriage_Agreement.pdf>>

2. Revised Carriage Agreement (showing changes to 21 March version)

<<CO-#13928002-v1-DV_CA_21_March_-_CA_14_April.pdf>>

3. Table of key changes to the Carriage Agreement

<<CO-#13890142-v5-Table_of_changes_to_the_CA.pdf>>

4. Revised Brand Licensing Agreement (clean)

<<LT-#6646965-v6-Revised_Brand_Licence_Agreement.pdf>>

5. Revised Brand Licensing Agreement (showing changes to 21 March version)

<<CO-#13928273-v1-DV_BLA_21_March_-_BLA_14_April.pdf>>

6. Table of key changes to the Brand Licensing Agreement

<<CO-#13915572-v2-Table_of_changes_to_the_BLA.pdf>>

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EX-L 48

EDWARDS, Steven

From: [Redacted]
Sent: 10 May 2011 17:01
To: [Redacted]
Cc: [Redacted]
Subject: Revised UIL (0012561-0000367)
Attachments: CO-#14041856-v1-DV_-_Consultation UIL-UIL_10_May.pdf

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[Redacted] the OFT has suggested that it may be helpful for you to look at the version of the UILs submitted earlier today with tracks showing changes against the UILs on which the Secretary of State consulted in back in March.

We will submit shortly to the OFT the proposed Articles of Association and we will copy you:

are also due to send to the OFT the full and final version of the Carriage Agreement and, again, we will copy you in so that you are up to speed.

Best wishes

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

[Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Tuesday, May 10, 2011 2:06 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: News' response to OFT/Ofcom RFI of 6 May 2011 (0012561-0000367)

[Redacted]

Please find attached the requested comparite.

We hope to have a better idea on timing of the articles later today.

Kind regards

[Redacted]

From: [Redacted]
Sent: 10 May 2011 13:53
To: [Redacted]
Cc: [Redacted]
Subject: RE: News' response to OFT/Ofcom RFI of 6 May 2011 (0012561-0000367)

[Redacted]

Many thanks for this.

We look forward to receiving the full form Carriage Agreement and amended Brand Licence Agreement in due course. Will the Articles of Association of Newco also be sent over at that time?

Your email anticipated very accurately my next request, which is a mark-up of the UIL against the consultation draft - given that we will be advising the Secretary of State against the 1 March draft, that would be really helpful. Thank you.

Kind regards

[Redacted]

Office of Fair Trading

Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: + 44 (0)20 7211 8796

From: [Redacted]
Sent: 10 May 2011 13:43
To: [Redacted]
Cc: [Redacted]
Subject: News' response to OFT/Ofcom RFI of 6 May 2011 (0012561-0000367)

[Redacted]

Please find attached News' response to the OFT/Ofcom questions of 6 May, including, as a separate Annex 1, a revised draft set of UILs. For ease of reference I have also attached a mark-up of the UILs showing changes to the version previously submitted to the OFT/Ofcom (on 28 April 2011) but please let me know if it would also be helpful to have a mark-up against the consultation version of the draft UIL.

Please note that News' response to question 2.4 will be provided separately. News will also shortly (hopefully later today) provide a full form draft of the Carriage Agreement and an amended draft of the Brand Licence Agreement.

Kind regards

[Redacted]

From: [redacted]

Sent: 06 May 2011 17:35

To: [redacted]
Cc: [redacted]

Subject: RE: Restricted - follow up meeting 5 May - MT (0012561-0000367)

Dear [redacted]

Many thanks for your email below confirming certain issues discussed at yesterday's meeting.

In relation to the full form carriage agreement, I would note for the sake of completeness that this will obviously be subject to review by OFT/OFCOM and by DCMS' lawyers when you send it through in due course.

As promised, we attach a short, further set of specific questions as discussed at yesterday's meeting. These are divided into questions on the carriage agreement and queries on the proposed UIL.

We have requested a response to these by 9am on 10 May.

Kind regards,

[redacted signature box]

Office of Fair Trading

Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: +44 [redacted]

From: [redacted]

Sent: 06 May 2011 15:04

To: [redacted]
Cc: [redacted]

Subject: Restricted - follow up meeting 5 May - MT (0012561-0000367)

Dear [redacted]

Thanks for the meeting yesterday which we thought was productive.

I can confirm that News would be willing to undertake to appoint a trustee to monitor compliance with the undertakings in line with the UILs' purpose envisaged by the Secretary of State in his notice of 3 March. This offer would be made on the basis that this further undertaking would give the OFT and Ofcom sufficient comfort that the agreements that require approval post effective date can be monitored appropriately. I enclose a proposal in this respect which would be added to the final text of the UILs before you finalise your advice to the Secretary of State.

I can also confirm that News will submit to you early next week, possibly on Monday, Newco's proposed Articles of Association which incorporate the relevant undertakings (including the clarification on board quorum discussed yesterday).

Finally I can confirm that we will submit the more detailed and final form of the Carriage Agreement as soon as possible. I understand that you will send us later today a list of issues to be clarified which also include points relating to the Carriage Agreement.

Best wishes



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom



Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From [Redacted]

Sent: Tuesday, April 19, 2011, 9:48 PM

To: [Redacted]

Cc: [Redacted]

Subject: RESTRICTED: Newscorp/BSkyB - OFT/Ofcom Additional questions re the draft brand licensing and carriage agreements and responses to the DCMS consultation on the UIL

Dear [Redacted]

Many thanks for your responses to our earlier questions relating to the draft brand licensing agreements and carriage agreements. I attach a further set of questions which relate to the following specific areas:

- (1) further questions relating to the brand licensing and carriage agreements which take account of your responses dated 1 April and 12 April.
- (2) questions which arise from third party responses to the consultation launched by DCMS on the UIL. As you will appreciate, the responses to the consultation have been voluminous and have necessitated detailed review in order to ensure that we ask appropriate questions which will serve to enhance the UIL proposal or, in respect of which, it is appropriate to seek your view/comment.
- (3) detailed questions relating to the timing and mechanics of the UIL. I would urge you to respond in full to these questions since we wish to understand in some detail how, in practice, you understand the UIL will operate. We also include certain suggestions that we consider (following both responses to the third party consultation and further consideration) will lead to improvements to the UIL and its effective operation.

I anticipate, dependent on your responses, that this should be the final round of detailed questions prior to us providing our advice to the Secretary of State. I will endeavour to discuss with your team tomorrow both the timing for responses to these questions, the background to them and next steps.

In addition, in the interests of time, I would suggest that we schedule a meeting to discuss both your responses to the questions (including those attached to this email) and any issues which are pertinent to our advice to the Secretary of State (or issues which require resolution following receipt of your responses to the attached questions) in the week commencing 2 May. If you are amenable to this, we can arrange a convenient date and time.

Kind regards,

[Redacted]

[Redacted]

Office of Fair Trading | Fleetbank House |

2-6 Salisbury Square | London | EC4Y 8JX |

[Redacted]

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EX.L 49

From: [redacted]
Sent: 10 May 2011 17:24
To: Nicholas.Scola@cft.gsi.gov.uk
Cc: [redacted]

Subject: Newco Articles of Association (0012561-0000367)
Attachments: CO-#14045988-v1-Newco_Articles_of_Association.pdf; CO-#14045996-v1-Articles_Table.pdf; CO-#14046957-v1-DV_Newco_-_Sky_Articles.pdf

Please also find attached draft Newco Articles of Association submitted for the Secretary of State's approval pursuant section 3.1(ii) of the draft UIL attached to my email below. I have also attached a comparite of the Newco Articles as against the Articles of British Sky Broadcasting Group and, for ease of reference, a table mapping the individual Newco Articles to relevant undertakings given by News in the UIL.

Kind regards

From: [redacted]
Sent: 10 May 2011 13:43
To: [redacted]
Cc: [redacted]

Subject: News' response to OFT/Ofcom RFI of 6 May 2011 (0012561-0000367)

Please find attached News' response to the OFT/Ofcom questions of 6 May, including, as a separate Annex 1, a revised draft set of UILs. For ease of reference I have also attached a mark-up of the UILs showing changes to the version previously submitted to the OFT/Ofcom (on 28 April 2011) but please let me know if it would also be helpful to have a mark-up against the consultation version of the draft UIL.

Please note that News' response to question 2.4 will be provided separately. News will also shortly (hopefully later today) provide a full form draft of the Carriage Agreement and an amended draft of the Brand Licence Agreement.

Kind regards

From: [redacted]
Sent: 06 May 2011 17:35
To: [redacted]
Cc: [redacted]

[Redacted]

Subject: RE: Restricted - follow up meeting 5 May - MT (0012561-0000367)

Dear [Redacted]

Many thanks for your email below confirming certain issues discussed at yesterday's meeting.

In relation to the full form carriage agreement, I would note for the sake of completeness that this will obviously be subject to review by OFT/OFCOM and by DCMS' lawyers when you send it through in due course.

As promised, we attach a short, further set of specific questions as discussed at yesterday's meeting. These are divided into questions on the carriage agreement and queries on the proposed UIL.

We have requested a response to these by 9am on 10 May.

Kind regards,

[Redacted Signature]

Office of Fair Trading
Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: + 44

[Redacted]

From: [Redacted]

Sent: 06 May 2011 15:04

To: [Redacted]
Cc: [Redacted]

Subject: Restricted - follow up meeting 5 May - MT (0012561-0000367)

Dear [Redacted]

Thanks for the meeting yesterday which we thought was productive.

I can confirm that News would be willing to undertake to appoint a trustee to monitor compliance with the undertakings in line with the UILs' purpose envisaged by the Secretary of State in his notice of 3 March. This offer would be made on the basis that this further undertaking would give the OFT and Ofcom sufficient comfort that the agreements that require approval post effective date can be monitored appropriately. I enclose a proposal in this respect which would be added to the final text of the UILs before you finalise your advice to the Secretary of State.

I can also confirm that News will submit to you early next week, possibly on Monday, Newco's proposed Articles of Association which incorporate the relevant undertakings (including the clarification on board quorum discussed yesterday).

Finally I can confirm that we will submit the more detailed and final form of the Carriage Agreement as soon as possible. I understand that you will send us later today a list of issues to be clarified which also include points relating to the Carriage Agreement.

Best wishes

[Redacted]

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

[Redacted]

Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]

Sent: Tuesday, April 19, 2011 9:48 PM

To: [Redacted]

Subject: RESTRICTED: Newscorp/BSkyB - OFT/Ofcom Additional questions re the draft brand licensing and carriage agreements and responses to the DCMS consultation on the UIL

Dear [Redacted]

Many thanks for your responses to our earlier questions relating to the draft brand licensing agreements and carriage agreements. I attach a further set of questions which relate to the following specific areas:

- (1) further questions relating to the brand licensing and carriage agreements which take account of your responses dated 1 April and 12 April.
- (2) questions which arise from third party responses to the consultation launched by DCMS on the UIL. As you will appreciate, the responses to the consultation have been voluminous and have necessitated detailed review in order to ensure that we ask appropriate questions which will serve to enhance the UIL proposal or, in respect of which, it is appropriate to seek your view/comment.
- (3) detailed questions relating to the timing and mechanics of the UIL. I would urge you to respond in full to these questions since we wish to understand in some detail how, in practice, you understand the UIL will operate. We also include certain suggestions that we consider (following both responses to the third party consultation and further consideration) will lead to improvements to the UIL and its effective operation.

I anticipate, dependent on your responses, that this should be the final round of detailed questions prior to us providing our advice to the Secretary of State. I will endeavour to discuss with your team tomorrow both the timing for responses to these questions, the background to them and next steps.

In addition, in the interests of time, I would suggest that we schedule a meeting to discuss both your responses to the questions (including those attached to this email) and any issues which are pertinent to our advice to the

Secretary of State (or issues which require resolution following receipt of your responses to the attached questions) in the week commencing 2 May. If you are amenable to this, we can arrange a convenient date and time.

Kind regards,



Office of Fair Trading | Fleetbank House | 2-6
Salisbury Square | London | EC4Y 8JX |

Switchboard +44 (0)20 7211 8000

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Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX Switchboard (020) 7211 8000 Web Site:
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EX-L 50

[Redacted]

From: [Redacted]

Sent: 10 May 2011 19:28

To:
Cc:

[Redacted]

Subject: Revised drafts of key agreements and News' response to question 2.4 of the 6 May RFI (0012561-0000367)

Attachments: CO-#14047640-v1-Revised_Carriage_Agreement_10_May_2011.pdf; CO-#14047647-v1-DV_CA_14_April-CA_10_May.pdf; CO-#14024262-v3-Table_of_changes_to_the_CA.pdf; CO-#14047663-v1-DV_CA_21_March-CA_10_May.pdf; CO-#14047706-v1-DV_BLA_14_April-BLA_10_May.pdf; CO-#14047689-v1-DV_BLA_21_March-BLA_10_May.pdf; CO-#14047604-v1-News_response_to_2_4_of_6_May_RFI.pdf

[Redacted]

Please find attached the following documents:

1. A clean revised draft of the Carriage Agreement (CA)

<<CO-#14047640-v1-Revised_Carriage_Agreement_10_May_2011.pdf>>

2. Document 1 above marked-up to show changes to the draft CA previously submitted to the OFT/Ofcom (on 14 April 2011)

<<CO-#14047647-v1-DV_CA_14_April-CA_10_May.pdf>>

3. A table explaining the changes made since the last draft of the CA was submitted to the OFT/Ofcom

<<CO-#14024262-v3-Table_of_changes_to_the_CA.pdf>>

4. As requested, a further mark-up of document 1 above showing changes against the version submitted to DCMS (on 21 March 2011)

<<CO-#14047663-v1-DV_CA_21_March-CA_10_May.pdf>>

5. A revised draft Brand Licence Agreement (BLA) marked-up to show changes to the draft BLA previously submitted to the OFT/Ofcom (on 14 April)

<<CO-#14047706-v1-DV_BLA_14_April-BLA_10_May.pdf>>

6. As requested, a further mark-up of the BLA showing changes as against the version submitted to DCMS on 21 March

<<CO-#14047689-v1-DV_BLA_21_March-BLA_10_May.pdf>>

7. News' response to question 2.4 of the 6 May RFI

<<CO-#14047604-v1-News_response_to_2_4_of_6_May_RFI.pdf>>

Kind regards

[Redacted]

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EX.L 51

[Redacted]
From: [Redacted]
Sent: 12 May 2011 10:50
To: [Redacted]
Cc: [Redacted]
Subject: News/BSkyB

Dear [Redacted]

Further to our telephone conversation, we would envisage that Pinsent Masons will provide a mark-up of the contracts, covering the issues we have from a commercial point of view. In order to facilitate this, could you please let me have Word versions of both the most recent carriage agreement and brand licensing agreement? I do have these documents, of course, but only in pdf version.

Many thanks,

[Redacted]

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

[Redacted]

EX.L53

[Redacted]

From: [Redacted]
Sent: 19 May 2011 10:11
To: [Redacted]
Cc: [Redacted]
Subject: Pinsent Masons Review

[Redacted] can you please give us an update of the status and timing of Pinsent Masons' review.

If they have questions we hoped to receive them by yesterday as discussed on Monday.

Many thanks

Best wishes

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

[Redacted]

Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Thursday, May 12, 2011 10:59 AM
To: [Redacted]
Cc: [Redacted]
Subject: Word versions of BLA and CA (0012561-0000367)

[Redacted]

Please find attached as requested.

Kind regards

[Redacted]

From: [Redacted]
Sent: Thursday, May 12, 2011 10:50 AM

To: [redacted]
Cc: [redacted]
Subject: News/BSkyB

[redacted]

Further to our telephone conversation, we would envisage that Pinsent Masons will provide a mark-up of the contracts, covering the issues we have from a commercial point of view. In order to facilitate this, could you please let me have Word versions of both the most recent carriage agreement and brand licensing agreement? I do have these documents, of course, but only in pdf version.

Many thanks,

[redacted]

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

[redacted]

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EX.L 55

[Redacted]

From: [Redacted]
Sent: 19 May 2011 10:28
To: [Redacted]
Cc: [Redacted]
Subject: RE: Pinsent Masons Review

Dear [Redacted]

I had hoped, as we discussed, that the documents would be with you yesterday. Unfortunately that wasn't possible. I have a couple of queries at this end, but we should be getting you marked up versions of both Agreements later today/early tomorrow.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 19 May 2011 10:11
To: [Redacted]
Cc: [Redacted]
Subject: Pinsent Masons Review

[Redacted] can you please give us an update of the status and timing of Pinsent Masons' review.

* if they have questions we hoped to receive them by yesterday as discussed on Monday.

Many thanks

Best wishes

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [redacted]
Sent: Thursday, May 12, 2011 10:59 AM
To: [redacted]
Cc: [redacted]
Subject: Word versions of BLA and CA (0012561-0000367)

[redacted]

Please find attached as requested.

Kind regards

[redacted]

From: [redacted]
Sent: Thursday, May 12, 2011 10:50 AM
To: [redacted]
Cc: [redacted]
Subject: News/BSkyB

Dear [redacted]

Further to our telephone conversation, we would envisage that Pinsent Masons will provide a mark-up of the contracts, covering the issues we have from a commercial point of view. In order to facilitate this, could you please let me have Word versions of both the most recent carriage agreement and brand licensing agreement? I do have these documents, of course, but only in pdf version.

Many thanks,

[redacted]

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

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EX-L58

[Redacted]

From: [Redacted]
Sent: 20 May 2011 13:56
To: [Redacted]
Cc: [Redacted]
Subject: RE: Carriage agreement - comments on change clause
Attachments: [CJSM] RE: Carriage agreement - comments on change clause ; [CJSM] RE: Carriage agreement - comments on [Redacted]

[Redacted]

Thanks for this, which is very helpful. I attach two emails from Pinsents, the first of which explains the changes made by the attachments to the second. I will send A&O the brand licensing agreement, on which I don't think anyone had objection to, and would be grateful to hear if the amendments answer your concerns.

Thanks,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport.

[Redacted]

From: [Redacted]
Sent: 20 May 2011 12:04
To: [Redacted]
Cc: [Redacted]
Subject: Carriage agreement - comments on [Redacted]

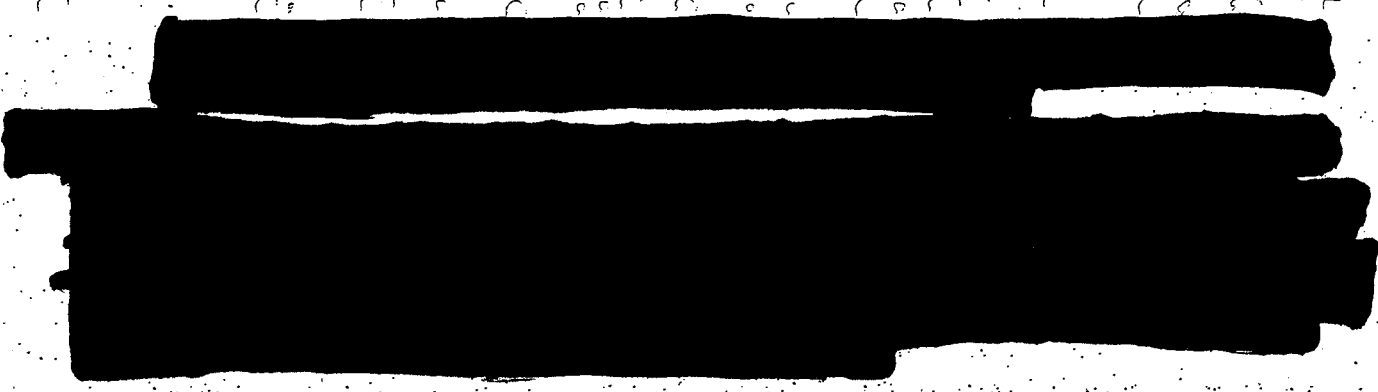
Comments on Pinsents revised carriage agreement ['Carriage agreement (18 May2011)-1 (compared with Carriage Agreement (19 May 2011)-1).pdf']

[Redacted]

I think we are broadly comfortable with the inclusion of [Redacted] (based on the version you sent us at 2.40pm yesterday).

1)

[Large redacted block]



As an aside, the current numbering of the draft agreement is starting to get confusing, with more than one clause A or B etc. You might want to ask Pinsents to renumber to minimise the risk of any confusion in cross references in the document.

Clive



:: Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
020 7981 3000
www.ofcom.org.uk

For more information visit www.ofcom.org.uk
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EX.L59

[Redacted]

From: [Redacted]
Sent: 20 May 2011 14:11
To: [Redacted]
Cc: [Redacted]
Subject: News Corporation/Sky merger
Attachments: Redline Brand Licence (18 May compared against 10 May 2011 version).pdf

[Redacted]

Please see attached a marked up version of the Brand Licensing Agreement. The Carriage Agreement will follow.

Regards,

[Redacted]

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

From: [Redacted]
Sent: 19 May 2011 11:03
To: [Redacted]
Cc: [Redacted]
Subject: RE: Pinsent Masons Review (0012561-0000367)

Thank you. We look forward to hearing from you as soon as possible so that the OFT can finalise their advice to the Secretary of State.

Regards

From: [Redacted]
Sent: Thursday, May 19, 2011 10:28 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Pinsent Masons Review

Dear [Redacted]

I had hoped, as we discussed, that the documents would be with you yesterday. Unfortunately that wasn't possible. I have a couple of queries at this end, but we should be getting you marked up versions of both Agreements later today/early tomorrow.

Regards,

[Redacted]

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 19 May 2011 10:11

To: [Redacted]

Cc: [Redacted]

[Redacted]

Subject: Pinsent Masons Review

[Redacted] can you please give us an update of the status and timing of Pinsent Masons' review.

If they have questions we hoped to receive them by yesterday as discussed on Monday.

Many thanks

Best wishes

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]

Sent: Thursday, May 12, 2011 10:59 AM

To: [Redacted]

Cc: [Redacted]

Subject: Word versions of BLA and CA (0012561-0000367)

[Redacted]

Please find attached as requested.

Kind regards

[Redacted]

From: [Redacted]

Sent: Thursday, May 12, 2011 10:50 AM

To: [redacted]
Cc: [redacted]
Subject: News/BSkyB

Dear [redacted]

Further to our telephone conversation, we would envisage that Pinsent Masons will provide a mark-up of the contracts, covering the issues we have from a commercial point of view. In order to facilitate this, could you please let me have Word versions of both the most recent carriage agreement and brand licensing agreement? I do have these documents, of course, but only in pdf version.

Many thanks,

[redacted]

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

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EX-L 60

[Redacted]
From: [Redacted]
Sent: 20 May 2011 17:18
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/Sky merger
Attachments: Brand Licence Agreement (18 May 2011).doc

[Redacted]
Please see attached Word version. Unfortunately I think the Carriage Agreement will now be on Monday. I apologise for the delay. If I am able to get it to you sooner, then I will do so.

Regards,

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

From: [Redacted]
Sent: 20 May 2011 17:01
To: [Redacted]
Cc: [Redacted]
Subject: Re: News Corporation/Sky merger

[Redacted] thank you. Would you also be to send us a clean version in MS word?

Will we receive the mark up of the CA today as we hope?

Regards

On 20 May 2011, at 15:10 [Redacted]

[Redacted]
Please see attached a marked up version of the Brand Licensing Agreement. The Carriage Agreement will follow.

Regards,

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

From: [redacted]
Sent: 19 May 2011 11:03
To: [redacted]
Cc: [redacted]
Subject: RE: Pinsent Masons Review (0012561-0000367)

Thank you. We look forward to hearing from you as soon as possible so that the OFT can finalise their advice to the Secretary of State.

Regards,

From: [redacted]
Sent: Thursday, May 19, 2011 10:28 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Pinsent Masons Review

Dear [redacted]

I had hoped, as we discussed, that the documents would be with you yesterday. Unfortunately that wasn't possible. I have a couple of queries at this end, but we should be getting you marked up versions of both Agreements later today/early tomorrow.

Regards,

[redacted]

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 19 May 2011 10:11

To: [Redacted]

Cc: [Redacted]

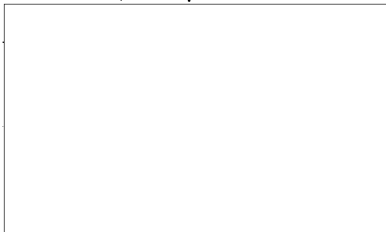
Subject: Pinsent Masons Review

[Redacted] can you please give us an update of the status and timing of Pinsent Masons' review.

If they have questions we hoped to receive them by yesterday as discussed on Monday.

Many thanks

Best wishes



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Thursday, May 12, 2011 10:59 AM
To: [Redacted]

Cc: [redacted]
Subject: Word versions of BLA and CA (0012561-0000367)

[redacted]

Please find attached as requested.

Kind regards

[redacted]

From: [redacted]
Sent: Thursday, May 12, 2011 10:50 AM
To: [redacted]
Cc: [redacted]
Subject: News/BSkyB

Dear [redacted]

Further to our telephone conversation, we would envisage that Pinsent Masons will provide a mark-up of the contracts, covering the issues we have from a commercial point of view. In order to facilitate this, could you please let me have Word versions of both the most recent carriage agreement and brand licensing agreement? I do have these documents, of course, but only in pdf version.

Many thanks,

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[Redacted]

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

[Redacted]

[Redacted] www.culture.gov.uk

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<Redline Brand Licence (18 May compared against 10 May 2011 version).pdf>

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EX.L61

[redacted]
From: [redacted]
Sent: 23 May 2011 12:26
To: [redacted]
Cc: [redacted]
Subject: Carriage Agreement (0012561-0000367)

[redacted] do you when we will receive the Carriage Agreement today? Many thanks

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From: [redacted]
Sent: Friday, May 20, 2011 5:18 PM
To: [redacted]
Cc: [redacted]
Subject: RE: News Corporation/Sky merger

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Please see attached Word version. Unfortunately I think the Carriage Agreement will now be on Monday. I apologise for the delay. If I am able to get it to you sooner, then I will do so.

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[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]
Sent: 20 May 2011 17:01
To: [redacted]
Cc: [redacted]
Subject: Re: News Corporation/Sky merger

[redacted] thank you. Would you also be to send us a clean version in MS word?

Will we receive the mark up of the CA today as we hope?

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On 20 May 2011, at 15:10 [redacted]

[redacted]

Please see attached a marked up version of the Brand Licensing Agreement. The Carriage Agreement will follow.

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[Redacted]

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 19 May 2011.11:03

To: [Redacted]

Cc: [Redacted]

[Redacted]

Subject: RE: Pinsent Masons Review (0012561-0000367)

Thank you. We look forward to hearing from you as soon as possible so that the OFT can finalise their advice to the Secretary of State.

Regards

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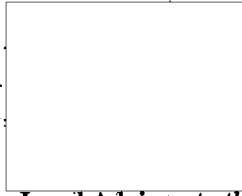
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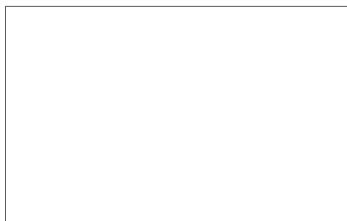
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From: [redacted]
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Subject: Word versions of BLA and CA (0012561-0000367)

[redacted]

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[redacted]

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Sent: Thursday, May 12, 2011 10:50 AM
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SW1Y 5DH

 www.culture.gov.uk

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EX.L 63

[Redacted]

From: [Redacted]
Sent: 23 May 2011 12:57
To: [Redacted]
Cc: [Redacted]
Subject: RE: Carriage Agreement (0012561-0000367)
Attachments: CO-#14047640-v1-Revised_Carriage_Agreement (10 May 2011 compared with 23 May 2011).pdf; Carriage Agreement (23 May 2011).doc

[Redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 23 May 2011 12:26
To: [Redacted]
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Sent: 19 May 2011 11:03
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Cc: [redacted]
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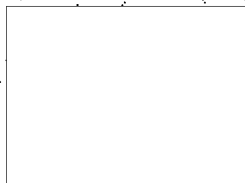
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Direct
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From:
Sent: Thursday, May 12, 2011 10:59 AM
To:
Cc:
Subject: Word versions of BLA and CA (0012561-0000367)



Please find attached as requested.

Kind regards



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

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[redacted] www.culture.gov.uk

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EX.L 64

[Redacted]

From: [Redacted]
Sent: 23 May 2011 14:03
To: [Redacted]
Cc: [Redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[Redacted] thank you. I note that section 1.1(a) and 1.2 are marked "subject to further review".

When do you anticipate that such review would be completed?

Regards

From: [Redacted]
Sent: Monday, May 23, 2011 12:57 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[Redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

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[Redacted]

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

From: [Redacted]
Sent: 23 May 2011 12:26
To: [Redacted]
Cc: [Redacted]
Subject: Carriage Agreement (0012561-0000367)

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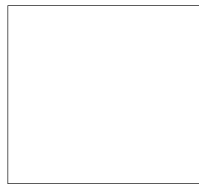
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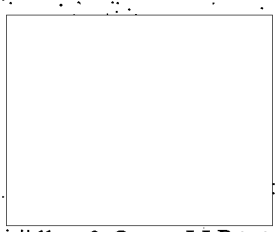
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EX.L 66

[Redacted]

From: [Redacted]
Sent: 26 May 2011 15:48
To: [Redacted]
Cc: [Redacted]
Subject: CA and BLA (0012561-0000367)
Attachments: LT-#6815735-v3-Revised_draft_Carriage_Agreement_26_May_2011.DOC; CO-#14173525-v1-DV_DCMS_CA_-_CA_26_May.PDF; CO-#14137043-v4-Table_of_changes_to_the_CA_26_May_2011.DOC; LT-#6815876-v4-Revised_draft_Brand_Licence_26_May_2011.DOC; CO-#14173588-v1-DV_DCMS_BLA_-_BLA_26_May.PDF; CO-#14137310-v2-Table_of_changes_to_BLA_26_May_2011.DOC; CO-#14161198-v1-Attachment_to_CA_Table_of_Changes_25_May_2011.XLS

CONFIDENTIAL

[Redacted]

I enclose our mark ups against the drafts of the Carriage Agreement and the Brand Licence Agreement that you sent us on, respectively, 20 May and 23 May.

We have prepared two tables that explain the changes made. I hope that this will assist Pinsent Masons' review and the Secretary of State's consideration of some of the commercial issues raised in the mark-ups.

Clean versions of each agreement are also attached.

I will be in touch to make sure that everything is clear and discuss timing and next steps also in light of an update with on the OFT/Ofcom process.

Best wishes

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Monday, May 23, 2011 12:57 PM
To: [Redacted]

Cc: [redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]
Sent: 23 May 2011 12:26
To: [redacted]
Cc: [redacted]
Subject: Carriage Agreement (0012561-0000367)

[redacted] do you when we will receive the Carriage Agreement today? Many thanks

Regards

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EX-L 68

[Redacted]

From: [Redacted]

Sent: 26 May 2011 17:42

To: [Redacted]
Cc: [Redacted]

Subject: RE: CA and BLA (0012561-0000367)

Attachments: CO-#14137043-v4-Table_of_changes_to_the_CA_26_May_2011.DOC; CO-#14137043-v4-Table_of_changes_to_the_CA_26_May_2011.DOC

[Redacted] please find attached a slightly amended version of the table of changes to the carriage agreement (in clean and in tracks) correcting for a typo in the explanation to the amendment at Clause H6.

Kind regards

[Redacted]

From: [Redacted]

Sent: 26 May 2011 15:48

To: [Redacted]
Cc: [Redacted]

Subject: CA and BLA (0012561-0000367)

CONFIDENTIAL

[Redacted]

I enclose our mark ups against the drafts of the Carriage Agreement and the Brand Licence Agreement that you sent us on, respectively, 20 May and 23 May.

We have prepared two tables that explain the changes made. I hope that this will assist Pinsent Masons' review and the Secretary of State's consideration of some of the commercial issues raised in the mark-ups.

Clean versions of each agreement are also attached.

I will be in touch to make sure that everything is clear and discuss timing and next steps also in light of an update with on the OFT/Ofcom process.

Best wishes

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London

E1 6AD
United Kingdom

Direct [redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [redacted]
Sent: Monday, May 23, 2011 12:57 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From [redacted]
Sent: 23 May 2011 12:26
To: [redacted]
Cc: [redacted]
Subject: Carriage Agreement (0012561-0000367)

[redacted] do you when we will receive the Carriage Agreement today? Many thanks

Regards

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EX.L 70

[Redacted]

From: [Redacted]
Sent: 01 June 2011 16:10
To: [Redacted]
Cc: [Redacted]
Subject: CA and BLA - timing update (0012561-0000367)

[Redacted] do you have any update on whether you will be able to revert to us today? Many thanks

Regards

From: [Redacted]
Sent: 27 May 2011 05:51
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA (0012561-0000367)

[Redacted]

We've had a brief chance to look at these documents, including the amended change list which [Redacted] sent yesterday. We anticipate being in a position to revert to you on either Wednesday or Thursday next week, considering the bank holiday in the meantime.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 26 May 2011 16:48
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA (0012561-0000367)

[Redacted]

Thanks very much for this. I will discuss with Pinsents, and then revert to you tomorrow about timings for us to revert to you.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [redacted]
Sent: 26 May 2011 15:48
To: [redacted]
Cc: [redacted]
Subject: CA and BLA (0012561-0000367)

CONFIDENTIAL

[redacted]

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We have prepared two tables that explain the changes made. I hope that this will assist Pinsent Masons' review and the Secretary of State's consideration of some of the commercial issues raised in the mark-ups.

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I will be in touch to make sure that everything is clear and discuss timing and next steps also in light of an update with on the OFT/Ofcom process.

Best wishes

[redacted signature box]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [redacted]
Sent: Monday, May 23, 2011 12:57 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

Regards,

[redacted signature box]

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 23 May 2011 12:26
To: [Redacted]
Cc: [Redacted]
Subject: Carriage Agreement (0012561-0000367)

[Redacted] do you when we will receive the Carriage Agreement today? Many thanks

Regards

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EX.L71

[redacted]

From: [redacted]
Sent: 02 June 2011 18:08
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)

[redacted] do you still intend to revert to us today? We are extremely concerned by this delay.

Regards

From: [redacted]
Sent: 01 June 2011 11:10
To: [redacted]
Cc: [redacted]
Subject: CA and BLA - timing update (0012561-0000367)

[redacted] do you have any update on whether you will be able to revert to us today? Many thanks

Regards

From: [redacted]
Sent: 27 May 2011 05:51
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA (0012561-0000367)

[redacted]
We've had a brief chance to look at these documents, including the amended change list which [redacted] sent yesterday. We anticipate being in a position to revert to you on either Wednesday or Thursday next week, considering the bank holiday in the meantime.

Regards,

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

From: [redacted]
Sent: 26 May 2011 16:48
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA (0012561-0000367)

Thanks very much for this. I will discuss with Pinsents, and then revert to you tomorrow about timings for us to revert to you.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 26 May 2011 15:48
To: [Redacted]
Cc: [Redacted]
Subject: CA and BLA (0012561-0000367)

CONFIDENTIAL

[Redacted]

I enclose our mark ups against the drafts of the Carriage Agreement and the Brand Licence Agreement that you sent us on, respectively, 20 May and 23 May.

We have prepared two tables that explain the changes made. I hope that this will assist Pinsent Masons' review and the Secretary of State's consideration of some of the commercial issues raised in the mark-ups.

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I will be in touch to make sure that everything is clear and discuss timing and next steps also in light of an update with on the OFT/Ofcom process.

Best wishes

[Redacted]

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www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: Monday, May 23, 2011 12:57 PM
To: [Redacted]

Cc: [redacted]
Subject: RE: Carriage Agreement (0012561-0000367)

[redacted]

Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]
Sent: 23 May 2011 12:26
To: [redacted]
Cc: [redacted]
Subject: Carriage Agreement (0012561-0000367)

[redacted] do you when we will receive the Carriage Agreement today? Many thanks

Regards

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**

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EX-L 73

[redacted]

From: [redacted]
Sent: 03 June 2011 16:33
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)

Dear [redacted]

Further to my email of this morning, although we haven't yet been back to you, we are making considerable progress internally on discussing outstanding issues in relation to the agreements following your response to Pinsent Mason's marked-up versions. We think that the issues are narrowing considerably, and we would envisage a further iteration directly between yourselves and Pinsent Masons. We hope that can be concluded by the end of next week.

Yours faithfully,

[redacted]

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

From: [redacted]
Sent: 02 June 2011 18:08
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)

[redacted] do you still intend to revert to us today? We are extremely concerned by this delay.

Regards

From: [redacted]
Sent: 01 June 2011 11:10
To: [redacted]
Cc: [redacted]
Subject: CA and BLA - timing update (0012561-0000367)

[redacted] do you have any update on whether you will be able to revert to us today? Many thanks

Regards

From: [redacted]
Sent: 27 May 2011 05:51
To: [redacted]
Cc: [redacted]
Subject: RE: CA and BLA (0012561-0000367)

[redacted]

We've had a brief chance to look at these documents, including the amended change list which [redacted] sent yesterday. We anticipate being in a position to revert to you on either Wednesday or Thursday next week, considering the bank holiday in the meantime.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]

Sent: 26 May 2011 16:48

To: [redacted]

Cc: [redacted]

Subject: RE: CA and BLA (0012561-0000367)

[redacted]

Thanks very much for this. I will discuss with Pinsents, and then revert to you tomorrow about timings for us to revert to you.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]

Sent: 26 May 2011 15:48

To: [redacted]

Cc: [redacted]

Subject: CA and BLA (0012561-0000367)

CONFIDENTIAL

[redacted]

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I will be in touch to make sure that everything is clear and discuss timing and next steps also in light of an update with on the OFT/Ofcom process.

Best wishes



Partner
Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From:
Sent: Monday, May 23, 2011 12:57 PM
To:
Cc:
Subject: RE: Carriage Agreement (0012561-0000367)



Apologies for the delay, but please see the Carriage Agreement attached in both pdf and Word.



Legal Advisers to the Department for Culture, Media and Sport



From:
Sent: 23 May 2011 12:26
To:
Cc:
Subject: Carriage Agreement (0012561-0000367)

do you when we will receive the Carriage Agreement today? Many thanks

Regards

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EX.L 74

[Redacted]

From: [Redacted]
Sent: 14 June 2011 12:43
To: [Redacted]
Cc: [Redacted]
Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted]

Many thanks for your email.

We are grateful for your confirmation in relation to points 1, 2 and 4.

In point 3, we are grateful for your acceptance of the change to paragraph 6.7. On paragraph 6.5, we have no objections to reverting to the suggested language of 13 May for paragraph 6.5 (assuming it includes a backstop date).

Aside from the above, I can confirm that - at present - OFT / Ofcom have no further outstanding points. However, you will appreciate that this is without prejudice to the possibility that we may need to revert to News on specific points for the purpose of finalising our advice to the Secretary of State.

We look forward to receiving a revised draft of the UIL in line with the above.

Kind regards

[Redacted]
 [Redacted] Office of Fair Trading
 Metbank House | 2-6 Salisbury Square | London EC4Y 8JX | T: + [Redacted]

From: [Redacted]
Sent: 14 June 2011 11:24
To: [Redacted]
Cc: [Redacted]
Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Further to my email below. I can now confirm that Sky holds the records that you refer to in point 2 below which are relevant to compliance with section 4.9 of the UIL.

I look forward to hearing from you.

Best wishes

[Redacted]

From: [redacted]

Sent: 14 June 2011 11:17

To: [redacted]

Cc: [redacted]

Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [redacted] News is prepared to modify the UILs as you requested in points 1 and 4 below.

On point 3 and

[redacted] we would be OK to revert to the language you suggested on 13 May. Can you please let me know what your position is as News does not want this issue to cause any delay in your finalisation of the OFT report to the Secretary of State. The modification to section 6.7 is, in any event, agreed.

We are checking the position with Sky on point 2 and we will revert to you very shortly.

Can you please also confirm as soon as you that there are no other points open on the UIL so that we can send you a final set of UIL tracked against last version sent and the consultation version.

Best wishes

From: [redacted]

Sent: 13 June 2011 19:56

To: [redacted]

Cc: [redacted]

Subject: Re: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [redacted] thank you. We will consider each of these points and we will revert as soon as possible tomorrow.

In the meantime can you please confirm that there are no other outstanding points from OFT/Ofcom other the ones listed below.

Regards

From: [redacted]

Sent: Monday, June 13, 2011 07:45 PM

To: [redacted]

Cc: [redacted]



Subject: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear 

Many thanks for your email - and for sending the comparites through.

We had four points in relation to the UIL, in relation to which we would be grateful for your consideration.

1. Paragraph 4.6 - the duration of the Brand Licensing Agreement is detailed as being 'for an initial 7 year term, with an automatic renewal for a further 7 years' - we would request that this be amended to 'for a fourteen year term' in accordance with the revised Brand Licensing Agreement.

2. Paragraph 4.9 - this paragraph refers to cross promotion of Sky News by Sky 'on Sky's linear channels to a level and in a manner comparable with such cross-promotion for the period of 12 months prior to the Effective Date'. Please confirm that Sky keeps adequate records to demonstrate compliance with paragraph 4.9 of the UILs.




3. Paragraphs 6.5 and 6.7 - when we spoke earlier, you described News as having accepted our position in relation to the appointment of the Monitoring Trustee (MT). We would request that the wording in relation to 'best endeavours' is removed from paragraphs 6.5 and 6.7 in order to provide greater certainty as to the appointment of a MT.



4. Paragraph 6.8 - the drafting of the point for termination of the role of the MT was intended to ensure that the MT remained in place during spin-off and for the entry into force of the operational agreements. However, on further review of our original drafting, we note that the operational agreements could potentially be entered into prior to spin-off (in accordance with paragraph 5.1). In order to ensure that, in such a scenario, the MT should remain in place until spin-off, we would request that paragraph 6.8 be amended to read:

6.8 The Monitoring Trustee shall remain in place until the spin-off of the Sky News business in accordance with section 2 or until all of the operational agreements detailed in section 5.1 above become effective, whichever is the later.

I hope that the above is clear - but please do not hesitate to give me a call if you would like to discuss.

Kind regards


 | Office of Fair Trading
Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | 

From: 
Sent: 10 June 2011 11:24
To: 

Cc: [redacted]

Subject: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

CONFIDENTIAL

Dear [redacted]

Further to our calls and the emails below, we have received on Wednesday from DCMS the latest mark up of the Carriage Agreement and the Brand Licence Agreement. We have responded to DCMS yesterday with our final comments (which also include the wording on certain financial provisions that has been discussed separately between [redacted] and [redacted] and which was also provided to [redacted] as a stand-alone rider).

On that basis I am now in a position to revert with a revised set of UILs which confirms the position on the points that needed to be closed off and includes the wording sent to [redacted] in a stand-alone basis.

The minor clarifications in sections 4.5(iii) and 4.7(iii) have been suggested by DCMS following the Pinsent Masons review.

The new draft UIL is provided in a clean version as well as with two Deltaviews tracking changes against, respectively, the last full version submitted of 17 May and the consultation version of 1 March.

As previously discussed with [redacted] I am also copying [redacted] of DCMS.

Best wishes



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [redacted]
Sent: 24 May 2011 19:15
To: [redacted]
Cc: [redacted]

Subject: RE: Sections 2.1 and 5.1 of UIL (0012561-0000367)

Dear [redacted]

Further to our call, our proposed wording for section 2.1 would read:

2.1 News shall effect the spin-off of the Sky News business into an independent English public limited company, Newco, the shares of which will be publicly traded, using its best endeavours and acting in good faith, at the Closing Date or as soon as reasonably practicable following the Closing Date and in any event within 9 months of the Closing Date, subject to any extension of time agreed with the consent of the Secretary of State. In effecting the spin-off of the Sky News business in accordance with section 2.2 below, News shall not take any action that would prevent Newco being placed in an overall position of editorial, governance, commercial and financial independence in which it will continue to contribute to plurality as Sky News did prior to the Transaction. Shares in Newco shall be distributed or otherwise issued or transferred to the shareholders of Sky in the same proportions as their shareholdings in Sky.

We look forward to receiving your wording in relation to the appointment of a Monitoring Trustee (sections 6.5-6.7).

Kind regards

[Redacted]

Office of Fair Trading

Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | [Redacted]

From: [Redacted]
Sent: 18 May 2011 19:52
To: Nicholas Scola
Cc:

[Redacted]

Subject: Sections 2.1 and 5.1 of UIL (0012561-0000367)

CONFIDENTIAL

Dear [Redacted]

further to our call earlier today I can confirm that News would also be available for a call to discuss the outstanding points on the UILs tomorrow at 6.30pm and would like to proceed on that basis.

With regard to section 2.1 this is the wording that News would propose to add which I hope will prove uncontroversial.

2.1 News shall effect the spin-off of the Sky News business into an independent English public limited company, Newco, the shares of which will be publicly traded, using its best endeavours and acting in good faith, at the Closing Date or as soon as reasonably practicable following the Closing Date and in any event within 9 months of the Closing Date, subject to any extension of time agreed with the consent of the Secretary of State. In effecting the spin-off of the Sky News business, News shall not knowingly take any action that would prevent Newco being placed in an overall position of editorial, governance, commercial and financial independence in which it will continue to contribute to plurality as it did prior to the Transaction in the manner contemplated by these undertakings. Shares in Newco shall be distributed or otherwise issued or transferred to the shareholders of Sky in the same proportions as their shareholdings in Sky.

The first addition is designed to avoid catching inadvertent action. The second and third are designed to ensure that the provision is placed in the right context by anyone looking at it without the benefit of the detailed discussions that we have had OFT and OFCOM and that the additional language you proposed is not interpreted as suggesting obligations other than

the ones set out in the UILs themselves. I note from your email below that this appears to be common ground so I hope that we can reach agreement on this.

With regard to section 5.1 News still questions the need to add further language in this part of the undertakings which relate to agreements that are to be "arm's length", "fair and reasonable", and are subject to a Secretary of State right of approval (other than for agreements relating to services widely available from a number of third parties). Referring to concepts which are extraneous to these individual agreements would create confusion and is unnecessary.

Unless you confirm that, based on this email, the OFT and OFCOM consider that no further call would be useful or necessary we will circulate dial in by noon tomorrow.

Best wishes



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

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EX.L76

[Redacted]

From: [Redacted]
Sent: 03 June 2011 08:03
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)

[Redacted]

Sorry for not having been able to get back to you yesterday. We are working through the comments that you have made in relation to the iteration of the Carriage and Brand Licensing Agreements which were sent to you, and will revert as soon as we are able. If we can revert on some points we will do so today, although I am aware now that some points will have to wait until Monday, and it may therefore be better to revert on all points then.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 02 June 2011 18:08
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)

[Redacted] do you still intend to revert to us today? We are extremely concerned by this delay.

Regards

From: [Redacted]
Sent: 01 June 2011 11:10
To: [Redacted]
Cc: [Redacted]
Subject: CA and BLA - timing update (0012561-0000367)

[Redacted] do you have any update on whether you will be able to revert to us today? Many thanks

Regards

From: [Redacted]
Sent: 27 May 2011 05:51
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA (0012561-0000367)

[Redacted]

EX.L 80

[Redacted]

From: [Redacted]
Sent: 08 June 2011 12:12
To: [Redacted]
Cc: [Redacted]
Subject: Re: CA and BLA - timing update (0012561-0000367)

Can you please advise when we will receive the comments from Pinsent? It has been a week since we were promised comments, and nearly two weeks since we have submitted the relevant agreements and responses.

Thank you.

[Redacted]

General Counsel, Europe & Asia
 News Corporation
 3 Thomas More Square
 London E9 8 1EX

From: [Redacted]
Date: Fri, 3 Jun 2011 16:32:50 +0100
To: [Redacted]
Cc: [Redacted]
Subject: RE: CA and BLA - timing update (0012561-0000367)
Resent-From: [Redacted]
Resent-Date: Fri, 3 Jun 2011 15:31:33 +0000

Dear [Redacted]

Further to my email of this morning, although we haven't yet been back to you, we are making considerable progress internally on discussing outstanding issues in relation to the agreements following your response to Pinsent Mason's marked-up versions. We think that the issues are narrowing considerably, and we would envisage a further iteration directly between yourselves and Pinsent Masons. We hope that can be concluded by the end of next week.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

From: [Redacted]
Sent: 02 June 2011 18:08

EX.L 82

[Redacted]

From: [Redacted]
Sent: 08 June 2011 16:28

To: [Redacted]
Cc: [Redacted]

Subject: Newscorp/Sky merger - Carriage and Brand Licensing Agreements
Attachments: Carriage Agreement (8 June 2011).doc; Brand Licence Agreement (8 June 2011).doc; Redline - Carriage Agreement - 8June vs 26 May 2011 version.pdf; Redline - Brand Licence - 8 June vs 26 May 2011 version.pdf; Table explaining changes to Carriage Agreement.doc; Table explaining changes to Brand Licence Agreement.doc

Dear [Redacted]

Please see attached:

- Updated, clean copies of the Carriage Agreement and Brand Licence;
- Redline copies of the above;
- Tables explaining the changes to the documents.

We are aware that there are on-going discussions with the OFT and Ofcom around [Redacted] which are not currently reflected in the agreements. Clearly, we will expect any agreements reached as a result of those discussions to be reflected at a later stage when we may wish Pinsent Masons to look again at these drafts.

As discussed with you earlier this week, we are, as always keen to make progress. We consider that the amendments which have now been represent a significant narrowing of the issues which were outstanding from the previous amendments sent to you, and we therefore look forward to hearing from you as swiftly as possible.

Regards,

[Redacted Signature]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

EX.L 83

[Redacted]

From: [Redacted]
Sent: 09 June 2011 12:41
To: [Redacted]
Cc: [Redacted]
Subject: RE: Newscorp/Sky merger - Carriage and Brand Licensing Agreements (0012561-0000367)

Dear [Redacted], thanks for this email. I wanted to discuss a couple of issues stemming from the mark ups and discuss what is the most efficient way to clarify them with you and Pinsent Masons. Could we have a brief call at your earliest convenience? I have also left you a voicemail.

Regards

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
 London
 E1 6AD
 United Kingdom

Direct [Redacted]
 Tel +44 (0)20 3088 0000
 Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: 08 June 2011 16:28
To: [Redacted]
Cc: [Redacted]
Subject: Newscorp/Sky merger - Carriage and Brand Licensing Agreements

Dear [Redacted]

Please see attached:

- Updated, clean copies of the Carriage Agreement and Brand Licence;
- Redline copies of the above;
- Tables explaining the changes to the documents.

We are aware that there are on-going discussions with the OFT and Ofcom around the financial aspects of the hive-off of Sky News which are not currently reflected in the agreements. Clearly, we will expect any agreements reached as a result of those discussions to be reflected at a later stage when we may wish Pinsent Masons to look again at these drafts.

EX.L 84

[Redacted]

From: [Redacted]
Sent: 09 June 2011 15:40
To: [Redacted]
Cc: [Redacted]
Subject: RE: Newscorp/Sky merger - Carriage and Brand Licensing Agreements (0012561-0000367)
Attachments: CO-#13975440-v8-Draft_response_to_19_April_OFT_Ofcom_-_LATEST_VERSION.pdf

[Redacted]

As per our discussion earlier, please find attached News' response to the OFT/Ofcom questions of 19 April. As discussed, News' response to question 2.6 informed the discussion with Ofcom at the OFT's offices on 5 May and the subsequent agreement reached in respect of [Redacted] (i.e. that this would be included in the UIL and not the Carriage Agreement).

Kind regards

[Redacted]

From: [Redacted]
Sent: 08 June 2011 16:28
To: [Redacted]
Cc: [Redacted]
Subject: Newscorp/Sky merger - Carriage and Brand Licensing Agreements

Dear [Redacted]

Please see attached:

- Updated, clean copies of the Carriage Agreement and Brand Licence;
- Redline copies of the above;
- Tables explaining the changes to the documents.

We are aware that there are on-going discussions with the OFT and Ofcom around [Redacted] which are not currently reflected in the agreements. Clearly, we will expect any agreements reached as a result of those discussions to be reflected at a later stage when we may wish Pinsent Masons to look again at these drafts.

As discussed with you earlier this week, we are, as always keen to make progress. We consider that the amendments which have now been represent a significant narrowing of the issues which were outstanding from the previous amendments sent to you, and we therefore look forward to hearing from you as swiftly as possible.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

EX.L 85

[Redacted]

From: [Redacted]
Sent: 09 June 2011 20:56
To: [Redacted]
Cc: [Redacted]

Subject: RE: Newscorp/Sky merger - Carriage and Brand Licensing Agreements (0012561-0000367)
Attachments: LT-#6892927-v2-Revised_draft_Carriage_Agreement_9_June.DOC; CO-#14259180-v1-DV_CA_8_June_-_CA_9_June.PDF; LT-#6891216-v2-Revised_draft_Brand_Licence_Agreement_9_June.DOC; CO-#14259184-v1-DV_BLA_8_June_-_BLA_9_June.PDF; CO-#14252481-v1-List_of_changes_to_BLA_and_CA_9_June_2011.DOC

Confidential

Dear [Redacted]

further to our call earlier today I enclose clean and marked up copies of the Carriage Agreement and the Brand Licence Agreement.

We discussed the rationale for some of the changes but I have summarised all changes and their reasons in a brief note which I also attach.

The drafts also reflect discussions between News and the OFT on the outstanding financial aspects. News has sent to the OFT official reviewing the financial aspects of the proposal a rider of the relevant clauses of sections C1 and C4 of the Carriage Agreement but we have not sent them the latest versions of the agreements as agreed with you.

I hope that this will conclude this review but I will call you tomorrow to confirm that our explanations are clear. If so we can also circle back with the OFT and Ofcom to close off the outstanding points in relation to the UIL (and will copy you in).

Best wishes

[Redacted Signature]

Allen & Overy LLP
www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

EX.L 87

[Redacted]

From: [Redacted]
Sent: 10 June 2011 11:24
To: [Redacted]
Cc: [Redacted]

Subject: Revised UILs - News/BSkyB - Confidential (0012561-0000367)
Attachments: CO-#14105919-v2-Draft UIL_10_June.DOC; CO-#14260923-v1-DV UIL_1
_March_Consultation_-_UIL_10_June.PDF; CO-#14261124-v1-DV UIL_17_May_-_UIL_10_Jne.PDF

CONFIDENTIAL

Dear [Redacted]

Further to our calls and the emails below, we have received on Wednesday from DCMS the latest mark up of the Carriage Agreement and the Brand Licence Agreement. We have responded to DCMS yesterday with our final comments (which also include the wording on certain financial provisions that has been discussed separately between [Redacted] and [Redacted] and which was also provided to [Redacted] as a stand-alone rider).

On that basis I am now in a position to revert with a revised set of UILs which confirms the position on the points that needed to be closed off and includes the wording sent to [Redacted] on a stand-alone basis.

The minor clarifications in sections 4.5(iii) and 4.7(iii) have been suggested by DCMS following the Pinsent Masons review.

The new draft UIL is provided in a clean version as well as with two Deltaviews tracking changes against, respectively, the last full version submitted of 17 May and the consultation version of 1 March.

As previously discussed with [Redacted] I am also copying [Redacted] of DCMS.

Best wishes

[Redacted Signature]

[Redacted]
Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

EX.L 89

From:
Sent:
To:
Cc:

13 June 2011 19:46

Subject:

RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear

Many thanks for your email - and for sending the comparites through.

We had four points in relation to the UIL, in relation to which we would be grateful for your consideration.

1. Paragraph 4.6 - the duration of the Brand Licensing Agreement is detailed as being 'for an initial 7 year term, with an automatic renewal for a further 7 years' - we would request that this be amended to 'for a fourteen year term' in accordance with the revised Brand Licensing Agreement.

2. Paragraph 4.9 - this paragraph refers to cross promotion of Sky News by Sky 'on Sky's linear channels to a level and in a manner comparable with such cross-promotion for the period of 12 months prior to the Effective Date'. Please confirm that Sky keeps adequate records to demonstrate compliance with paragraph 4.9 of the UILs.

3. Paragraphs 6.5 and 6.7 - when we spoke earlier, you described News as having accepted our position in relation to the appointment of the Monitoring Trustee (MT). We would request that the wording in relation to 'best endeavours' is removed from paragraphs 6.5 and 6.7 in order to provide greater certainty as to the appointment of a MT.

4. Paragraph 6.8 - the drafting of the point for termination of the role of the MT was intended to ensure that the MT remained in place during spin-off and for the entry into force of the operational agreements. However, on further review of our original drafting, we note that the operational agreements could potentially be entered into prior to spin-off (in accordance with paragraph 5.1). In order to ensure that, in such a scenario, the MT should remain in place until spin-off, we would request that paragraph 6.8 be amended to read:

6.8 The Monitoring Trustee shall remain in place until the spin-off of the Sky News business in accordance with section 2 or until all of the operational agreements detailed in section 5.1 above become effective, whichever is the later.

I hope that the above is clear - but please do not hesitate to give me a call if you would like to discuss.

Kind regards

[Redacted signature box]

Office of Fair Trading

Fleetbank House | 2-6 Salisbury Square | London EC4Y 8JX | [Redacted contact info]

EX.L 90

[Redacted]

From: [Redacted]
Sent: 13 June 2011 19:56
To: [Redacted]
Cc: [Redacted]

Subject: Re: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted] thank you. We will consider each of these points and we will revert as soon as possible tomorrow.

In the meantime can you please confirm that there are no other outstanding points from OFT/Ofcom other the ones listed below.

Regards

From: [Redacted]
Sent: Monday, June 13, 2011 07:45 PM
To: [Redacted]
Cc: [Redacted]

Subject: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted]

Many thanks for your email - and for sending the comparites through.

We had four points in relation to the UIL, in relation to which we would be grateful for your consideration.

1. Paragraph 4.6 - the duration of the Brand Licensing Agreement is detailed as being 'for an initial 7 year term, with an automatic renewal for a further 7 years' - we would request that this be amended to 'for a fourteen year term' in accordance with the revised Brand Licensing Agreement.
2. Paragraph 4.9 - this paragraph refers to cross promotion of Sky News by Sky 'on Sky's linear channels to a level and in a manner comparable with such cross-promotion for the period of 12 months prior to the Effective Date'. Please confirm that Sky keeps adequate records to demonstrate compliance with paragraph 4.9 of the UILs.
3. Paragraphs 6.5 and 6.7 - when we spoke earlier, you described News as having accepted our position in relation to the appointment of the Monitoring Trustee (MT). We would request that the wording in relation to 'best endeavours' is removed from paragraphs 6.5 and 6.7 in order to provide greater certainty as to the appointment of a MT.

EX-L92

[Redacted]

From: [Redacted]
Sent: 14 June 2011 11:17
To: [Redacted]
Cc: [Redacted]

Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)
Attachments: UILs v7 marked up 2.doc

Dear [Redacted] News is prepared to modify the UILs as you requested in points 1 and 4 below.

On point 3 and the removal of "best endeavours" in 6.5 and 6.7 I said that News had accepted your position as you had not previously requested the removal of "best endeavours" in paragraph 6.7 in your mark up of 13 May (attached for your convenience), and you did not request the removal of that language in 6.5, although you had proposed a longer term of 15 days on an "in any event" basis. We had discussed that, given the best endeavours obligation, it was odd to indicate a different (longer) term on a "in any event" basis. However if you now request that we remove the OFT standard "best endeavours" language also in conjunction with a short term of 7 days we would be OK to revert to the language you suggested on 13 May. Can you please let me know what your position is as News does not want this issue to cause any delay in your finalisation of the OFT report to the Secretary of State. The modification to section 6.7 is, in any event, agreed.

We are checking the position with Sky on point 2 and we will revert to you very shortly.

Can you please also confirm as soon as you that there are no other points open on the UIL so that we can send you a final set of UIL tracked against last version sent and the consultation version.

Best wishes

[Redacted]

From: [Redacted]
Sent: 13 June 2011 19:56
To: [Redacted]
Cc: [Redacted]

Subject: Re: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted] thank you. We will consider each of these points and we will revert as soon as possible tomorrow.

In the meantime can you please confirm that there are no other outstanding points from OFT/Ofcom other the ones listed below.

Regards

EX.L 93

[Redacted]

From: [Redacted]
Sent: 14 June 2011 11:24
To: [Redacted]
Cc: [Redacted]

Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Further to my email below. I can now confirm that Sky holds the records that you refer to in point 2 below which are relevant to compliance with section 4.9 of the UIL.

I look forward to hearing from you.

Best wishes

[Redacted]

From: [Redacted]
Sent: 14 June 2011 11:17
To: [Redacted]
Cc: [Redacted]

Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted] News is prepared to modify the UILs as you requested in points 1 and 4 below.

On point 3 and the removal of "best endeavours" in 6.5 and 6.7 I said that News had accepted your position as you had not previously requested the removal of "best endeavours" in paragraph 6.7 in your mark up of 13 May (attached for your convenience), and you did not request the removal of that language in 6.5, although you had proposed a longer term of 15 days on an "in any event" basis. We had discussed that, given the best endeavours obligation, it was odd to indicate a different (longer) term on a "in any event" basis. However if you now request that we remove the OFT standard "best endeavours" language also in conjunction with a short term of 7 days we would be OK to revert to the language you suggested on 13 May. Can you please let me know what your position is as News does not want this issue to cause any delay in your finalisation of the OFT report to the Secretary of State. The modification to section 6.7 is, in any event, agreed.

We are checking the position with Sky on point 2 and we will revert to you very shortly.

Can you please also confirm as soon as you that there are no other points open on the UIL so that we can send you a final set of UIL tracked against last version sent and the consultation version.

Best wishes

[Redacted]

EX.L 94

[Redacted]

From: [Redacted]
Sent: 14 June 2011 14:13
To: [Redacted]
Cc: [Redacted] uk;
Subject: Revised draft of the UIL, 14 June 2011 (0012561-0000367)
Attachments: CO-#14284881-v2-Draft UIL_14_June.DOC; CO-#14287318-v1-DV UIL_10_June_-_UIL_14_June.PDF; CO-#14287335-v1-DV UIL_1_March_Consultation_-_UIL_14_June.PDF

[Redacted]

Please find attached a clean version of the draft UIL which reflects the amendments agreed below. I have also attached comparites of this draft of the UIL as against both the previous version submitted to the OFT/Ofcom (on 10 June) and the version submitted to DCMS for consultation.

Kind regards

From: [Redacted]
Sent: 14 June 2011 12:43
To: [Redacted]
Cc: [Redacted]
Subject: RE: RESTRICTED - RE: Revised UILs - News/BSkyB - Confidential (0012561-0000367)

Dear [Redacted]

Many thanks for your email.

We are grateful for your confirmation in relation to points 1, 2 and 4.

On point 3, we are grateful for your acceptance of the change to paragraph 6.7. On paragraph 6.5, we have no objections to reverting to the suggested language of 13 May for paragraph 6.5 (assuming it includes a backstop date).

Aside from the above, I can confirm that - at present - OFT / Ofcom have no further outstanding points. However, you will appreciate that this is without prejudice to the possibility that we may need to revert to News on specific points for the purpose of finalising our advice to the Secretary of State.

We look forward to receiving a revised draft of the UIL in line with the above.

Kind regards

EX.L 96

[Redacted]
From: [Redacted]
Sent: 15 June 2011 11:31
To: [Redacted]
Subject: Re: News/BSkyB merger

Thank you [Redacted] I look forward to hearing from you.

I gather that OFT and Ofcom are proceeding and it seems that, at this stage, there is nothing outstanding on our part that prevents their finalising the reports. Do they now have an indicative target date for their report to you that you are able to share with us?

Best wishes

From: [Redacted]
Sent: Tuesday, June 14, 2011 04:37 PM
To: [Redacted]
Subject: News/BSkyB merger

Dear [Redacted]

I have tried to call you back, but am about to go into a meeting. I'm conscious that I haven't let you have the small points which remain between us on the agreements; those should be with you early tomorrow morning. However, I can indicate that they are a majority of minor drafting points, with a couple of clarificatory questions. We don't see them as holding up the process going forwards, and are not acting on that basis.

I infer that was why you were calling me, and I thought that it would be helpful to just confirm before I go into my meeting.

Regards,

[Redacted]

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

[Redacted]

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EX.L97

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:38
To: [Redacted]
Subject: RE: News/BSkyB merger

[Redacted]

I fear I am not in a position to share an indicative target date with you, but I do know that all of us are working towards being in a position to move forward with the matter as soon as we're able. Obviously at this end, we've also got to deal with consultation responses as well, which do take a little time.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:31
To: [Redacted]
Subject: Re: News/BSkyB merger

Thank you [Redacted] I look forward to hearing from you.

I gather that OFT and Ofcom are proceeding and it seems that, at this stage, there is nothing outstanding on our part that prevents their finalising the reports. Do they now have an indicative target date for their report to you that you are able to share with us?

Best wishes

From: [Redacted]
Sent: Tuesday, June 14, 2011 04:37 PM
To: [Redacted]
Subject: News/BSkyB merger

Dear [Redacted]

I have tried to call you back, but am about to go into a meeting. I'm conscious that I haven't let you have the small points which remain between us on the agreements; those should be with you early tomorrow morning. However, I can indicate that they are a majority of minor drafting points, with a couple of clarificatory questions. We don't see them as holding up the process going forwards, and are not acting on that basis.

I infer that was why you were calling me, and I thought that it would be helpful to just confirm before I go into my meeting.

Regards,

[Redacted]

EX.L 98

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:58
To: [Redacted]
Subject: RE: News/BSkyB merger (0012561-0000367)

Yes but I assumed that OFT and Ofcom would also advise the Secretary of State on the responses and indeed the UIL changes were designed to address those.

Do you have an update on the timing of the small point you referred to in yesterday's email?

Regards

From: [Redacted]
Sent: 15 June 2011 11:38
To: [Redacted]
Subject: RE: News/BSkyB merger

[Redacted]

I fear I am not in a position to share an indicative target date with you, but I do know that all of us are working towards being in a position to move forward with the matter as soon as we're able. Obviously at this end, we've also got to deal with consultation responses as well, which do take a little time.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:31
To: [Redacted]
Subject: Re: News/BSkyB merger

Thank you [Redacted] look forward to hearing from you.

I gather that OFT and Ofcom are proceeding and it seems that, at this stage, there is nothing outstanding on our part that prevents their finalising the reports. Do they now have an indicative target date for their report to you that you are able to share with us?

Best wishes

From: [Redacted]
Sent: Tuesday, June 14, 2011 04:37 PM
To: [Redacted]
Subject: News/BSkyB merger

[Redacted]

EX.L 99

[Redacted]

From: [Redacted]
Sent: 15 June 2011 12:02
To: [Redacted]
Subject: RE: News/BSkyB merger (0012561-0000367)

Indeed; I was rather referring to our formal response to the consultation.

I'm just waiting one point of clarity; should be shortly.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:58
To: [Redacted]
Subject: RE: News/BSkyB merger (0012561-0000367)

Yes but I assumed that OFT and Ofcom would also advise the Secretary of State on the responses and indeed the UIL changes were designed to address those.

Do you have an update on the timing of the small point you referred to in yesterday's email?

Regards

From: [Redacted]
Sent: 15 June 2011 11:38
To: [Redacted]
Subject: RE: News/BSkyB merger

[Redacted]

I fear I am not in a position to share an indicative target date with you, but I do know that all of us are working towards being in a position to move forward with the matter as soon as we're able. Obviously at this end, we've also got to deal with consultation responses as well, which do take a little time.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:31
To: [Redacted]
Subject: Re: News/BSkyB merger

EX.L 100

[Redacted]

From: [Redacted]
Sent: 15 June 2011 14:29
To: [Redacted]
Subject: RE: News/BSkyB merger (0012561-0000367)
Attachments: Comments on draft Carriage and BL agreements.pdf

Dear [Redacted]

Please find attached comments in relation to the last round of changes to the Carriage and Brand Licensing Agreements.

As an aside, we noted that some of the changes made (for example, in Appendices 7 and 9) had not tracked through. It would be very helpful if you could let us have a full mark-up, highlighting all the changes made in this last round of review, so that we have a full trail of the changes made at every stage of the process.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 15 June 2011 11:58
To: [Redacted]
Subject: RE: News/BSkyB merger (0012561-0000367)

Yes but I assumed that OFT and Ofcom would also advise the Secretary of State on the responses and indeed the UIL changes were designed to address those.

Do you have an update on the timing of the small point you referred to in yesterday's email?

Regards

From: [Redacted]
Sent: 15 June 2011 11:38
To: [Redacted]
Subject: RE: News/BSkyB merger

[Redacted]

I fear I am not in a position to share an indicative target date with you, but I do know that all of us are working towards being in a position to move forward with the matter as soon as we're able. Obviously at this end, we've also got to deal with consultation responses as well, which do take a little time.

Regards,

[Redacted]

EX.L 101

Sent: 15 June 2011 19:03

To: [Redacted]
Cc: [Redacted]

Subject: News/Sky - Final drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)

Attachments: CO-#14296507-v2-Revised_draft_Carriage_Agreement__15_June.DOC; CO-#14297087-v1-Revised_draft_Brand_Licence_Agreement__15_June.DOC; CO-#14299015-v1-DV_CA_9_June_-_15_June.PDF; CO-#14298583-v1-DV_BLA_9_June_-_BLA_15_June.PDF; CO-#14299070-v1-DV_CA_21_March_-_CA_15_June.PDF; CO-#14298889-v1-DV_BLA_21_March_-_21_June.PDF

Confidential

Dear [Redacted]

Further to your email to [Redacted] earlier this afternoon, please find attached final drafts of the revised Carriage Agreement and Brand Licensing Agreement, incorporating the changes envisaged in the attachment to your email (in addition to the revised numbering of the Carriage Agreement requested by Pinsent Masons on 8 June). I have also attached comparites of both agreements as against: (i) the drafts previously circulated (on 9 June); and (ii) the original drafts sent to DCMS on 21 March.

We understand that there are now no further open issues on these key agreements or on the draft UIL.

Kind regards

[Redacted]

Revised drafts of the Carriage Agreement and Brand Licensing Agreement

<<CO-#14296507-v2-Revised_draft_Carriage_Agreement__15_June.DOC>> <<CO-#14297087-v1-Revised_draft_Brand_Licence_Agreement__15_June.DOC>>

Comparites to drafts submitted on 9 June 2011

<<CO-#14299015-v1-DV_CA_9_June_-_15_June.PDF>> <<CO-#14298583-v1-DV_BLA_9_June_-_BLA_15_June.PDF>>

Comparites to drafts submitted on 21 March 2011

<<CO-#14299070-v1-DV_CA_21_March_-_CA_15_June.PDF>> <<CO-#14298889-v1-DV_BLA_21_March_-_21_June.PDF>>

From: [Redacted]

Sent: 09 June 2011 20:56

To: [Redacted]

Cc: [Redacted]

Subject: RE: Newscorp/Sky merger - Carriage and Brand Licensing Agreements (0012561-0000367)

EX.L 104

From:
Sent:
To:
Cc:

16 June 2011 12:10

GEIST-DIVVER CAROLA;

Subject:

RE: News/Sky - Final drafts of the Carriage and Brand Licensing Agreements
(0012561-0000367)

Thanks for sending this through to us. I've got a couple of minor points.

1. Brand Licence Agreement --

2. Brand Licence Agreement --

Regards,

Legal Advisers to the Department for Culture, Media and Sport

From:
Sent: 15 June 2011 19:03

To:
Cc:
cliv

GEIST-

DIVVER CAROLA;

Subject: News/Sky - Final drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)

Confidential

Dear

Further to your email to earlier this afternoon, please find attached final drafts of the revised Carriage Agreement and Brand Licensing Agreement, incorporating the changes envisaged in the attachment to your email (in addition to the revised numbering of the Carriage Agreement requested by Pinsent Masons on 8 June). I have also attached comparites of both agreements as against: (i) the drafts previously circulated (on 9 June); and (ii) the original drafts sent to DCMS on 21 March.

We understand that there are now no further open issues on these key agreements or on the draft UIL.

Kind regards

EX.L 105

[Redacted]

From: [Redacted]
Sent: 16 June 2011 15:37
To: [Redacted]
Cc: [Redacted]

Subject: News/Sky - Final drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)
Attachments: CO-#14304403-v1-Revised_draft_Brand_Licence_Agreement_16_June.DOC; CO-#14305601-v1-DV_BLA_21_March_-_16_June.PDF; CO-#14305851-v1-DV_BLA_9_June_-_16_June.PDF

[Redacted]

Please find attached a clean copy of the revised draft Brand Licence Agreement incorporating both of your comments below, along with comparites as against the 9 June and 21 March drafts.

Kind regards

[Redacted]

From: [Redacted]
Sent: 16 June 2011 12:10
To: [Redacted]
Cc: [Redacted]

Subject: RE: News/Sky - Final drafts of the Carriage and Brand Licensing Agreements (0012561-0000367)

[Redacted]

Thanks for sending this through to us. I've got a couple of minor points.

1. Brand Licence Agreement - [Redacted]
[Redacted]
2. Brand Licence Agreement - [Redacted]
[Redacted]

Regards,

[Redacted]

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

EX-L 106

[Redacted]

From: GEIST-DIVVER CAROLA
Sent: 22 June 2011 17:08
To: [Redacted]
Cc: AMOS, Stephen [Redacted]
Subject: FW: RESTRICTED - News/Sky - OFT advice to the Secretary of State - 22 June 2011
Attachments: RESTRICTED NewsCorp B SkyB OFT Advice to Secretary of State 22 June 2011 FINAL.pdf; RESTRICTED - Annex 3 - UIL 14 June 2011.DOC; RESTRICTED - Annex 4 - Carriage Agreement 15 June 2011.DOC; RESTRICTED - Annex 5 - Brand Licensing Agreement 16 June 2011.DOC; RESTRICTED - Annex 6 - Articles of Association 10 May 2011.pdf

Dear [Redacted]

Further to [Redacted] e-mail of yesterday, I attach OFT's report, which was to follow your instructions. I'll send the Ofcom report in a minute.

Kind regards,

Carola

Carola Geist-Divver
 Deputy Director - Legal (Broadcasting and Regulated Industries)
 Department for Culture, Media & Sport
 2-4 Cockspur Street, London SW1Y 5DH

From: [Redacted]
Sent: 22 June 2011 16:34
To: [Redacted]
Cc: [Redacted]
Subject: RESTRICTED - News/Sky - OFT advice to the Secretary of State - 22 June 2011

Dear [Redacted] Carola,

Further to the Secretary of State's letter to Clive Maxwell of 18 March 2011, I attach on behalf of Clive Maxwell a confidential version of the OFT's advice, together with:

- Annex 3 - the Revised UIL of 14 June 2011;
- Annex 4 - the Revised Carriage Agreement of 15 June 2011;
- Annex 5 - the Revised Brand Licensing Agreement of 16 June 2011; and
- Annex 6 - the Articles of Association of Newco of 10 May 2011.

To the extent that you would like us to engage with News in relation to the creation of a non-confidential version of the advice, please let us know when you have sent the advice to News.

Kind regards

[Redacted]

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

EX-L 107

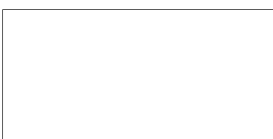
[Redacted]
From: [Redacted]
Sent: 22 June 2011 19:44
To: [Redacted]
Cc: [Redacted]
Subject: Reports - redactions (0012561-0000367)

[Redacted] I have seen reports in the press that Ofcom has sent their advice to the Secretary of State. If these reports are correct I assume that the OFT may have also delivered their advice (or may be about to do so).

I do not know if you have reached a view as to whether you intend to publish these reports at the time when the Secretary of State will announce his decision but in any event if any redactions are needed please let me know so that we can liaise with the OFT in that respect.

I will contact you tomorrow to discuss the best way to proceed.

Best wishes



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

Direct [Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

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EX.L 110

[Redacted]

From:
Sent:
To:
Cc:

[Redacted]
24 June 2011 11:40

[Redacted]

Subject: RE: News Corp/SBkyB merger (0012561-0000367)

[Redacted]

Many thanks for sending these through. Do you intend to send the reports to Sky separately, or would you like us to do so?

Kind regards

[Redacted]

From: [Redacted]

Sent: 24 June 2011 11:08

To: [Redacted]
Cc: [Redacted]

Subject: RE: News Corp/SBkyB merger

Dear [Redacted]

Further to my email below, please see attached OFT's report. Again, I'd be grateful if you could let us know of any redactions you consider should be made to this report.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 24 June 2011 10:21

To: [Redacted]
Cc: [Redacted]

Subject: News Corp/SBkyB merger

Dear [Redacted]

Please see attached Ofcom's report as discussed. I anticipate that the Secretary of State will want to publish this report with any announcements he makes (and, as you will, of course, be aware Ofcom

EX.L111

[Redacted]

From: [Redacted]
Sent: 23 June 2011 11:44
To: [Redacted]
Subject: News - Carriage and Brand Licensing Agreements
Attachments: RESTRICTED - Annex 4 - Carriage Agreement 15 June 2011.DOC; RESTRICTED - Annex 5 - Brand Licensing Agreement 16 June 2011.DOC; RESTRICTED - Annex 6 - Articles of Association 10 May 2011.pdf

Were attached to the email from the OFT with its advice. But here they are again (with the Articles) for ease.

See you later,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

EX.L 112

[Redacted]
From: [Redacted]
Sent: 24 June 2011 11:46

To:
Cc: [Redacted]

Subject: RE: News Corp/SBkyB merger (0012561-0000367)

[Redacted]
Thanks for asking. It would be helpful if you could send the reports to Sky, but I would be grateful if we could be copied in.

Many thanks,

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

From: [Redacted]
Sent: 24 June 2011 11:40

To: [Redacted]
Cc: [Redacted]

Subject: RE: News Corp/SBkyB merger (0012561-0000367)

[Redacted]
Many thanks for sending these through. Do you intend to send the reports to Sky separately, or would you like us to do so?

Kind regards

From: [Redacted]
Sent: 24 June 2011 11:08

To:
Cc: [Redacted]

Subject: RE: News Corp/SBkyB merger

Dear [Redacted]

Further to my email below, please see attached OFT's report. Again, I'd be grateful if you could let us know of any redactions you consider should be made to this report.

EX.L113

[Redacted]

From: [Redacted]
Sent: 24 June 2011 12:19
To: [Redacted]
Cc: [Redacted]
Subject: FW: News Corp/SBkyB merger (0012561-0000367)
Attachments: RESTRICTED NewsCorp BskyB OFT Advice to Secretary of State 22 June 2011 FINAL.DOC; Jeremy Hunt News CorpBSkyB 220611 - redacted.pdf

All,

Please find attached the OFCOM and OFT reports as provided to us by DCMS this morning (copied into this email).

Kind regards

[Redacted]

From: [Redacted]
Sent: 24 June 2011 11:08
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corp/SBkyB merger

Dear [Redacted]

Further to my email below, please see attached OFT's report. Again, I'd be grateful if you could let us know of any redactions you consider should be made to this report.

Regards,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 24 June 2011 10:21
To: [Redacted]
Cc: [Redacted]
Subject: News Corp/SBkyB merger

Dear [Redacted]

Please see attached Ofcom's report as discussed. I anticipate that the Secretary of State will want to publish this report with any announcements he makes (and, as you will, of course, be aware Ofcom

EX.L 114

[Redacted]

From: [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 view 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]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

Fax: + 44(0) 20 3088 0088

From: [Redacted]
Sent: 24 June 2011 14:19
To: [Redacted]
Cc: [Redacted]
Subject: News Corporation/BSkyB Merger

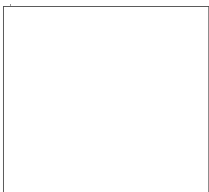
Dear [redacted]

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 [redacted] 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.

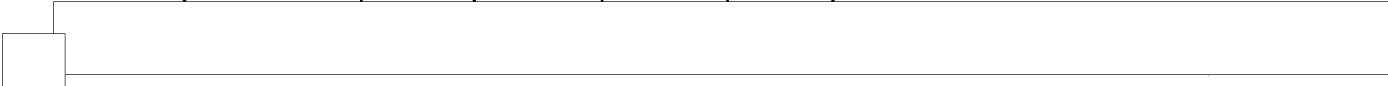
If the Secretary of State decides to consult on the revised UILs for a further period of time he may wish to, in line with his desire for maximum transparency, also publish the carriage and brand licence agreements and the draft Articles of Association. I should emphasise that a decision on this basis 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,



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



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EX.L 115

[Redacted]

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

[Redacted]

From: [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 to comment will not improve the administrative process.

EX.L 116

[Redacted]

From: [Redacted]
Sent: 27 June 2011 22:17
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)
Attachments: 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

Dear [Redacted]

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



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

DDI:

Fax: + 44(0) 20 3088 0088

From:

Sent: 27 June 2011 13:02

To:

Cc:

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

Dear

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.

EX-L 118

[Redacted]

From: [Redacted]
Sent: 28 June 2011 16:07
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

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 our 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,

[Redacted Signature]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 27 June 2011 22:17
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

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.

EX.L 119

[Redacted]

From: [Redacted]
Sent: 28 June 2011 19:59
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

Further to my email below, I confirm that, if the Secretary of State's decision is to conduct a further period of consultation on the revised UILs, then he would not propose to publish the Carriage and Brand Licensing Agreements, but, as you have confirmed agreement to this, would propose to publish the draft Articles of Association.

I look forward to hearing from you in relation to the point below on the proposed redaction of the revised UILs, as this obviously also tracks into the proposed redactions of the OFT's report, and we are keen to resolve this as swiftly as possible.

Regards,

[Redacted]

[Redacted]
Legal Advisers to the Department for Culture, Media and Sport
Email: [Redacted] Tel: 020 7211 2238

From: [Redacted]
Sent: 28 June 2011 16:07
To: Cerry.Darbor [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear Cerry [Redacted]

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

EX.L 120

From: [redacted]
 Sent: 28 June 2011 21:06
 To: [redacted]
 Cc: [redacted]
 Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)
 Attachments: CO-#14381461-v1-Ofcom_Report_-_News_Redaction_Requests.PDF; CO-#14381481-v1-Redacted_DV_UIL_1_March_-_UIL_14_June.pdf

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 [redacted] 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 [redacted]. To the extent that [redacted] 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 [redacted] (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

[redacted signature box]

Allen & Overly LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

Fax: + 44(0) 20 3088 0088

From: [redacted]
 Sent: 28 June 2011 16:07
 To: [redacted]
 Cc: [redacted]
 Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

EX.L 121

[Redacted]

From: [Redacted]
Sent: 29 June 2011 10:10
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

Dear [Redacted]

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,

[Redacted Signature]

Legal Advisers to the Department for Culture, Media and Sport

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

Dear [Redacted]

EX:L 122

[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

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

tel: + 44(0) 20 3088 0000
DDI [Redacted]
Fax: + 44(0) 20 3088 0088

From: [Redacted]
Sent: 29 June 2011 10:10
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)

EX.L 123

[Redacted]

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 ggested.

Many thanks,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[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

[Redacted]

EX.L 124

[Redacted]

From: [Redacted]
Sent: 29 June 2011 15:28
To: SMITH, Adam
Cc: [Redacted]
Subject: FW: News Corporation/BSkyB Merger (0012561-0000367)
Attachments: RE: News Corporation/BSkyB Merger (0012561-0000367)

For info, together with my response. We would very much prefer the info in the OFT report not to be redacted, and both OFT and Ofcom feel the same (OFT feel that it would give a skewed impression of the situation if this information is not included). I've pushed back to A&O, per the attached email. I wonder if it's worth you having another chat with News direct?

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[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.

Could you please 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

[Redacted Signature]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
 London
 E1 6AD

EX.L 126

[Redacted]

From: [Redacted]
Sent: 29 June 2011 16:27
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger (0012561-0000367)
Attachments: CO-#14389412-v1-Redacted_version_of_14_June_draft UIL_29_June_2011.DOC;
CO-#14389498-v1-Redacted_DV UIL_1_March_-_UIL_14_June_29_June_2011.DOC;
CO-#14389318-v1-OFT_Report_News_redactions_requests_29_June_2011.DOC

Dear [Redacted]

We 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 amended non-confidential version accordingly.

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

Kind Regards



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

[Redacted] Fax: + 44(0) 20 3088 0088

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

EX-L 127

[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 [Redacted] 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

[Redacted]

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

Dear [Redacted]

We 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

[Redacted]

EX.L.128

[Redacted]
From: [Redacted]
Sent: 29 June 2011 18:00
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger - Articles of Association (0012561-0000367)
Attachments: CO-#14044661-v1-Newco_Articles-CO-#14044661-v2-Newco_Articles.pdf

Dear [Redacted]

Below and in the attached revised version we respond to your various comments and questions on the Articles of Association. In response to specific questions:

- We have clarified the wording in articles 111(3) and 111(6) in relation to the committees as requested.
- We have made clear that the provisions of article 119 are without prejudice to the requirements of article 99.
- We have removed the square brackets from the definitions and italicised words in 96(2) as requested.
- In relation to the borrowing restriction, while the level in the Newco articles is 10% of Sky's current borrowing restriction, the market capitalisation of Newco is expected to be significantly smaller (less than 10% of) that of Sky. In those circumstances, the borrowing limit which has been suggested is entirely appropriate for Newco and provides sufficient flexibility.

<<CO-#14044661-v1-Newco_Articles-CO-#14044661-v2-Newco_Articles.pdf>>
Kind Regards



Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD

Tel: + 44(0) 20 3088 0000

Fax: + 44(0) 20 3088 0088

From: [redacted]

Sent: 29 June 2011 11:28

To: [redacted]

Cc: [redacted]

Subject: News Corporation/BSkyB Merger - Articles of Association

Dear [redacted]

Sorry for coming back to you slight in piece-meal fashion on this, but we have another couple of minor points.

1. We think that the square brackets can be removed from the article numbers in the definitions of "Governance and Editorial Committee" and "Governance and Editorial Committee Matters" in the definitions section, and, in Article 96(2) we think "company" and "directors" need not be italicised.

2. We note that Newco will have a borrowing restriction of approximately 10% of that which BSKyB currently has. Could you please explain the rationale for this figure?

In relation to the redaction to Ofcom's report, we are content with this, but would suggest that the redaction takes the form in the attached document. Are you content with this?

Further, we've not heard from Sky at all in connection with any redactions, and I'd be grateful if you could let me know if you have heard from them at all, and whether they are content with redactions you propose.

Many thanks,



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

Email: [redacted]

This email and its contents are the property of the Department for Culture, Media and Sport.

EX.L 129

[Redacted]
From: [Redacted]
Sent: 29 June 2011 18:08
To: [Redacted]
Subject: RE: News Corporation/BSkyB Merger - Articles of Association (0012561-0000367)

Dear [Redacted]

Thanks very much for this. Could you possibly get me a version of the Articles without the amendments showing in tracked?

Thanks,

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]
Sent: 29 June 2011 18:00
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger - Articles of Association (0012561-0000367)

Dear [Redacted]

Below and in the attached revised version we respond to your various comments and questions on the Articles of Association. In response to specific questions:

- We have clarified the wording in articles 111(3) and 111(6) in relation to the committees as requested.
- We have made clear that the provisions of article 119 are without prejudice to the requirements of article 99.
- We have removed the square brackets from the definitions and italicised words in 96(2) as requested.
- In relation to the borrowing restriction, while the level in the Newco articles is 10% of Sky's current borrowing restriction, the market capitalisation of Newco is expected to be significantly smaller (less than 10% of) that of Sky. In those circumstances, the borrowing limit which has been suggested is entirely appropriate for Newco and provides sufficient flexibility.

<<CO-#14044661-v1-Newco_Articles-CO-#14044661-v2-Newco_Articles.pdf>>
Kind Regards

[Redacted]

EX-L 130

[Redacted]

From: [Redacted]
Sent: 29 June 2011 18:11
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger - Articles of Association (0012561-0000367)
Attachments: CO-#14044661-v2-Newco_Articles.DOC

[Redacted] apologies, I had intended to also attach a clean version to my original email.
 <<CO-#14044661-v2-Newco_Articles.DOC>>
 Kind Regards

[Redacted]

From: [Redacted]
Sent: 29 June 2011 18:00
To: [Redacted]
Cc: [Redacted]
Subject: RE: News Corporation/BSkyB Merger - Articles of Association (0012561-0000367)

Dear [Redacted]

Below and in the attached revised version we respond to your various comments and questions on the Articles of Association. In response to specific questions:

- o We have clarified the wording in articles 111(3) and 111(6) in relation to the committees as requested.
- o We have made clear that the provisions of article 119 are without prejudice to the requirements of article 99.
- o We have removed the square brackets from the definitions and italicised words in 96(2) as requested.
- o In relation to the borrowing restriction, while the level in the Newco articles is 10% of Sky's current borrowing restriction, the market capitalisation of Newco is expected to be significantly smaller (less than 10% of) that of Sky. In those circumstances, the borrowing limit which has been suggested is entirely appropriate for Newco and provides sufficient flexibility.

<< File: CO-#14044661-v1-Newco_Articles-CO-#14044661-v2-Newco_Articles.pdf >>
 Kind Regards

[Redacted]
 Allen & Overy LLP

www.allenoverly.com/antitrust

EX.L 131

[Redacted]

From: [Redacted]
Sent: 29 June 2011 18:52
To: [Redacted]
Cc: [Redacted]
Subject: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

CONFIDENTIAL

[Redacted]

I tried to call you to explain News' position but did not get through. Essentially News cannot agree to the publication of:

- (1) the first sentence of Annex 2, para 7.
- (2) the reference to [Redacted] in the last sentence of Annex 2, para 8. , Annex 2, para 10 and 11.

The reasons for the redactions in (1) and (2) is that they contain references to a term of the CA on [Redacted] which is highly confidential to Sky and Newco and as such would give rise to the same harm to Sky and Newco which formed the basis for accepting that the agreement itself should not be published.

With regard to (3) a disclosure of those paragraphs would be [Redacted]

We discussed this point with the OFT in the context of the last announcement and they accepted an equivalent redaction. I have taken the liberty of discussing this again with [Redacted] who supported the redaction at the time and, I understand, would support the redaction to the current report. He is available now if you want to discuss the point with him.

Please do not hesitate to call me on [Redacted] if you wish to discuss.

Best wishes

[Redacted]

Allen & Overy LLP

www.allenoverly.com/antitrust

One Bishops Square
London
E1 6AD
United Kingdom

[Redacted]
Tel +44 (0)20 3088 0000
Fax +44 (0)20 3088 0088

From: [Redacted]
Sent: 29 June 2011 17:16
To: [Redacted]

EX-L 132

[redacted]

From: [redacted]
Sent: 29 June 2011 19:22
To: [redacted]
Cc: [redacted]
Subject: RE: Redactions - News Corporation/BSkyB Merger (0012561-0000367)
Attachments: OFT_Report__redacted.pdf

as just discussed we are content to leave for publication the first sentence of Annex 2 para 10 as well as the first sentence of Annex 2 para 11.

I enclose a revised redacted version of the OFT report.

Best wishes

From: [redacted]
Sent: 29 June 2011 18:52
To: [redacted]
Cc: [redacted]
Subject: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

CONFIDENTIAL

I tried to call you to explain News' position but did not get through. Essentially News cannot agree to the publication of:

- (1) the first sentence of Annex 2, para 7.
- (2) the reference to [redacted] in the last sentence of Annex 2, para 8.
- (3) Annex 2, para 10 and 11.

The reasons for the redactions in (1) and (2) is that they contain references to a term of the CA [redacted] which is highly confidential to Sky and Newco and as such would give rise to the same harm to Sky and Newco which formed the basis for accepting that the agreement itself should not be published.

With regard to (3) a disclosure of those paragraphs would be [redacted]

[redacted] We discussed this point with the OFT in the context of the last announcement and they accepted an equivalent redaction. I have taken the liberty of discussing this again with Sheldon Mills who supported the redaction at the time and, I understand, would support the redaction to the current report. He is available now if you want to discuss the point with him.

Please do not hesitate to call me on [redacted] if you wish to discuss.

Best wishes

EX.L 133

[redacted]

From: [redacted]
Sent: 29 June 2011 20:53
To: [redacted]
Subject: Re: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

Noted. Many thanks for your efforts.

I look forward to reading the announcement tomorrow.

Best wishes

From: [redacted]
Sent: Wednesday, June 29, 2011 08:50 PM
To: [redacted]
Subject: RE: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

[redacted]

In those circumstances, we would be happier publishing the full version of paragraph 9 of Annex 2, and will therefore go with the document I sent you by my email below.

Thanks for your assistance with this.



Legal Advisers to the Department for Culture, Media and Sport

From: [redacted]
Sent: 29 June 2011 20:14
To: [redacted]
Cc: [redacted]
Subject: RE: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

[redacted] I have double checked and thanks for raising the discrepancy.

Ideally we would redact the second part of paragraph 9 in Annex 2 (because of the reference to profits) but if the Secretary of State feels strongly about publishing it we do not feel as strongly as the redactions in para 10 and 11.

Best wishes

From: [redacted]
Sent: 29 June 2011 19:53
To: [redacted]
Cc: [redacted]
Subject: RE: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

Thanks [redacted] This is version is in line the one I sent you earlier (our email crossed). We are happy for you to use either version if this approach is accepted.

I assume that you are still targeting an announcement tomorrow morning at 7am but I would also be grateful if you could confirm that when you revert to us.

I look forward to hearing from you.

Best wishes

From: [redacted]
Sent: 29 June 2011 19:27
To: [redacted]
Cc: [redacted]
Subject: RE: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

[redacted]

Further to our discussion, I will discuss internally whether the redactions you've suggested to the OFT's report are acceptable, however, in the interests of saving time, I thought that I would run past you a version of the report with those redactions made, so that I can just check that we have the right redactions made. It is attached to this email. If you could confirm that, that would be helpful, and I will revert as soon as I am able in relation to whether these are acceptable or not.

Regards,

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]
Sent: 29 June 2011 18:52
To: [redacted]
Cc: [redacted]
Subject: Redactions - News Corporation/BSkyB Merger (0012561-0000367)

CONFIDENTIAL

[redacted]

I tried to call you to explain News' position but did not get through. Essentially News cannot agree to the publication of:

- (1) the first sentence of Annex 2, para 7.
- (2) the reference to "[redacted]" in the last sentence of Annex 2, para 8.
- (3) Annex 2, para 10 and 11.

The reasons for the redactions in (1) and (2) is that they contain references to a term of the CA on [redacted] which is highly confidential to Sky and Newco and as such would give rise to the same harm to Sky and Newco which formed the basis for accepting that the agreement itself should not be published.

With regard to (3) a disclosure of those paragraphs would be [redacted]
[redacted] We discussed this point with the OFT in the context of the

EX.L 134

[Redacted]

From: [Redacted]
Sent: 08 July 2011 11:48
To: [Redacted]
Subject: [CJSM] questions

[Redacted]

Some initial thoughts for discussion in relation to your queries – give me a call when you have had a chance to read through.

[Redacted]

(i) *What is the relevance of phone hacking to the Secretary of State's consideration (both before the most recent allegations and afterwards)? As you know, we've taken the view that the hacking is not immediately relevant to media plurality itself, but is to whether News can be trusted in offering the undertakings. You'll be aware that our line has been that these are serious undertakings, offered in good faith, and there are safeguards which underpin them and ensure compliance.*

1. In the present case the Secretary of State has identified concerns relating to media plurality (in particular, in the light of Ofcom 217's report) which meant that he intended to make a reference of the NewsCorp/Sky merger to the Competition Commission. Those concerns related to the ownership and operation of Sky News. However, a series of undertakings were proposed by NewsCorp which would apply in lieu of a reference. It is those upon which the Secretary of State has consulted and then, following amendment, re-consulted.
2. As I understand from press reports, the allegations in respect of phone hacking and payments to police for information relate (to date) only to one NewsCorp (indirectly) owned newspaper, the News of the World. However, it has been suggested by some that particular individuals either (a) involved in running News of the World at the time that the alleged hacking/payments were made; and/or (b) involved in the operation of NewsCorp at the time of the alleged hacking/payments and/or subsequent unsatisfactory investigation of the allegations, remain senior individuals within the NewsCorp structure. It is unclear to me whether all of the persons who have been referred to in the press (and, in particular, Rebekah Brooks) hold a position within NewsCorp or merely its subsidiary News International.
3. Any suggested impact of the phone hacking allegations upon the assessment of the public interest in plurality specified in S.58(2C) of the EA02 is not clear. It is not clear whether it is suggested that there are greater plurality concerns going wider than news provision (and the impact of the merger on Sky News) and, if so, why. It may be that an argument would be put that the "sufficiency" of plurality of persons controlling media enterprises in the UK is more greatly reduced where a merger involves persons gaining control (or fuller control) about whom there are concerns in relation to their conduct and probity. However, that case has not been put so far as I am aware and, in any event, unless the concern goes beyond news provision, it is difficult to see why it should have any impact on the process in the light of the UIL's proposed.
4. As you say, it seems more likely that the impact of the alleged conduct is that the Secretary of State should not accept the UILs which have been offered. Plainly in relation to the acceptance of UILs the Secretary of State has a broad discretion. However, having indicated that he considers the UILs are satisfactory to deal with any plurality concerns, it is unclear how the allegations relating to conduct of individuals at NewsCorp has a particular impact on any of the specific provisions or their workability. It would appear that the suggestion may be that the Secretary of State should not accept the UILs because NewsCorp is "not to be trusted" and you should not accept UILs from people who cannot be trusted.
5. It seems to me that if there is good reason not to trust someone then there may be good reason not to accept UILs from them. Whilst putting in place stringent legal protections and monitoring processes in the UILs may ensure that it is not easy to undermine the terms and purpose of the UILs, it must be right that the Secretary of State can take the view

that if someone is not to be trusted and/or is not acting in good faith in proffering UILs, the Secretary of State does not have to accept UILs.

6. Nonetheless, in relation to the actual UILs at issue here and the position taken to date, the Secretary of State would need good reasons now to say that the UILs were insufficient. Without those good reasons, there would be a significant vulnerability to successful challenge by NewsCorp. I leave to one side whether, in the present climate, the extent of NewsCorp's appetite for any such challenge.
7. In all the circumstances, it would seem well within the scope of the Secretary of State's power to reach a conclusion that the UILs are serious undertakings, offered in good faith, and there are safeguards which underpin them and ensure compliance which mean that the allegations being made are not such as to undermine the Secretary of State's provisional decision to accept them.

Do the most recent allegations alter the risk of challenge, both in terms of the risk of being challenged, and the risk of being challenged successfully? Our assessment in relation to this is that the risk of challenge has been raised (even considering that we were likely to be challenged by Avaaz in any event, we consider that it may now be the case that they are joined by the alliance of media organisations), but that the risk of a successful challenge (subject to the SoS's reaction phone hacking) remains about the same.

8. I agree the risk of challenge has been raised. The serious nature of the allegations, the heightened political temperature and public furore mean that a challenge being brought "to make a point", in particular by a group seeking to raise its own profile, will have been increased.

EX.L135

[redacted]

From: [redacted]
Sent: 10 July 2011 11:23
To: [redacted]
Subject: [CJSM] RE: Newscorp

I think this is the sort of question that should be raised with LO's. I have so far found no authority dealing with the situation where Parliament expresses a view through a vote about how a legislative process should operate. (I've seen stuff on how "promises", manifesto commitments, select committee recommendations do not bind, but nothing – yet - on parliamentary votes)

Whilst insofar as any motion meant that if applied the SoS would be acting contrary to his statutory duties, the vote would not appear to require the SoS to do anything contrary to his statutory duties because the rule of recognition in English law is that a statute requires specific amendment or repeal to ensure that. However, my concern is that given that there is no specific timetable within which the SoS must decide, must he comply with the motion if he can consistently with his statutory duties (even if he would prefer not to)? This may, to some extent at least, depend on the terms of the motion voted upon.

[redacted]

From: [redacted]
Sent: Sunday, July 10, 2011 11:02 AM
To: [redacted]
Subject: [CJSM] RE: Newscorp

I wonder if this is a question on which prudence would dictate that the Law Officers view is sought? I haven't been able to find anything specific, but doesn't it go to accountability? The SoS will be accountable to Parliament for his decision, but Parliament cannot constitutionally usurp that decision, absent specific legislation permitting it to do so.

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

From: [redacted]
Sent: 10 July 2011 10:25
To: [redacted]
Subject: [CJSM] RE: Newscorp

An opposition debate is simply time in the schedule to debate an issue but does the vote on a motion at the end have any greater (or, more particularly, less) significance than any other motion?

From: [redacted]
Sent: Sunday, July 10, 2011 10:22 AM
To: [redacted]
Subject: [CJSM] RE: Newscorp

I don't have the text, but can probably get it, insofar as there is one yet. I agree that *ignoring* it would cause a public law risk, but I think the SoS is more concerned about whether he has to comply with it.

I have no learning on this, but will take a quick squiz on LION and see if there is any.

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 10 July 2011 10:20

To: [Redacted]

Subject: [CJSM] RE: Newscorp

Presumably the vote is on a motion – do we have the text? Does the motion proposed actually cut across the legislation? Is there not a risk that if the motion could lawfully be complied with by the SoS (and presuming it is voted through) that it to ignore it would itself give cause for review? Is not the current risk on delaying taking the decision is that it would be unlawful and unfair to do so under public law. But if parliament – albeit not through primary or secondary legislation – votes in favour of the SoS delaying, why should that be ignored in the public law calculus?

would not circulate these questions immediately – they are for you only and I need to have a look at the law. Never had to deal with the impact of a parliamentary motion alone before. Do you/HMG have any learning on it?

[Redacted]

From: [Redacted]

Sent: Sunday, July 10, 2011 10:05 AM

To: [Redacted]

Subject: [CJSM] FW: Newscorp

[Redacted]

Could we have a chat about this? I think this must be the position, but would welcome discussing. Sorry to bother at the weekend ! and all.
< div>

[Redacted]

Legal Advisers to the Department for Culture, Media and Sport

[Redacted]

From: [Redacted]

Sent: 10 July 2011 10:01

To: BEEBY, Sue; [Redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL

Cc: SMITH, Adam

Subject: RE: Newscorp

Sue,

Adam's asked that we discuss this when [Redacted] 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 [redacted] 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
[redacted]

From: BEEBY, Sue
Sent: 10 July 2011 10:00
To: [redacted] PATEL RITA; ZEFF JON; OLDFIELD PAUL
Cc: SMITH, Adam
Subject: Re: News! corp

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

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

All,

Please see attached received from [redacted] which perhaps we can discuss when we meet at 2.30.

Thanks,

[redacted]

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

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