



14<sup>th</sup> July 2011

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*Dear Rita*

### **Fit and Proper**

You asked for some further information in relation to the application of 'fit and proper' considerations.

As you are aware, we have a duty under the Broadcasting Acts 1990 and 1996 to be satisfied that any person holding a broadcasting licence is, and remains, fit and proper to hold those licences.

Under Sections 3(3) of each of the 1990 and 1996 Broadcasting Acts, Ofcom:

1. shall not grant a licence to any person unless satisfied that the person is a fit and proper person to hold it; and
2. shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.

In this instance a 'person' is the licensee (which, if it is a corporate body, will include controlling directors and shareholders), in relation to whom Ofcom has to be satisfied that it is fit and proper.

The duty applies to licences issued by Ofcom under the Broadcasting Acts - for TV and radio broadcasting. This duty applies to BSkyB, in which News Corporation holds a 39.14% stake.

Our duty to be satisfied that any person holding a broadcast licence is and remains fit and proper to do so is ongoing one.

When considering whether a licence holder is fit and proper, Ofcom will take into account any relevant misconduct of those who manage and control the licensee.

It is not for Ofcom to investigate matters which properly lie in the hands of other authorities, such as the police and the criminal or civil courts. Clearly we cannot and should not act whilst allegations are unsubstantiated. It would be unfortunate if action by Ofcom at this moment prejudiced any ongoing processes by the proper authorities or failed to take into account

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relevant information that was subsequently disclosed which may be relevant to a thorough and proper assessment.

You asked about previous uses of our fit and proper powers. In November 2010, Ofcom determined that Bang Media (London) Ltd and Bang Channels Ltd were not fit and proper persons to hold a licence. This was because of serious and repeated breaches of their licences, which demonstrated a disregard for their licence obligations and for the regulatory regime as a whole. We also routinely assess all new applicants.

I hope this is helpful.

*Yours ever*

*Chris*

**Christopher Woolard**