

22 July 2011

Rt Hon Simon Hughes MP
Rt Hon Don Foster MP
Tim Farron MP
House of Commons
London
SW1A 0AA

Dear Sirs

Thank you for your letter of 15 July 2011, responding to my letter of 8 July.

As I said in my previous letter to Simon Hughes, Ofcom is very mindful of its duty to be satisfied that persons holding broadcast licences are, and remain, fit and proper to do so. I can reassure you that we are also very conscious of the level of concern about this matter in Parliament and in the country more widely.

In response to the specific question in your letter, I can confirm that Ofcom considers that News Corporation's current shareholding of 39.14% gives it material influence over BSkyB. We made this clear in our report of 31 December 2010 to the Secretary of State on the public interest test on the proposed acquisition by News Corporation of the remaining shares in BSkyB it does not already own.

As I set out in my letter to John Whittingdale MP, in considering whether a licensee remains fit and proper to continue to hold a broadcasting licence, we will consider any relevant conduct of those who manage and control such licences. Accordingly we will consider any relevant conduct of the controlling directors and shareholders of BSkyB, which will include any relevant conduct of News Corporation, as well as the conduct of BSkyB itself.

As you note, Ofcom's duty to be satisfied in this regard is ongoing. Since my last letter to Mr Hughes of 8 July, we have written to the relevant authorities (the Metropolitan Police, the Information Commissioner's Office and the Press Complaints Commission) to explain our duty to be satisfied that persons holding broadcasting licences are fit and proper. As you are aware, we have also written to the relevant Parliamentary Committees.

We have asked each of these bodies to keep us informed of any information which may assist us in investigating whether BSkyB remains fit and proper to continue to hold its broadcasting licences, and of the timescales of their investigations. We are now in the process of meeting with these authorities.

You raised a number of other issues in your letter. In response, I can confirm that Ofcom is not precluded from acting by the ongoing police investigations. I can also confirm that Ofcom's process is not dependent upon a criminal conviction being secured by the police and that we are looking at a range of evidence that may be available.

However, as I explained previously, it is not Ofcom's role to investigate matters which lie in the hands of other authorities, such as the police and the criminal or civil courts. And clearly, we will not seek to reach a judgment on the question of whether BSkyB remains fit and proper to hold its broadcast licences on the basis of unsubstantiated allegations.

We are continuing to gather and analyse information, such as the recent evidence given to the CMS Select Committee on phone hacking. We have recently met with the Metropolitan Police and we have agreed that they will keep us informed of their investigations as appropriate.

As you know, events have moved very quickly in the past month, with significant developments occurring within a very short time frame. I am sure that you appreciate that it is important for Ofcom to be aware of as many relevant facts as possible and to assess all the available evidence before it considers whether it should take any steps regarding BSkyB's licences.

We will continue to engage with relevant authorities in order to ensure that their role and ours are appropriately co-ordinated.

Please be assured that we are fully aware that this is an important matter of public interest and that we are giving it serious consideration.

Yours faithfully

A rectangular box with a thin black border, used to redact the signature of Ed Richards.

Ed Richards