

NEWS ~~XXXX~~ - ~~XXXX~~ - ~~XXXX~~

Department for Culture, Media and Sport

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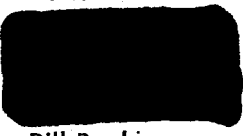
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To Secretary of State cc: Diana Kahn

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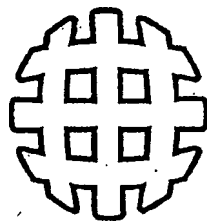
File Ref Bill Bush
Ruth MacKenzie

Date 21 January 2002

Meeting with News International, 4pm, Wednesday 23 January

1. You are meeting Les Hinton, Chief Executive, to discuss our consultation paper on media ownership rules.
2. You already have core briefing on the consultation process.
3. Attached is some additional briefing on News International. It consists of:
 - Annex A: Some general information about the parent company, News Corporation, from its website
 - Annex B: What media assets News International currently owns
 - Annex C: The company's response to the Communications White Paper. Comments on media ownership have been flagged.



News International plc 

**Response to The White Paper,
*A New Future for Communications***

NEWS INTERNATIONAL'S MEDIA HOLDINGS

- The Sun
- The News of the World
- The Times
- The Sunday Times
- The Times Literary Supplement
- The Times Educational Supplement
- The Times Higher Education Supplement
- 36% of BSkyB

News International's parent company, the Australian-based News Corporation, owns considerable media assets across several continents, including:

- The New York Post
- More than 100 newspapers in Australia and New Zealand
- Fox television networks in the US and Australia
- Twentieth Century Fox studios
- Star TV (satellite) in Asia
- HarperCollins publishers

February 2001

News International appreciates the opportunity of commenting on the Government's White Paper, *A New Future for Communications*. We offer these comments in full recognition of the difficulties policy-makers face in bringing government policy into line with the new realities of the communications market place.

Media Ownership, Rules and Market Definition

In section 4, the White Paper raises a number of issues and invites views. Whilst covering many topics and alluding to different aspects of this subject, the Paper goes on to state in paragraph 4.8.7 that "... these are just a few issues which need to be explored in establishing a system ...". News International is very concerned and interested to be involved in any consultation upon such deliberations.

We suggest that the goals of the Government would best be advanced by a two phase consultation: firstly, some general principles need to be identified so that the current regime can be reformed to comport with current market conditions; as suggested in para. 4.8.8 of the White Paper; secondly, given a specific approach or model, consultation should then be sought as to how it might be implemented in detail, which would include a review of the suggestions contained in para. 4.8.7.

Clearly, a fundamental starting block for all of these considerations would be to determine the appropriate market definition that is the subject of consideration and then what form of ownership controls, if any, are required to preserve competition and a plurality of views. We are eager to be involved in both sets of consultations.

Against that backdrop of general concern we have some particular issues:-

Cross Media Ownership

Cross ownership restrictions should be removed in order to "reform the cross-media regime for the changing market conditions" (White Paper, para. 4.8.8). Technology is blurring the lines between the various segments of the media industry, making it counter-productive for government to attempt to create artificial barriers between these segments. Classified advertisements carried in newspapers also appear on the Internet; news gathering skills honed in the print media are already being deployed in radio and television; a trend that will be accelerated if the current restrictions are removed; special sections in newspapers increasingly compete with magazines. The variety of ways in which consumers receive news, views, entertainment and advertising messages is increasing almost daily. And no one group dominates, or can hope to dominate all the pathways to the public. To continue to bar a participant in one segment of the industry from making its skills and capital available to the others would be to no purpose and would be contrary to what consumers want. The present rules are discriminatory, penalise success and are increasingly obsolete. Their presence narrows the range of potential investments available for consideration by News International and other companies.

Foreign Ownership

Unlike most other aspects of the White Paper, no consultation is planned on the foreign ownership prohibitions. This is perhaps not surprising since the position may be unable to withstand considered scrutiny, especially given the Government's devotion to the unimpeded international movement of goods, services and capital. The policy is an historic relic from the days when it was necessary to restrict television channel ownership to British subjects due to the scarcity of spectrum. Those days are now long since gone and the proliferation of other media channels renders the prohibitions unnecessary – even now, but particularly so with the switch to digital channels. There can be

no argument based on the need for local content since not only is there extensive regulation to ensure European originated content but in any event nationality of ownership does not drive content – the demands of consumers determine that. Moreover any future legislation, which does not amend these rules, leaves the position clearly open to legal action on the grounds of its incompatibility with the ECHR. Finally, as a matter of interest, it should be noted that the recent Broadcasting Inquiry¹ in Australia recommended that the foreign ownership controls on the Australian media should be abolished, and that the controls in America are scheduled for review by the new, market-oriented chairman of the Federal Communications Commission.

Newspaper Mergers

At the time when the special regime for newspaper mergers was introduced in 1965, there was a clear concern that diminishing numbers of newspapers and further consolidation amongst them might so reduce the numbers of available newspapers as to lead to a potential reduction in diversity or plurality. Since that time the media landscape has been transformed and in particular the sources of news have proliferated. There are now many more television news channels, many more radio news channels, more newspapers in themselves, more magazines and periodicals (containing some news), news delivered via mobile phones and PDAs, and of course there is the Internet. With this multiplicity of avenues to consumers, the extra precautions represented by the newspaper merger regime are now unnecessary and redundant. Accordingly, newspaper mergers should henceforth be treated in the same way as any other merger. When the Government is ready to consult upon such proposals for reform (as indicated in para. 4.11) News International would be eager to be involved.

Content Regulation

We are concerned that several of the references in the White Paper to content

¹ Productivity Commission, Broadcasting Inquiry Report © Commonwealth of Australia 2000

regulation contain serious threats to the freedom of the press and prospective infringement upon liberties hitherto enjoyed. It would be contrary to the goal of a free society -- to maintain uncensored access to news -- if the current press freedoms enjoyed by the British press, and the corresponding freedom to publish newspapers on the Internet or in other electronic form, were to be curtailed in any way in the course of forging machinery for the future. In looking at the future structure of content regulation, the starting point must be to assume that current freedoms will be preserved. Many concerns for the future will be fully addressed if current laws on content relating to, for example, defamation, obscenity, racism and piracy, are fully and effectively enforced.

As to the appropriate mechanisms for further content regulation, it is not possible to improve upon the current tried and true self-regulatory system that could be extended effectively across the converged scene of content delivery.

We have serious reservations about the gloss upon self-regulatory systems mentioned in the White Paper. Para 1.3.8 states that the new regulatory framework will consist of "co-regulatory or self-regulatory initiatives developed with OFCOM to deal with issues (such as offensive content on the Internet) where such approaches, backed up as necessary by statutory powers, offer the best means of achieving regulatory objectives". The experience of those self-regulatory systems to date - and the PCC in particular - has been to create a dispassionate, professional, sector-informed and -focused adjudication process which has been effective in protecting the public interest. The White Paper speculates upon a need to underpin such a system with further statutory or regulatory apparatus allowing for governmental intervention. We believe that such a step would undermine the effectiveness of those self-regulatory processes since they would, all the time, be subject to random intervention on a party political basis, making the process subject to "spin" according to the perceived needs of the government of the day. This would pose a notable danger in the event that there should be in office a media-timid government that was also susceptible to special pleading from

particular interests.

Accordingly we believe that the first attempt at reform should allow self-regulatory systems to operate untrammelled by additional statutory or regulatory apparatus and without the need for any underpinning of that nature.

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