[GB] Statement of Issues concerning investigation of the proposed takeover of Sky by 21st Century Fox Inc

IRIS 2018-1:1/25

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Further to the Secretary of State for Digital, Culture, Media and Sport's reference to the Competition and Markets Authority (CMA) to investigate the impact on media plurality and broadcasting standards of the proposed acquisition by 21st Century Fox Inc of the shares of Sky Plc (Sky) (see IRIS 2017-9/15), on 10 October 2017, the CMA issued its timetable and Issues Statement. Fox already has about 39% shareholding in Sky, whilst the Murdoch Family Trust (MFT) owns 39% of Fox and 39% of News Corporation, which fully owns News UK — the publisher of The Sun and The Times. Sky owns and operates Sky News. According to the CMA's administrative timetable, the final report will be sent to the Secretary of State by March 2018, who will determine whether to allow the acquisition, and if so, upon what terms.

The CMA's Issue Statement assesses whether there will be a sufficient plurality of persons with control of media enterprises serving UK audiences should the acquisition occur. Ofcom defines media plurality as ensuring the availability of a diversity of viewpoints and how they are consumed; and preventing any one media owner or voice having too much influence over public opinion and the political agenda. As such, the CMA will consider whether the MFT could control or influence editorial and commercial decisions at Sky News if Fox owned 100% of Sky and, if so, whether that control or influence is material.

Furthermore, the CMA will investigate whether the range of viewpoints available from news and current affairs sources in the United Kingdom is evolving in general and would change particularly should Fox's acquisition proceed. The CMA will consider how the population consumes news and current affairs and their reliance upon multiple sources, including whether this is likely to change in the future. The impact and importance of different news and current affairs sources, including online and social media, help to ensure media plurality. In addition, what are the implications of online and social media sources upon broadcast and print news and current affairs output? Moreover, the CMA will consider whether, if Sky were to be acquired by Fox, MFT would have the ability to influence the political agenda. When considering all the main factors, the CMA will need to consider what constitutes media plurality within the United Kingdom. If Sky were owned outright by Fox, would this lead to insufficient media plurality within the United Kingdom? Also, are there any existing factors which might help prevent or reduce

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any potential negative effects of Fox's potential acquisition of Sky upon media plurality?

The CMA also has to consider whether, if the acquisition were to occur, the new owner would have a genuine commitment to broadcasting standard objectives. When assessing this aspect, consideration would be given to the existing approach of Fox, Sky, MFT and News Corporation compliance with broadcasting standards. The assessment of corporate governance would include how these organisations treated their respective employees in the United Kingdom and overseas. CMA will look at compliance with other regulations so as to assess each company's overall commitment.

The CMA would consider what constituted a genuine commitment to broadcasting standards and whether, if the proposed acquisition occurred, this would lead to a diminution in a genuine commitment to maintaining broadcasting standards. The CMA would particularly focus upon the planned governance arrangements for Sky News. The genuine commitment to broadcasting standards would be considered within the framework of standard objectives set out in section 319 of the Communications Act 2003. Finally, the sufficiency of media plurality and a general commitment to attaining broadcasting standards are also respectively set out in section 58(2C)(a) and section 58(2C)(c) of the Enterprise Act 2002.

Competition and Markets Authority, Anticipated Acquisition by 21st Century Fox, Inc of Sky plc, Issues statement, 10 October 2017

https://assets.publishing.service.gov.uk/media/59db8a2840f0b63118216841/fox-sky-issues-statement.pdf

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