
From: Palker, Jeff [REDACTED]
Sent: 06 December 2010 16:13
To: Bavasso, Antonio:CO (LN); Pheasant, John; Rab, Suzanne
Cc: Appella, Andrea
Subject: FW: Follow-up
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From: Steve Unger [REDACTED]
Sent: 06 December 2010 04:05 PM
To: Palker, Jeffrey (Newscorp)
Cc: Steve Unger
Subject: RE: Follow-up

Dear Jeff

Thank you for your email. I think we are in agreement. We have been asked by the Secretary of State to consider 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 media enterprises serving that audience. Of course the BBC is one of the "media enterprises" serving the audience(s) in the UK for these purposes. As I'm sure you're aware, there isn't a statutory definition as to what constitutes a "sufficient plurality of persons" and we will look qualitatively at sufficiency having regard to any change in plurality that may arise as a result of the merger.

Best regards,

Steve

From: Palker, Jeff [REDACTED]
Sent: 03 December 2010 17:52
To: Steve Unger
Subject: Follow-up

Dear Steve

Thank you for the meeting yesterday. It was an useful opportunity to discuss the issues that you are currently considering in light of the evidence we submitted to you and submissions made by third parties. I hope that you found the meeting useful as well.

There is one point that emerged from our discussion that I would welcome a clarification. At various points during the discussion you seemed to suggest that the plurality provisions were intended by Parliament to protect particularly the plurality of the commercial sector in addition to the BBC, thereby somewhat discounting the impact of BBC in relation to the analysis of the current and expected level of plurality. We do not see how that interpretation is in line with the statutory framework on the basis of which Ofcom will advise the Secretary of State (and the

Secretary of State will take his decision) and therefore I would be grateful if you could clarify on what basis such a view could be taken.

In fact our view is that the position of the BBC is very much a relevant consideration to the assessment of whether, post-transaction, sufficient plurality of voices remains. The DTI Guidance on public interest intervention in media merger make that point explicitly clear in section 7.9 which states:

"7.9 First and foremost, the Secretary of State may consider the impact of the merger on the number of persons controlling media enterprises serving the relevant audiences in any given area of the UK, with the object of securing that control of media enterprises continues to be spread across a sufficient number of persons. When assessing the number of persons controlling media enterprises post-merger, it would be relevant to take into account the number of other players serving that audience. ***This would include BBC*** and the Welsh Authority, where relevant, as well as owners of broadcasters established abroad and broadcasting into the UK under European Union licences." (emphasis added)

I look forward to hearing from you.

Best wishes

Jeff

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