

**BY EMAIL ONLY**

**STRICTLY CONFIDENTIAL**

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5 January 2011

Dear Mr Zeff,

**News Corporation - British Sky Broadcasting Group Plc**

We understand from the e-mail, received from Alan Casselton on 23 December 2010, that you will be the lead policy official within the Department for Culture, Media and Sport (**DCMS**) dealing with the Secretary of State's public interest intervention concerning the proposed acquisition by News Corporation (**News**) of the remaining shares in British Sky Broadcasting Group (**Sky**) that it does not own (**the Transaction**).

It would be helpful if you could confirm whether you should be our first point of contact on matters concerning the public interest review of the Transaction or whether we should, instead, approach someone in your legal team.

As was explained to your colleague, Victoria Kaye, before Christmas, Allen & Overy LLP and Hogan Lovells International LLP both represent News in this matter and the core team to which correspondence should be addressed consists of Antonio Bavasso \_\_\_\_\_ and Cery Darbon \_\_\_\_\_ at Allen & Overy and John Pheasant \_\_\_\_\_ and Suzanne Rab \_\_\_\_\_ from Hogan Lovells. As you will be aware, at this stage, News has not yet received a copy of Ofcom's report which was delivered to the Secretary of State on 31 December 2010. News would hope to receive a copy of the report as soon as possible so that it is in a position to make submissions to the Secretary of State. We would therefore request that DCMS encourage Ofcom to produce and deliver a non-confidential version of the report to News with the shortest possible delay. In order to ensure timely consideration of the report by News and its advisors, we request that the non-confidential version of the report be sent by email to the above addressees. We note that DCMS is in a position to send one hard copy only of the report to News' advisors. In response to the letter received from Victoria Kaye on 4 January 2010 I can confirm that, as indicated by John Pheasant on 31 December 2010, this should be sent for the attention of Antonio Bavasso.

We would also be grateful if you could send us a copy of the report delivered by the Office of Fair Trading as soon as possible.

Naturally, the delay in News receiving a copy of the report may well also impact on the timing of the Secretary of State's decision if the Secretary of State is to allow an appropriate time period for consideration of the issues and for discussions with News.

News appreciates the opportunity it will have, as confirmed in the letter of 4 January 2011 from Victoria Kaye, to make written and oral submissions to the Secretary of State before he takes his decision on whether or not to refer the Transaction to the Competition Commission. Once we have received the Ofcom report, we will be contact to arrange a suitable time.

In that regard also we note that in Alan Casselton's e-mail of 23 December 2010, Alan referred to the 10 day administrative target for taking a decision which is acknowledged, albeit in the context of a merger which is subject to review by the UK authorities rather than the European merger authorities, in the DTI's Guidance on Public Interest Intervention in Media Mergers (the **Guidance**) at paragraph 4.11. This 10 day time limit has also been widely reported in the press.

Given the importance of this matter, News would urge the Secretary of State to take the necessary time to review the facts of the case and to hear submissions from News, whose commercial interests would be significantly impacted by any decision which is taken to refer the Transaction to the Competition Commission, before taking his decision.

News would also note that in the only other case in which a media public interest consideration has been applied in the UK – the case of Sky/ITV - the Secretary of State did not take a decision within 10 days. Indeed, in that case, a decision to refer was made almost a month after the Secretary of State received reports from the OFT and from Ofcom and just before the statutory deadline of 4 months from completion which applied in that case (because it was a completed merger). In this case, no legal time limit is running at all as the acquisition of shares by News has not yet taken place.

If Ofcom's report (the content and conclusion of which are not known to News at this time) recommends that the Secretary of State refer the Transaction to the Competition Commission, and as the Secretary of State will want to give due consideration to Ofcom's advice before taking a final decision on reference, News believes that a 10 day period for consideration is likely not to be sufficient for the Secretary of State to take a decision in a contested case such as this one. This is particularly the case in the present circumstances where News is concerned by the issues set out in the letter from Hogan Lovells to the Department for Business, Innovation and Skills on 23 December 2010 and where the administrative process leading up to the issue by Ofcom of its report has, by any measure, been seriously flawed, with responsibility having to be transferred from the Secretary of State for Business, Innovation and Skills (who had taken the initial decision to intervene in relation to the Transaction) to the Secretary of State for Culture, Olympics, Media and Sport.

In the contrary case, should Ofcom's report conclude that the Secretary of State need not refer the Transaction to the Competition Commission, it may be that in that scenario, the Secretary of State's decision is in fact quite straightforward. News continues to be confident that the proposed Transaction poses no threat whatsoever to the sufficiency of plurality when considered on an impartial and objective basis and in the framework of the applicable statutory test.

Yours sincerely

  
**Antonio Bavasso**  
Partner

cc:

Alan Casselton and Victoria Kaye, DCMS

Jeff Palker and Andrea Appella - News Corporation

John Pheasant and Suzanne Rab - Hogan Lovells International LLP

Cerry Darbon - Allen & Overy LLP