om:	AMOS, St	ephen	•			
_ent:	12 July 20					· .
To:			RITA; SMITH, Ad	am;		
Subject:	RE: PM Sp	eech				•
	•				•	
			•			٠.
Paul					•	
4 142 L LL al.	. di d			•		
1. We spoke. I have als	o discussed with Da	iniei Beard.			•	
2. The risk which we are	thuing to mitigate	hara is the risk	that down the	ling others wil	l bo able to as	cort that
2. The risk which we are Jeremy did not have an o	=					
him – in legalese, his disc			quasi-juulciai tui	iction which ra	iriiaiiieiit iias	
illii – iii legalese, iiis uisi	retion was rettered	, ,			•	•
3. As we all know but it	hears reneating th	is is only a vot	e in one house c	of Parliament ar	nd does not cl	nange anythin
legally. After the vote,		•				
Anci me vote,	.c.c, 5 obligation		· ····aking role ull	as, the Enterpr		
The version of the mo	tion which we have	e seen is not d	lirected towards	Jeremy but rat	her at News	If it were
rected at him and said						
representations to Speal			• •			
are not in that territory.	cer 3 couriser about	. The propriety	or such a motic	ii willeli liew li	Title face of th	iciaw. wc
are not in that territory.	•	•		•		
			•			
F Rack to the rick in par	a 2" the key point i	s that laramy	should not vote	Ware he to w	ote in favour	and then
5. Back to the risk in par						
subsequently to block th	e merger after the	CC reference,	it would be very	difficult indee	d to defend a	JR alleging
subsequently to block the	e merger after the on the subject. For	CC reference, or the same re	it would be very easons he should	/ difficult indee I not speak in tl	d to defend a he debate. As	JR alleging he said rathe
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subsequently to block the that his mind was closed nicely yesterday he is the although he is of course that he is of course keen statement somewhere experience in relation to the first that the support. The right be mitigated by the stephen From: OLDFIELD PAUL Sent: 12 July 2011 14:5 To: PATEL RITA; SMITH	e merger after the on the subject. For only member of the free to attend and to hear the full ran explaining why he has transaction. He estalking about a free sks to Jeremy's decisters in the para about a free talking about a free sks to Jeremy's decisters in the para about a free talking about a free sks to Jeremy's decisters in the para about a free talking about a free sks to Jeremy's decisters in the para about a free talking about a free talking about a free sks to Jeremy's decisters in the para about a free talking a free talking about a free talking a fr	CC reference, or the same re he House who listen to all example of points has decided no may need to pee vote here, a sision making voove.	it would be very assons he should be is not permitted that the content of the con	y difficult indee I not speak in the deciral to air an opinuld make a virter the record he i.e. because home point in the the PM and ot	d to defend a he debate. As ion about this ue of doing the should make that a statute future.	JR alleging the said rather smerger, nat by saying some kind of ory role to leagues will
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To: SMITH, Adam; AMOS, Stephen Subject: Re: PM Speech	OLDFIELD PAUL		
Probably safer for jeremy to abstain. But free vo	ote for others		
Sent from my BlackBerry Wireless Device			
From: SMITH, Adam To: AMOS, Stephen; PATEL RITA; Sent: Tue Jul 12 14:41:15 2011 Subject: RE: PM Speech	DLDFIELD PAUL		
BBC saying the motion is as follows –			
"This house believes it is in the public interest that it does not already own"	or News Corporation to withd	raw its bid to buy the	shares in BskyB
I've chatted quickly to Jeremy about this and he we therefore clarify whether this is ok. Whether this is ok. Whether this is ok. Whether the control of the	er he should participate in the o		
erhaps we should meet soon to go through the	nese points?		• •
From: AMOS, Stephen Sent: 12 July 2011 13:14 To: PATEL RITA; SMITH, Adam; Subject: RE: PM Speech	OLDFIELD PAUL;	· · · · · · · · · · · · · · · · · · ·	
Thanks Rita. Good question. This is not a scien	nce though.		
We are engaged in the business of try to meas decision making. At the end of the day we will regard to all relevant considerations (he decide and ignoring irrelevant ones.	I need to able to say that he ha	ad an open mind and	paid proper
I suggest that a vote where the PM and DPM a ery different from a whipped vote (although vere). It certainly raises the risk to a level high	we are into arcane parliamenta	ry procedures rather	than law
√ade by the PM and DPM.			•
		· · · · · · · · · · · · · · · · · · ·	
From: PATEL RITA Sent: 12 July 2011 12:54 To: SMITH, Adam; AMOS, Stephen	OLDFIELD PAUL;		
Subject: RE: PM Speech And if the PM and DPM are backers of the ame	endment? (rather than saying (Sovt supports it?)	
From: SMITH, Adam Sent: 12 July 2011 12:53 To: AMOS, Stephen OLDFIE Subject: RE: PM Speech	LD PAUL; PATEL RIT.		

What about if we say it	i's a completely free	vote. le no whip	ping at all?	·		•
From: AMOS, Stephen						
ent: 12 July 2011 12:			·			
.o: SMITH, Adam;		ELD PAUL;	;			
Subject: RE: PM Spee	ch					
Legally speaking the issout of this merger rem						ews to back
To my mind such a voto league than comments arguments that as JH is manoeuvre.	s made by the PM and	d DPM and allov	vs people to rur	n with (and poss	sibly succeed	with)
How about -		•				
The Government will as it stands, as enacted bould be focussing of	ed by Parliament. []					
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From: AMOS, Stepher			•			r
Sent: 12 July 2011 12						4
To: SMITH, Adam;	_	ELD PAUL; PATE	EL RITA;			•
Subject: RE: PM Spee	ech .					
				•		
n we please pause o	on this point.					
			•	•		
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Stephen Amos						
Director – Legal				•		
Department for Cultur	re, Media and Sport				•	-
2-4 Cockspur Street						
London SW1Y 5DH				4 - 4		
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From: SMITH, Adam					
Sent: 12 July 2011 12:	31		•		
	LDFIELD PAUL; P.	ATEL RITA;			
Cc: AMOS, Stephen	. •	•			•
Subject: RE: PM Speed	ch				
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From:					
Sent: 12 July 2011 12:	27				
To: OLDFIELD PAUL; P			,		
Cc: SMITH, Adam; AMO		•	* * * *	• •	
Subject: RE: PM Spee				•	
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Legal Advisers to the De	enartment for Cul	tura Media and Sno	rt		•
Email:	epartment for Cur	- Tricula and Spor	· ·		
Linaii.					
From: OLDFIELD PAUL Sent: 12 July 2011 12	· ·				
To: PATEL RITA;	,27	· ·	·		
Cc: SMITH, Adam			•		
Subject: PM Speech	• • •				
Subject: (11 Specen	· · · · · · · · · · · · · · · · · · ·	•		i *	
No 10 asking me to cle	ar (by 12.45) a bit	of PM's proposed s	speech for any del	pate tomorrow.	
ve tracked some char explain the reasons	nges in the version	n they sent me. You	happy with the te	xt and my amends	? I'll phone them to
explain the reasons					€
Devel		. %		ŧ	
Paul.					•
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Paul Oldfield		•			
Principal Private Secre	tary to the Secret	ary of State	Communication of the Section of the Communication o	and annual to the entering of the enterior of	The second of the second section of the second seco
Department for Cultur	·	a contract of the contract of		r	
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<u> </u>	OLDETELD DALII
om:	OLDFIELD PAUL
Jent:	12 July 2011 15:58
To:	AMOS, Stephen; PATEL RITA; SMITH, Adam
Subject:	RE: PM Speech

For the record I talked Simon King through this and gave him two options – free vote and Government supported vote.

They've decided on the Government vote, cognisant of the increased risks of JR. I've explained that Jeremy cannot vote, cannot take part in the debate, and we'll be finding a way to issue some statement to mitigate JR risk in the future about the fact that he remains open minded and has decided not to take part in the vote.

Paul.

rt: 12 July 2011 15:41

: OLDFIELD PAUL; PATEL RITA; SMITH, Adam;

-ubject: RE: PM Speech

Paul

- 1. We spoke. I have also discussed with Daniel Beard.
- 2. The risk which we are trying to mitigate here is the risk that, down the line, others will be able to assert that Jeremy did not have an open mind when discharging the quasi-judicial function which Parliament has conferred on him in legalese, his discretion was fettered.
- 3. As we all know but it bears repeating, this is only a vote in one house of Parliament and does not change anything legally. After the vote, Jeremy's obligations and decision making role under the Enterprise Act will be unchanged.
- 4. The version of the motion which we have seen is not directed towards Jeremy but rather at News. If it were directed at him and said that e.g. in no circumstances could be approve the merger, then we would want to make presentations to Speaker's Counsel about the propriety of such a motion which flew in the face of the law. We e not in that territory.
- 5. Back to the risk in para 2, the key point is that Jeremy should not vote. Were he to vote in favour, and then subsequently to block the merger after the CC reference, it would be very difficult indeed to defend a JR alleging that his mind was closed on the subject. For the same reasons he should not speak in the debate. As he said rather nicely yesterday he is the only member of the House who is not permitted to air an opinion about this merger, although he is of course free to attend and listen to all exchanges he could make a virtue of doing that by saying that he is of course keen to hear the full range of points being made. For the record he should make some kind of statement somewhere explaining why he has decided not to participate i.e. because he has a statutory role to perform in relation to this transaction. He may need to point to this at some point in the future.
- 6. I am assuming we are talking about a free vote here, albeit one which the PM and other senior colleagues will want to support. The risks to Jeremy's decision making would increase if this were a whipped govt vote, but could still be mitigated by the steps in the para above.

Happy to discuss further.

ephen

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com: OLDFIELD PAUL sent: 12 July 2011 14:58 To: PATEL RITA; SMITH, Adam; AMOS, Stephen; Cc: AMOS, Stephen							
Subject: RE: PM Speech							
		•	*		٠		•
Am just checking with Stephen and will then talk	to No 10.						
From: PATEL RITA							
Sent: 12 July 2011 14:56 To: SMITH, Adam; AMOS, Stephen;	OI DETEI	LD PAUL		•			
Subject: Re: PM Speech	OLDI ILI						
	•						•
Probably safer for jeremy to abstain. But free vote	for others		•	٠.			
Sent from my BlackBerry Wireless Device	•						
							. •
	;				<u>.</u>		
To: AMOS, Stephen; PATEL RITA; Sent: Tue Jul 12 14:41:15 2011	OLDFIELD	PAUL;					· .
Subject: RE: PM Speech		•	•				\$ ***
BBC saying the motion is as follows –		•			· :		
"This house believes it is in the public interest for that it does not already own"	r News Corpo	oration to w	vithdraw it	ts bid to	buy the	shares in	BskyB
I've chatted quickly to Jeremy about this and he we therefore clarify whether this is ok. Whether should abstain on it.							
Perhaps we should meet soon to go through the	se points?						
om: AMOS, Stephen	· · · · · · · · · · · · · · · · · · ·						
ent: 12 July 2011 13:14 o: PATEL RITA; SMITH, Adam Subject: RE: PM Speech	OLDFIELD	PAUL;					
Thanks Rita. Good question. This is not a science	e though.		•				

We are engaged in the business of try to measure differing degrees of risk of successful challenge to Jeremy's decision making. At the end of the day we will need to able to say that he had an open mind and paid proper regard to all relevant considerations (he decides what's relevant by looking at the statutory rules governing his role) and ignoring irrelevant ones.

I suggest that a vote where the PM and DPM are the sponsors looks rather like a statement of govt policy and not very different from a whipped vote (although we are into arcane parliamentary procedures rather than law here). It certainly raises the risk to a level higher than that posed by statements to the media such as those already made by the PM and DPM.

From: PATEL RITA		
rom: PATEL RITA lent: 12 July 2011 12:54		
: SMITH, Adam; AMOS, Stephen;	; OLDFIELD PAUL;	
abject: RE: PM Speech	,	
and if the PM and DPM are backers	s of the amendment? (rather than saying Govt supports it?)	
rom: SMITH, Adam		ŧ
Sent: 12 July 2011 12:53	; OLDFIELD PAUL; PATEL RITA	
Fo: AMOS, Stephen;	, OLDFILLD PAGE, PATEL RITA	
	tely free vote. le no whipping at all?	
what about it we say it is a complete		
From: AMOS, Stephen Sent: 12 July 2011 <u>12:52</u>		•
To: SMITH, Adam;	DLDFIELD PAUL; PATEL RITA	
Subject: RE: PM Speech	SESTILES TAGE, TATEL TOTAL	
- · · · · · · · · · · · · · · · · · · ·	ner a government whipped vote in favour of a resolution exhorting News to	back
$ extcolor{l}{ ilde{d}}$ t of this merger removes or restr	ricts any discretion with JH has under the Enterprise Act powers.	
	nificantly raise the chances of a successful JR against the SoS – it is in a diffe	erent
	ne PM and DPM and allows people to run with (and possibly succeed with)	
arguments that as JH is bound by the	the convention of collective cabinet responsibility, he really has no room fo	r
manoeuvre.		
How about -		-
	om the motion put forward today – because it is not consistent with th	
as it stands, as enacted by Parlia	ment. [I have of course already made my own views clear as to what	t News
should be focussing on right nov	\mathbf{w}]	
<u>-</u>		
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		,
Sent: 12 July 2011 12:35	OLDETELD BALLI - DATEL DITA	
From: AMOS, Stephen Sent: 12 July 2011 12:35 To: SMITH, Adam; Subject: PE: PM Speech	OLDFIELD PAUL; PATEL RITA;	
Sent: 12 July 2011 12:35	OLDFIELD PAUL; PATEL RITA;	

Can we please pause on this point.

Seeking urgent clarification of whether "the government" can vote for the motion. We need to square off JH's quasi-judicial role with the fact that he is of course a cabinet member bound by collective responsibility. Is one jing for PM / DPM to make comments but another for the government as a whole to swing behind a motion. Will get back to you asap.

S Stephen Amos Director - Legal Department for Culture, Media and Sport 2-4 Cockspur Street London SW1Y 5DH om: SMITH, Adam **sent:** 12 July 2011 12:31 OLDFIELD PAUL; PATEL RITA; Cc: AMOS, Stephen Subject: RE: PM Speech And presumably we could actually say we are voting for the motion (provided Jeremy doesn't)? From: Sent: 12 July 2011 12:27 To: OLDFIELD PAUL; PATEL RITA; Cc: SMITH, Adam; AMOS, Stephen Subject: RE: PM Speech It's fine, save that if the vote has no legal effect, then voting for it couldn't put anyone in breach of the law. So it might be prudent to remove that part. Legal Advisers to the Department for Culture, Media and Sport Email: From: OLDFIELD PAUL Sent: 12 July 2011 12:24 To: PATEL RITA Cc: SMITH, Adam Subject: PM Speech No 10 asking me to clear (by 12.45) a bit of PM's proposed speech for any debate tomorrow. I've tracked some changes in the version they sent me. You happy with the text and my amends? I'll phone them to explain the reasons... Paul.

Paul Oldfield
Principal Private Secretary to the Secretary of State
Pepartment for Culture, Media and Sport

om:	OLDFIELD PAU			•			
ent:	12 July 2011 1	6:30				:	
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 ıbject:	RE: [UNCLASS						:
ttachments:	PM Draft Spee	- "			•		
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e suggested two minor am Removing immediate referring the exact le to get that right. Ton	e effect. SoS said it gal framework for ling that down wou	yesterday b doing so is o ld help.	ut whilst wo	e have writ d CC have to	old us we ne	eed to talk	some tim
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	ps us slightly with J	R risk. It doe	esn't change	e tne sense	of what you	a want but	•
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Allegations that Royal Protection Officers were in the pay of the News of the World - that they handed over

...we are still hearing shocking allegations by the day.

the contact details of the Royal Family for a profit.

Allegations that the former Prime Minister, Gordon Brown, had his bank details hacked into, and unforgivably, his child's medical records taken too.

And this time, the alleged culprits were not the News of the World, but other News International titles.

Mr. Speaker, as both the nature of the malpractice, and the scope of the newspapers involved, widens...

...it is right that the police continue to follow their enquiries and the evidence wherever it takes them.

It is also simply unrealistic to expect both the public and indeed politicians to separate all this from News Corporation's proposed takeover of BSkyB.

Yes, government is subject to the law of the land – and the proper legal processes for takeovers and mergers must be followed.

at that doesn't mean we cannot express a view.

That's why it is right for this House to have this debate.

And it's why I have made my opinions clear.

If I was running this company right now, with all the problems, difficulties and mess there is, I'd get my house in order first before thinking about the next corporate move.

At the same time, we are also making sure we are following due legal process.

Yesterday, because News Corporation withdrew their Undertaking in Lieu, my Right Honourable Friend, the Secretary of State for Culture, Media and Sport referred the bid to the Competition Commission with immediate effect.

The relevant authorities will have the time to take a look at all the issues...

... and come to a considered and exhaustive decision on whether this takeover should proceed.

It will then be up to the Secretary of State to decide in a quasi-judicial capacity.

For those looking for an indefinite delay, until the criminal investigations are over, let me remind them:

The legal requirements for conduct of a takeover were set out in the 2002 Enterprise Act – an act passed by the last government.

It makes clear that there can be no delay in this judicial process for extraneous reasons.

Let me also remind members opposite, that the only reason we can even consider plurality is not because the last government proposed this in the Bill...

but because the House of Lords amended the Bill to insist it was considered.

The Secretary of State has scrupulously stuck to his quasi-judicial role and the rules set out in the Enterprise Act.

For latest news and information from Downing Street visit: http://www.number10.gov.uk

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BSkyB BID

Let me turn to the specific issue of the BSkyB bid.

Mr. Speaker, despite the police investigation being underway and the public inquiry soon to be up and running...

...we are still hearing shocking allegations by the day.

Allegations that Royal Protection Officers were in the pay of the *News of the World* – that they handed over the contact details of the Royal Family for a profit.

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