

SS-AB 01



From: Adam Smith [redacted]
Sent: 26 April 2012 15:36
To: OLDFIELD PAUL
Subject: Fwd: Here goes...please check for typos and format nicely tx

Begin forwarded message:

From: Adam Smith [redacted]
Date: 19 November 2010 16:30:33 GMT
To: Jeremy Hunt [redacted]
Subject: Re: Here goes...please check for typos and format nicely tx

much happier with this version!

On Fri, Nov 19, 2010 at 4:18 PM, Jeremy Hunt <[redacted]> wrote:

----- Forwarded message -----

From: Jeremy Hunt <[redacted]>
Date: 19 November 2010 13:14
Subject: Here goes...please check for typos and format nicely tx
To: Adam Smith <[redacted]>

Fortnightly update 19 November 2010

A lot has been happening in my sectors, so here goes with a brief update:

NewsCorp/Sky bid James Murdoch is pretty furious at Vince's referral to Ofcom. He doesn't think he will get a fair hearing from Ofcom. I am privately concerned about this because NewsCorp are very litigious and we could end up in the wrong place in terms of media policy. Essentially what James Murdoch wants to do is to repeat what his father did with the move to Wapping and create the world's first multi-platform media operator, available from paper to web to TV to iPhone to iPad. Isn't this what all media companies have to do ultimately? And if so, we must be very careful that any attempt to block it is done on genuine plurality grounds and not as a result of lobbying by competitors.

The UK has the chance to lead the way on this as we did in 80s with the Wapping move but if we block it our media sector will suffer for years. In the end I am sure sensible controls can be put into any merger to ensure there is plurality, but I think it would be totally wrong to cave in to the Mark Thompson/Channel 4/Guardian line that this represents a substantial change of control given that we all know Sky is controlled by NewsCorp now anyway.

What next? Ofcom will issue their report saying whether it needs to go to the Competition Commission by 31 December. It would totally wrong for the government to get involved in a competition issue which has to be decided at arms length. However I do think you, I, Vince and the DPM should meet to discuss the policy issues that are thrown up as a result.

Redacted (2 pages)

SS-Ab 02



From: SMITH, Adam
Sent: 13 January 2011 19:20
To: 'jeremy'
Subject: Re: Fwd: FW: Stop Hunt's secret meetings with Newscorp

Hate figure for some but I've had people including students say you were at the top of your game last night!

From: Jeremy Hunt
To: SMITH, Adam
Sent: Thu Jan 13 19:09:26 2011
Subject: Re: Fwd: FW: Stop Hunt's secret meetings with Newscorp
Brill thx, good to be a hate figure, Maggie would be proud of me!

On 13 January 2011 19:09, SMITH, Adam wrote:

n doing one for lawyers to check

From: Jeremy Hunt
To: SMITH, Adam; BEEBY, Sue
Sent: Thu Jan 13 19:04:35 2011
Subject: Fwd: FW: Stop Hunt's secret meetings with Newscorp
Hi both
Please could you draft a good reply for PRU to send out?
Thx
J.

----- Forwarded message -----
From: WILSON, Rob
Date: 13 January 2011 16:39
Subject: FW: Stop Hunt's secret meetings with Newscorp
To: Jeremy Hunt

Jeremy

Colleagues are getting letters like the one below.

I think we might want to get a reply prepared to help PRU and think about how we deal with concerns that colleagues might have.

Rob

Dear Mr. Wilson

I've just found out that Jeremy Hunt has had the Ofcom report on Murdoch's BSkyB bid since New Year but hasn't made it public. This makes me very concerned that the takeover bid is going to be pushed through without a proper investigation by the Competition Commission.

Please ask Jeremy Hunt to make the report public and ensure that the takeover bid is scrutinized impartially.

Please don't brush me off with another 'stock' letter informing me of what I already know rather than informing me of what action you plan to take. I recognise that you cannot be sending lengthy replies to everybody that writes to you, however, I feel it is your responsibility to inform me of where you stand on this matter and whether or not you will be using your political influence in the way that I have requested.

Yours sincerely,

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SS. AL 03

From: SMITH, Adam
Sent: 14 January 2011 10:53
To: Jeremy Hunt
Subject: Replies on BskyB

Lawyers and everyone have cleared this. Are you happy?

Thank you for getting in touch about the News Corp/BskyB transaction. I thought it would be helpful if I clarified the process that the Jeremy Hunt is going through.

Ofcom delivered their report to the Secretary of State Jeremy Hunt on 31st December. He is now considering the report carefully. He has been clear that he will take as much time as necessary to come to a fully considered decision and he rightly believes that it is more important to come to the right decision rather than work to an arbitrary timescale. In taking this decision it is open to the Secretary of State to take representations however, it would detract from the decision making process to provide a running commentary on what, if any, discussions he is having.

He will however, be publishing Ofcom's report but he has not taken a final decision about when this will happen. He has a statutory duty to publish it before or at the time of the announcement of his decision so it will be available for everyone to see at some point soon.

Due to the Secretary of State's quasi-judicial role it is not possible to provide any further details at the moment but needless to say he is committed to reaching a decision in a fair and even-handed way. Further details about this process will be announced once the Secretary of State's decision has been made public.

SS. Ab 04

From: SMITH, Adam
Sent: 19 January 2011 09:04
To: Jeremy Hunt; BEEBY, Sue
Subject: Some OPQ Lines to discuss later

Some general lines.

It isn't this Government who had a News Corporation director on its Business Council for Britain. It was his.

It isn't this Government who pledged to Fifa that Sky could show the football world cup. It was his.

And it isn't this Party's leader who flew to Australia seeking an endorsement. It was his.

As he so obsessed with imagined links to News Corporation then lets just look at some facts. Labour's new director of strategy and communications is a former Times journalist. And the honourable member's own political advisor is former news international employee. How does he sleep at night when the long arm of News Corporation is reaching into the heart of his Party?

The honourable member sees conspiracy theories everywhere. He'd think I was favouring News Corp if I went on holiday to Australia or bought a copy of the Sun.

I'm afraid the honourable member is letting his political persuasions cloud his judgment. I will make this decision by following due process and being reasonable. I fear that he is in danger of being manipulated by powerful media organisations. He has had secret meetings with them. Written articles in their newspapers. He has even made speeches praising them. With absolutely no policies of his own he is simply doing as he's told by his media masters and jumping on the latest passing bandwagon.

Unlike the honourable member I don't have the luxury of being quite so vocal on this issue but....

I have a variety of formal and informal meetings and won't comment on the current process. But I wonder, did the honourable member ask the Labour DCMS Ministers in the last Parliament not to have any of the 14 meetings they held with representatives of BskyB? I would hate to think he was being hypocritical.

I have a variety of formal and informal meetings and won't comment on the current process. But he needs to be consistent. Has he had any meetings with any of the parties involved? Has his party leader sought a meeting with them? Perhaps he has had had one? If I'm not too late I'd suggest a session on how to deal with union problems might be a good opener.

If he questions the process

I am following due process at all times. I have no wish to lecture the House on the finer points of the Enterprise Act but it does set out the process and I am following it. Rather than making outlandish claims about making or breaking the law as he did yesterday I suggest he start by reading it.

Are you impartial?

Absolutely. The honourable member should know that this is not a judgment on what I think about any one particular company but a quasi-judicial decision based on the transaction's impact or otherwise on media plurality.

"Rupert Murdoch and BSkyB have been a force for good in improving the quality of broadcasting for British consumers". Not my words but that of the honourable member for Bury South. I do wish he'd stop sucking up to the Murdochs.

OR

"In many ways Sky and News International have been pioneers in responding to the aspirations of consumers. For this they should be commended, not condemned." Not my words but that of the honourable member for Bury South. I do wish he'd stop sucking up to the Murdochs.

Have you met with News Corp to discuss the transaction?

I have been advised by lawyers that to provide a running commentary on any potential meetings could increase the legal risk around my eventual decision. So I'm afraid I won't be drawn on this topic. However, I can confirm that at the time of my decision I will publish as many of the details on the process as possible.

Meetings without officials means you have a history of secrecy and lack of transparency?

I have a variety of both formal and informal meetings. I had hoped for instance, that when the honorable member comes to the Department in a couple of weeks we might be able to meet privately. On the basis of his question though I will ensure there's a team of officials present to minute every single one of his pearls of wisdom.

If this is from a random backbencher you could still say,

"I have a variety of both formal and informal meetings. If the honorable member ever wants to meet to discuss anything I would have previously suggested we do so without officials. However, on the strength of his feelings I will now make sure there is a team of officials present to record his every word for posterity."

Why won't he publish the report?

I will do so. The report with commercially sensitive information redacted will be published before or at the time of my decision. It is worth reminding the House that the last time Government invoked these powers Ofcom reported to the then Labour Secretary of State on 24th April 2007. He didn't make a decision or indeed publish Ofcom's report until 27th May 2007.

Previous comments

"Rupert Murdoch has probably done more to create variety and choice in British TV than any other single person".

Counter with any of the following –

"Rupert Murdoch and BSkyB have been a force for good in improving the quality of broadcasting for British consumers". So says the opposition spokesman. So it would appear that these benches are united in something at least.

If a backbencher –

I'm not the only senior politician who has said something positive about Rupert Murdoch. According to his official spokesman the Member for Kirkcaldy and Cowdenbeath, "has the most enormous personal regard for Rupert Murdoch...what he has done as an international businessman – his record speaks for itself." Honourable Members behind me want like this but I think I've finally found something that I can agree with the former Prime Minister on.

If its Gloria –

"I find it strange that the honourable Lady is prepared to be so critical of News Corporation when her register of members interests shows she is happy to take payment from one of their newspapers. I've not read her article but I'm sure the £500 fee was money well spent."

JS. AL 06

From: SMITH, Adam
Sent: 21 January 2011 11:52
To: Jeremy Hunt
Subject: FW: Andy Coulson's Resignation [UNCLASSIFIED] [Non-Record]

The Prime Minister said today:

I am very sorry that Andy Coulson has decided to resign as my Director of Communications, although I understand that the continuing pressures on him and his family mean that he feels compelled to do so. Andy has told me that the focus on him was impeding his ability to do his job and was starting to prove a distraction for the Government.

During his time working for me, Andy has carried out his role with complete professionalism. He has been a brilliant member of my team and has thrown himself at the job with skill and dedication. He can be extremely proud of the role he has played, including for the last eight months in Government.

I wish Andy all the very best for his future, which I am certain will be a successful one.

Andy Coulson said:

I can today confirm that I've resigned as Downing Street Director of Communications.

It's been a privilege and an honour to work for David Cameron for three and a half years.

I'm extremely proud of the part I've played in helping him reach No10 and during the coalition's first nine months.

Nothing is more important than the Government's task of getting this country back on its feet.

Unfortunately continued coverage of events connected to my old job at the News of the World has made it difficult for me to give the 110percent needed in this role.

I stand by what I've said about those events but when the spokesman needs a spokesman it's time to move on.

I'll leave within the next few weeks and will do so wishing the Prime Minister, his family, and his brilliant and dedicated team the very best for what I'm sure will be a long and successful future in Government.

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

Help save paper - do you need to print this email?

SS. A6. 07

From: SMITH, Adam
Sent: 25 January 2011 14:29
To: Jeremy Hunt; BEEBY, Sue
Subject: UILs being accepted instead of CC referral by Labour

It is very common for UILs to be considered as an alternative to referral to the CC in defence public interest tests, and also in competition cases more generally.

For instance the acquisition of UWS Winfred Division of Qinteq by Atlas Elektronik UK Ltd was cleared in September 2009 after undertakings were offered and before referral to the Competition Commission. This acquisition was cleared by Lord Mandelson.

SS. AL. 08

From: SMITH, Adam
Sent: 02 March 2011 23:04
To: Jeremy Hunt
Subject: Questions

Tried to think of some friendly questions backbenchers could ask to allow you to elaborate on the safeguards within the UILs. I can talk to Rob Wilson about these tomorrow morning (and getting nice comments at the start of each one) but thought of these for starters –

Can the Minister confirm that there are a significant number of additional steps to be taken before these undertakings are agreed? That amongst other things he will have to approve the crucial carriage agreement and brand licensing arrangements? (Yes)

As well as approving the carriage agreements can the Minister explain what further oversight he will have over other arrangements like use of buildings or satellite uplinks that will need to be put in place before the merger can proceed? (Yes)

Can the Minister explain what would happen if News Corporation wanted to cancel the carriage arrangement or brand licensing deal after the transaction has taken place? (dispute mechanism details of which have to be approved by you)

Can the Minister confirm that the New Company will have to abide by stricter corporate governance arrangements than any other media company in the UK? (yes, it has to comply not just comply or explain)

What monitoring procedures are in place to ensure that these undertakings are abided by? (they are legally binding, will be in the articles of association of the New Company and Section 7 of the UILs includes a compliance order)

Can he confirm that Ofcom's advice is that these arrangements are sufficient to address the plurality concerns that initially led them to believe the deal should be referred to the competition commission?

Does he not agree that the most striking aspect of Ofcom's initial report was the size, influence and ability to dominate the news agenda of the BBC? How would he see his review of communications regulation address this particular finding?

Could the Minister explain why he decided to give News Corporation time to address Ofcom and OFT concerns about the undertakings. Were you following Ofcom advice on this? (yes, they said the proposed UILs may represent a way forward in principle subject to resolution of outstanding points).

SS-AB-09



From: SMITH, Adam
Sent: 02 March 2011 23:29
To: Jeremy Hunt; [redacted] BEEBY, Sue
Subject: RE: oral statement
Attachments: Oral Statment News Corp Update.docx

I've added in the dates and change some typos. Sue really doesn't want you to use the phrase about public not trusting media barons and politicians as she fears media would just clip that and nothing else! Also on the point about Sky's board currently, it already contains a majority of independent directors. I've made these changes so as long as you are happy Dean can accept these to give a final version.

From: Jeremy Hunt [redacted]
Sent: 02 March 2011 23:11
To: [redacted] BEEBY, Sue; SMITH, Adam
Subject: Re: oral statement

My amends attached. I want to go to bed now so will assume you can use what I have done with small amends and adapt the press release accordingly.

Many thx to everyone
J.

On 2 March 2011 22:08, [redacted] wrote:

Hi Jeremy

Here is the oral statement cleared by Spads, Jon Zeff and Lawyers.

We are also now working on the consultation document and press notice which I will get sent through asap.

Thanks



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SS-AL-10

[Redacted]
From: SMITH, Adam
Sent: 03 March 2011 09:15
To: Jeremy Hunt
Subject: RE: Question

He hasn't. He's still non-exec chairman. But obviously not independent as it will have to be now

From: Jeremy Hunt [Redacted]
Sent: 03 March 2011 09:04
To: SMITH, Adam
Subject: Question

When did James M step down as Sky chairman?

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SS- A5- 11

From: SMITH, Adam
Sent: 08 March 2011 15:38
To: Jeremy Hunt
Subject: RE: Enders Note on the UILs

And News Corp's initial reaction –

My initial reaction is that they still don't seem to understand how the corporate governance provisions (and more generally the UILs) work and therefore the note has a number of inaccuracies, for example:

- a third party can't change the articles without 75% and we agreed to vote against any changes in the articles that would remove the corp gov protections (for as long as we don't own a majority of the voting shares of Sky News, which in itself would be subject to another regulatory review);
- the carriage agreement will be subject to approval by Jeremy (which means also OFT/OFCOM) so all the key terms will have to be blessed by them;
- the financial viability has been assessed by the OFT so it is not up to the third parties to opine on it (and the details of the business plan are confidential business secrets);
- material Transactions (£5m or more) between Sky News and News/Sky need to get the approval of the Audit Committee, which consists exclusively of independent directors; if they involve more than £12.5m, they also need to get approval by the Board in addition to the Audit Committee;
- bundling is a competition issue and has not been raised by OFCOM in the review of the UILs from a plurality perspective.

On the length and detail of the UILs, I attach the examples of UILs given in other cases that show that ours are within standard range.

From: SMITH, Adam
Sent: 08 March 2011 15:20
To: 'Jeremy Hunt'
Subject: Enders Note on the UILs

Sky News

- The concept of demerging Sky News is evidently a plausible one and we consider it very unlikely that critics of the deal will have much success undermining its appropriateness as a protection of plurality

- **However, it is harder to judge whether the proposed implementation secures the channel's independence as fully and clearly as it might**
- **We outline a series of issues that the information supplied for the public consultation does not appear to deal with. We note, in particular, that the proposed undertakings seem not to block Rupert Murdoch, or members of his family, from buying the 60.9% of the shares in Sky News not to be held by News Corp**

[Click here to download the pdf](#)

Jeremy Hunt's announcement on 4 March regarding the separation of Sky News to address plurality issues follows long and detailed negotiations between News Corp, the OFT and Ofcom. The OFT is understood to have seen carefully crafted business plans and been given multiple commitments from News Corp that will ensure the future prosperity of Sky News. However, the undertakings put into public consultation are extremely light on detail, making it difficult for an outsider to assess the degree to which Sky News will be viable, let alone independent, after the transaction completes.

We have now entered a process of public consultation, which completes at midday on 21 March, and we consider it very unlikely that critics of the deal will have much success in undermining any conclusions relating to plurality. If the transaction does not go ahead it is much more likely to be a consequence of disagreement between/with shareholders than between the politicians, regulators and News Corp. Nevertheless, the independence of Sky News, as described in the undertakings, still looks to us somewhat 'soft'. In this note we articulate some of the issues relating to Sky News' independence that result from the paucity of detail that is publicly available. In other words, while these undertakings are not 'behavioural', with all the obvious weaknesses that this would entail, neither do they represent a truly 'structural' solution that moves a viable and well-resourced Sky News into complete independence.

Overall, the concept of demerging Sky News is evidently a plausible one, but it is harder to judge whether the proposed implementation secures the channel's independence as fully and clearly as it might, for the following reasons:

There is little financial data provided in the undertakings. Two numbers refer to the incidental question of which transactions with News Corp need to be approved by the Sky News board. However, interested parties are not informed of:

- The value of the carriage fee and how it inflates or deflates over time
- The cost to Sky News of continuing to rent space and assets from BSkyB
- The price Sky News will have to pay for use of the Sky brand

As a result, we cannot know whether BSkyB is demerging a business that can make a profit or one which will be plunged into loss within weeks. Since Sky News will have no balance sheet to speak of – its major assets all being owned by BSkyB – it might reasonably be argued that the channel will be dependent on News Corp's goodwill to survive from week to week. The employees will be reliant on services from BSkyB ranging from access to the canteen to transponder capacity but the price is unspecified. News Corp says that the OFT has approved the numbers but since no outsiders with knowledge of how satellite channels work will ever see the figures, it is

impossible to form an independent view on the viability of the channel and therefore its value. As a result of the model accepted by the OFT, Ofcom and the DCMS, while Sky News may have no significant liabilities, it may have no value either. There may be a rapid desertion of outside shareholders in the listed entity.

The majority of the protections contained in the undertakings operate through the articles of association of the new company. These protect, for example, the editorial independence of Sky News. News Corp is blocked from amending the articles, this is very clear. However, the other shareholders can change them whenever they want, and most of the important protections will fall away.

- The majority of BSkyB shareholders may have no interest whatsoever in owning a small stake in a tiny satellite TV station, with a market capitalisation probably in the low tens of millions and perhaps much less.
- The shares can be picked up (cheaply, no doubt) by anybody wanting a guaranteed presence on the Sky EPG and use of the Sky brand name. He or she could then tear up the articles of association overnight, removing most of the plurality protections such as the independent directors and chair.
- Or, perhaps more likely, the shares might be bought by a company or person directly or indirectly affiliated with the Murdoch family. He or she could also remove many of the important protections in the undertakings and let News Corp run the channel exactly as it wished. These are not unreasonable concerns; there are tens of thousands of people who would be able to acquire the shares in an undercapitalised Sky News.
- We believe that the present wording of the undertakings allows any member of the Murdoch family, including Rupert Murdoch himself, to buy the 60.9% of the shares in Sky News not held by News Corp. Sky News will be a public company traded on a stock exchange. Only very carefully drafted undertakings could protect against the circumvention of their purpose in this way.
- This is not to say that News Corp is planning any such move, and we are in no way implying intention in this outline. However, a risk attached to the way the undertakings are drafted is that it makes such events possible.

There is no commitment on the part of News Corp to make the demerged company viable.

- News Corp might reasonably argue that it is obviously in its interest to keep Sky News healthy because it owns a 39% stake in the new company, but there is no guarantee of that.
- The current wording of the undertakings appears to allow News Corp to withdraw from acting as the advertising sales outlet for Sky News. News Corp assures us that the intention of the undertakings is to oblige BSkyB to provide ad sales services to Sky News, but the wording doesn't seem to be fully there in the undertakings. Although others would offer to take over the advertising role, there is no guarantee that Sky News would achieve the same prices or ad volumes as achieved by the current Sky sales house, which could create revenue uncertainty.

There is no protection against 'bundling' of news products contained in these undertakings. News Corp may have offered guarantees against 'most favoured nation' treatment of News International newspapers but such promises appear to be absent in the undertakings themselves.

News Corp can terminate the carriage of Sky News if the channel is in 'material breach' of its contractual terms and

dispute resolution fails. 'Material breach' isn't defined, nor are the key contractual terms included in the undertakings, nor is the dispute resolution process specified. Could Sky News be removed from the EPG? Once again, the parties assure us that News Corp would only remove the channel after a serious problem but the public is given no indication of what such a problem might be.

The continued strength of the financial umbilical cord between Sky News and News Corp can be shown by the lack of scrutiny over material transactions between the two companies. BSkyB protects its independence from News International in the UK by forcing all related party transactions over £10m (a tiny fraction of turnover) through a governance committee. For the demerged Sky News the figure is £5m, probably almost 10% of turnover. Only transactions over £12.5m with News Corp businesses will need to go to the board of directors, perhaps equivalent to a season's entire turnover.

Among other problems, the undertakings provide some employment protection for the 'head of Sky News' but for no other employees (unlike, for example, the nominal protections given at the time of the Wall Street Journal acquisition). The undertakings also avoid specifying how independent directors are appointed and rotated and they do not specify how these directors can actually remedy any interference from News Corp in editorial matters.

Regards



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SS-As. 12.

From: Adam Smith [redacted]
Sent: 26 April 2012 15:37
To: OLDFIELD PAUL
Subject: Fwd: Dear Colleague Draft

Begin forwarded message:

From: Adam Smith [redacted]
Date: 8 March 2011 18:23:35 GMT
To: Jeremy Hunt [redacted]
Subject: Dear Colleague Draft

I've tried to capture as much as possible but you'll want to be sure you are completely happy with it. I've tried to make the tone sound like you are responding to some of the concerns expressed in a robust way without sounding like you are ignoring them. Once you are happy I will get lawyers to check it and then pass it to No 10. I'll also ask Will to sort out a date and time for a briefing session for MPs if you are happy to do that?

Dear Colleague

News Corp/BskyB Proposed Merger

I have no doubt that many of your constituents will have been in touch about my announcement last week that I was minded to accept undertakings in lieu from News Corporation rather than refer this proposed merger to the Competition Commission. I thought it would be helpful if I outlined in more detail my reasoning behind this decision to help you deal with any constituents who have concerns about the potential merger.

Firstly I want to reiterate that by accepting these undertakings I had decided to accept and follow the advice from two independent expert regulators. Both regulators said, in letters that I have published, that they believed these undertakings would address the plurality concerns that could result from this merger. Such advice was the single most important reason for me taking this decision. Opponents of the merger urged me to listen to the advice of the regulators and this is exactly what I have done. More importantly, Labour cannot even decide if they support my decision and the advice of the regulators or not. Until they make up their mind their criticisms are simply not credible.

The process. In all of my considerations regarding this merger I have followed the process that Labour established in their 2002 Enterprise Act. Accepting undertakings in lieu of a referral is quite a common practice in merger cases and indeed both the Office for Fair Trading and previous Labour Secretaries of State have done so. However, I appreciate the particular sensitiveness of this merger and so in order to attempt to address these I have published all reports, advice and correspondence related to this case. Even though I realise many won't agree with my final decision our constituents will at least be able to see that at all times I sought, followed, and published independent advice. This is a first in cases like this.

Even more significantly this was a quasi-judicial decision taken entirely by me as the Secretary of State. A decision like this is pretty unique in that it is not a collective decision by the Government, so it wasn't discussed with Cabinet. I had a very tight set of criteria by which to judge the merger and the undertakings and any other considerations, political or otherwise, absolutely did not come into the decision.

Independent advice. It is worth pointing out exactly what the independent regulators make of the undertakings that I am currently minded to accept.

- Ofcom stated that these undertakings “would address the plurality concerns identified in our report of 31 December 2010”.
- The Office for Fair Trading stated that these undertakings “are likely to be practically and financially viable in the short and medium term (that is, no more than 10 years)”.

This is pretty clear advice and worth reiterating to constituents who have concerns.

Media plurality and competition issues. It is also important to realise just what it is I am actually making a decision on. My remit did not include competition issues which were dealt with by the European Commission in their verdict of 21 December 2010. Nor did it include any type of judgement about the personalities involved. These considerations, whilst highly relevant to commercial competitors and many individuals who hold strong views about News Corporation, were not legally robust reasons to take into account when making this decision. I was making a judgement about what impact the merger would have on the number of different voices in the media market. And about what remedies could be imposed that would mitigate against this impact.

The undertakings. The basic outline of these undertakings means that Sky News will be spun off as an independent public limited company. The shares would be distributed amongst the existing shareholders of Sky in line with their existing shareholdings. This means that News Corp would maintain a 39.1% shareholding in Sky News. In simple terms this means that Sky News will remain as an independent media outlet. As such the number of different voices in the media market would remain as it currently is. There would therefore be no reduction in the level of plurality.

Crucially the undertakings in lieu contain a number of further provisions which I believe would enhance the new Sky News' editorial independence from News Corp. These include -

- **Independent Directors.** The Board of the new company will have a majority of independent directors who have no other News Corp, or News Corp-associated, interest.
- **Editorial and journalistic experience.** The Board, including the independent non-executive directors, will have the appropriate balance of skills, experience, independence and knowledge, and at least one must have senior editorial and/or journalistic experience.
- **Independent Chairman.** The Chairman will be an independent director.
- **Editorial independence and integrity.** Sky News' services will abide by the principle of editorial independence and integrity in news reporting.
- **Corporate Governance and Editorial Committee.** The Board will have a Corporate Governance and Editorial Committee to ensure compliance with the principles of editorial independence and integrity in news reporting.

- **Financial security.** The new Sky News will have a 10 year carriage agreement with News Corporation together with a 7 year brand licensing arrangement that has the potential to extend for a further 7 years.
- **Reacquisition.** News Corporation cannot buy any further shares in the New Sky News for ten years without the express permission of the Secretary of State.

The result of these undertakings is that, if this deal goes ahead, Sky News will be able to continue its high quality output with greater protections for its operational and editorial independence than exist today. For those who have concerns about plurality of news provision I hope this will be a welcome step forward.

Since this announcement a number of criticisms have been directed at the fact that the new Sky News may not be financially viable. We have yet to agree the final versions of the carriage arrangement and brand licensing contracts that will be in place if these undertakings are accepted. By their nature these contracts are likely to contain commercially sensitive information that it would not be reasonable to publish in full. However, the principles behind these arrangements have been analysed by both the OFT and Ofcom who are content that such undertakings would mean Sky News is a financially viable business in its own right. More importantly I would need to agree these arrangements before the merger goes ahead and once again I would look to the independent regulators for advice before doing so. So although it is not possible to publish more detail about these two crucial elements at this stage you can be assured that they are robust enough to satisfy the regulators and will need final ministerial approval before the merger can happen.

Finally it is worth reminding constituents that this is not the end of the process. Although I am minded to accept these undertakings for the reasons I have set out above I have launched a full public consultation during which everyone can submit their views on them. I will consider such representations very carefully before making a final decision. This consultation is running until 21 March 2011 and more details can be found on my department's website at <http://www.culture.gov.uk/consultations/7887.aspx>

I am very happy to meet with any colleagues who have concerns about this decision either privately or at a briefing session I am holding on xx March in room xx of PCH. Please let my PPS Rob Wilson know if you would like to attend either this open session or have a one on one catch up.

Best wishes,

Jeremy Hunt

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SS. Ab. 13

From: Adam Smith [redacted]
Sent: 26 April 2012 15:38
To: OLDFIELD PAUL
Subject: Fwd: Lib Dem Conference Question on BskyB

Begin forwarded message:

From: Adam Smith [redacted]
Date: 8 March 2011 18:25:46 GMT
To: Jeremy Hunt [redacted]
Subject: Lib Dem Conference Question on BskyB

Don has put together a pretty robust defense of his and our position for their conference -

Question to Parliamentary Party by Gareth Epps

Liberal Democrats have long been opposed in principle to monopolies of cross-media ownership such as that handed on a plate to Rupert Murdoch by the Conservative Secretary of State. Given that our policy has not changed, and that no meaningful assurances can be or indeed have been offered by Murdoch, why are our spokespeople outside Government now publicly supporting Conservative and not Liberal Democrat policy?

Answer:

Liberal Democrat policy has NOT changed.

Competition and market power issues surrounding the proposed News Corp. takeover of BskyB were considered by the European Commission on 21st December 2010. The Commission ruled that European Competition (and therefore UK) rules would not be breached by the takeover.

Thus the UK government could **only** consider issues relating to the plurality of news provision.

Liberal Democrat spokespeople outside government supported the deal brokered by the independent regulator Ofcom and the Office of Fair Trading because, if implemented, it would **reduce** – not increase – the involvement in and control over news and current affairs by News Corp.

Response to supplementary

[Assuming Gareth refers to the part of his question that states; “no meaningful assurances can be or indeed have been offered by Murdoch”.]

This is simply wrong. It was a deal brokered by and supported by Ofcom and the OFT.

If implemented it will mean that there will be **legally binding agreements** that;

- Separate Sky News from the rest of BSkyB,
- Prevent News Corp from increasing its shareholding in Sky News
- Ensures News Corp has no control over the editorial content of Sky News
- Prevents News Corp from hiring and firing senior staff.
- Ensures the board of the newly independent Sky News has a majority of independent directors and an independent chairman..
- Establishes a new body to ensure compliance with the principles of editorial independence and integrity in news reporting, and
- Enshrines Ofcom's Broadcasting Code in the new company's articles of association.

This means that Sky News would be better protected in terms of editorial independence than it is now – and far better protected than what would have happened if News Corp had made a full take-over.

In short Rupert Murdoch and News Corp will have LESS influence and control over news and current affairs than they do at present.

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SS. AB. 14

From: Adam Smith [redacted]
Sent: 26 April 2012 15:38
To: OLDFIELD PAUL
Subject: Fwd: Dear Colleague BskyB letter

Begin forwarded message:

From: Adam Smith [redacted]
Date: 9 March 2011 18:15:53 GMT
To: Jeremy Hunt [redacted]
Subject: Dear Colleague BskyB letter

There are two options on this now.

- 1) We take out references to hosting a meeting and remove reference to Labour's stance and send it to ALL MPs. Lawyers are most happy with this one but it wouldn't really do what we are trying to do.
- 2) We take out the meeting option (so we're not offering just our side meetings) and just get Rob to let me know if anyone wants one. This means pushing back on the advice which currently says we shouldn't mention Labour as it risks politicising the whole decision.

News Corp/BskyB Proposed Merger

I have no doubt that many of your constituents will have been in touch about my announcement last week about the NewsCorp/Sky deal. I thought it would be helpful if I outlined my reasoning behind the decision to assist you in responding to any constituents who have concerns about the potential merger.

Firstly I want to reiterate that this is a decision I must take acting in a quasi-judicial capacity. I must not take into account political considerations but reach a decision on the merits of the case. By proposing to accept these undertakings I have decided to accept and follow the advice from two independent expert regulators. Both Ofcom and the OFT said, in letters that I have published, that they believed these undertakings would address the plurality concerns that could result from this merger. I considered this advice very carefully, and it was a very important reason for me taking this decision. Opponents of the merger urged me to listen to the advice of the regulators and this is exactly what I have done. [Labour has tried to criticise the process (which they actually set up in the 2002 Enterprise Act) but refused to say if they support the decision I took. Until they come off the fence their criticisms are simply not credible.]

The process. In all of my considerations regarding this merger I have followed the process established in the 2002 Enterprise Act. Accepting undertakings in lieu of a referral is a common practice in merger cases and indeed both the Office for Fair Trading and previous Secretaries of State have done so. However, I appreciate the particular sensitiveness of this merger and so in order to attempt to address these I have published all reports, advice and

correspondence related to this case. This is a first in cases like this. Even though I realise many won't agree with my final decision our constituents will at least be able to see that at all times I sought, followed, and published independent advice.

Independent advice. It is worth pointing out exactly what the independent regulators make of the undertakings that I am currently minded to accept.

- Ofcom stated that these undertakings "would address the plurality concerns identified in our report of 31 December 2010".
- The Office for Fair Trading stated that these undertakings "are likely to be practically and financially viable in the short and medium term (that is, no more than 10 years)".

Media plurality and competition issues. My remit did not include competition issues such as cross-promotion, bundling, and distorting the advertising market with cross-platform deals. These were dealt with by the European Commission in their verdict of 21 December 2010. Nor did my remit include any type of judgement about the personalities involved. These considerations, whilst highly relevant to commercial competitors and many individuals who hold strong views about News Corporation, were not legally allowed to form part of this decision. I was, in fact, only allowed to make a judgement about whether the merger would have a negative impact on the number of different voices in the media market and about what remedies could be imposed that would mitigate against this impact.

The undertakings. The basic outline of these undertakings means that Sky News will be spun off as an independent public limited company. The shares would be distributed amongst the existing shareholders of Sky in line with their shareholdings in BSkyB. This means that News Corp would maintain a 39.1% shareholding in Sky News. In simple terms this means that Sky News will remain as an independent media outlet. As such the number of different voices in the media market would remain as it currently is. There would therefore be no reduction in the level of plurality.

Crucially the undertakings in lieu contain a number of further provisions which I believe would secure the new Sky News' editorial independence from News Corp. These include -

- **Independent Directors.** The Board of the new company will have a majority of independent directors who have no other News Corp, or News Corp-associated, interest.
- **Editorial and journalistic experience.** The Board, including the independent non-executive directors, will have the appropriate balance of skills, experience, independence and knowledge, and at least one must have senior editorial and/or journalistic experience.
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- **Editorial independence and integrity.** Sky News' services will abide by the principle of editorial independence and integrity in news reporting.
- **Corporate Governance and Editorial Committee.** The Board will have a Corporate Governance and Editorial Committee to ensure compliance with the principles of editorial independence and integrity in news reporting.

- **Financial security.** The new Sky News will have a 10 year carriage agreement with News Corporation together with a 7 year brand licensing arrangement that has the potential to be extended for a further 10 years in total.
- **Non-reacquisition.** News Corporation cannot buy any further shares in the New Sky News for ten years without the express permission of the Secretary of State. This provision operates independently of any acquisition which would trigger further merger investigations.

The result of these undertakings is that, if this deal goes ahead, Sky News will be able to continue its high quality output with greater protections for its operational and editorial independence than exist today. For those who have concerns about plurality of news provision I hope this will be a welcome step forward.

I have yet to agree the final versions of the carriage arrangement and brand licensing contracts that will be in place if these undertakings are accepted. By their nature these contracts are likely to contain commercially sensitive information such that it would not be reasonable to publish them in full. However, the principles behind these arrangements have been analysed by both the OFT and Ofcom and they are content that such undertakings would mean Sky News is a financially viable business in its own right. More importantly I must agree these arrangements before the merger goes ahead and once again I will of course seek advice from the independent regulators before doing so.

Finally you may wish to remind constituents that this is not the end of the process. Although I am minded to accept these undertakings for the reasons I have set out above, I have launched a full public consultation during which everyone can submit their views on the undertakings. I will consider such representations carefully before making a final decision. This consultation is running until 21 March 2011 and more details can be found on my department's website at <http://www.culture.gov.uk/consultations/7887.aspx>

I am very happy to meet with any colleagues who have concerns about this decision either privately or at a briefing session I am holding on xx March in room xx of PCH. Please let my PPS Rob Wilson know if you would like to attend either this open session or have a one on one catch up. I will, of course, also welcome formal written submissions by colleagues to the consultation.

Best wishes,

Jeremy Hunt

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SS. Ab. 15

From: Adam Smith [redacted]
Sent: 26 April 2012 15:38
To: OLDFIELD PAUL
Subject: Fwd: Dear Colleague BskyB letter

Begin forwarded message:

From: Adam Smith [redacted]
Date: 9 March 2011 18:52:56 GMT
To: Jeremy Hunt [redacted]
Subject: Re: Dear Colleague BskyB letter

great. She was happy with the text but I'll double check and then get Rob to send it round to everyone tomorrow.

On Wed, Mar 9, 2011 at 6:22 PM, Jeremy Hunt [redacted] wrote:
Suggest we go for two, but can Sue double check there are no stories the media could get out of it about us trying to capitalise on it for govt advantage...

On 9 March 2011 18:15, Adam Smith [redacted] wrote:
There are two options on this now.

- 1) We take out references to hosting a meeting and remove reference to Labour's stance and send it to ALL MPs. Lawyers are most happy with this one but it wouldn't really do what we are trying to do.
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News Corp/BskyB Proposed Merger

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Best wishes,

Jeremy Hunt

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SS. Ab. 16.

[Redacted]

From: SMITH, Adam
Sent: 14 March 2011 14:46
To: Jeremy Hunt
Cc: Rob Wilson
Subject: RE: B Sky B

There's already a PRU letter which they have had for a few days. So colleagues can use that one.

From: Jeremy Hunt [Redacted]
Sent: 14 March 2011 14:43
To: SMITH, Adam
Cc: Rob Wilson
Subject: Fwd: B Sky B

Spoke to John Zeff, I think the least we can do is a letter from me to any MP that writes in that could also be given to PRU. He said he would get on the case this afternoon.
J.

----- Forwarded message -----

From: BRINE, Steve [Redacted]
Date: 14 March 2011 12:54
Subject: RE: B Sky B
To: "WILSON, Rob" [Redacted]
Cc: "SMITH, Adam" [Redacted], Jeremy Hunt [Redacted]

Rob,

Still nothing my end!

Appreciate any help you can give as I am sure will many other colleagues.

Thanks,

Steve

Steve Brine

MP for Winchester & Chandler's Ford

[Redacted]

Website: www.stevebrine.com
Steve Brine TV: www.stevebrine.tv

 Preserve the environment - please don't print this e-mail unless you really need to

From: WILSON, Rob
Sent: 09 March 2011 15:39
To: BRINE, Steve
Cc: 'SMITH, Adam'; 'Jeremy Hunt'
Subject: RE: B Sky B

Steve

I have been chasing this today, as I know a number of colleagues require it.

The hold-up is that lawyers have to check it before it can be distributed and are doing so at the moment. It should be out later today (I hope)!

Regards

Rob

From: BRINE, Steve
Sent: 09 March 2011 15:21
To: WILSON, Rob
Subject: B Sky B

Hi Rob,

Unless I am sorely mistaken there has not been a DC letter from JH since the BskyB anno last week?

Can you help so we can go back to these constituents who just love to Murdoch bash via my inbox.

Steve

SS. AB 18

[Redacted]

From: SMITH, Adam
Sent: 10 June 2011 10:28
To: Jeremy Hunt
Subject: RE: Ivan Lewis on News Corp

Great to throw back at Tom Watson etc!

From: Jeremy Hunt [Redacted]
Sent: 10 June 2011 10:26
To: SMITH, Adam
Subject: Re: Ivan Lewis on News Corp

Classic :-)

On 10 June 2011 09:49, SMITH, Adam [Redacted] wrote:

Ivan Lewis, Shadow Culture, Media and Sport Secretary. **“The serious admissions of culpability by News International aren't relevant to the News Corp-BSkyB media plurality issue,”** he said.

“However, the continued delays in Jeremy Hunt reaching a decision begs the question why he did not refer the deal to the Competition Commission in the first place”.

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SS-AB. 19

From: SMITH, Adam
Sent: 05 July 2011 13:20
To: jeremy [redacted]
Subject: FW: Ed Miliband on phone hacking (verbatim)

From: [redacted]
Sent: 05 July 2011 12:13
To: [redacted] BEEBY, Sue; SMITH, Adam
Subject: Ed Miliband on phone hacking (verbatim)

Ed Miliband MP
Sky News-11:05 05/07/11

[cp://tinyurl.com/43qe5ys](http://tinyurl.com/43qe5ys) (clip)

EM: Well as a parent, as a member of the public, I am appalled by what has happened, Milly Dowler's parents were in a tortured state worried about the fact that she had been abducted, she had gone missing and it is absolutely awful that they were given false hope, by this sort of criminal activity that seems to have been going on and I think members of the public right up and down this country will be appalled by what has happened and will say, British journalism known for its high standards, known for its history, has had one of its lowest days with these revelations.

Interviewer: Many people are calling for Rebekah Brookes to resign, it is well known that she was in charge at the time, should she see resign?

EM: Oh of course she should consider her position but this goes well beyond one individual, this is about the culture and practices that were obviously going on at that newspaper 'The News of the World' over a sustained period. This wasn't a rogue reporter, it wasn't just one individual this is a systematic series of things that happened and what I want from executives at News International is for people to start taking responsibility for this, people to saying why this happened. Now of course the police investigation needs to take its course and that needs to get right to the bottom of what happened. It needs to get to the bottom of who, who committed these offences and who knew about them. But there's something else as well, we also need and every newsroom in the country should know this, that this is a stain on the character of British journalism, because the culture, the practices of some parts of the industry, bring into question the rest of the industry and that's why we need, after the police inquiries are complete, a proper inquiry into the culture and practices which allowed these things to happen and we need to look at the press complaints commission and self regulation. I'm a supporter of self regulation, I continue to be a supporter of self regulation of the press, but it hasn't been working because these things were allowed to carry on and happen and I think this is the very least that is needed, to restore the reputation of British journalism which all of us have an interest in.

I: Can I just clarify your comments there, you're calling then for Rebekah Brookes to resign?

EM: I am saying she should examine her conscience and I'm sure she will because this did happen on her watch. But I'm also saying that this goes beyond an individual because it's not about one individual, it's about what was happening systematically at a newspaper and why was that allowed to happen? And executives at news International need to start explaining why that was allowed to happen, what was the culture of the organisation that allowed these practices to go on.

I: Do you support Lord Prescott's claims and his strong views that the BSkyB takeover should now be put on the backburner?

EM: I, I think that BSkyB is a separate issue, that is a separate issue about the operation of competition law, I don't think Jeremy Hunt has handled this the right way, I believe strongly that he should have gone to the competition commission, he should have had that proper inquiry, that proper process that was necessary and we've always said that and I continue to think that he should do that. But this is a separate issue, this is about a pattern of criminality that took place at an organisation, and that needs to be treated properly as its own issue, the police inquiry needs to take place without fear or favour and also we need a much wider inquiry to restore the reputation of British journalism.

I: You say it's a separate issue, but it's obviously been established that Rebekah Brookes spent her Christmas break with the Prime Minister, is that relationship too close?

EM: The Prime Minister answers for his own relationships with executives and British newspapers, but again that's not the biggest issue here, the biggest issue here is: what are members of the public feeling here today? They're buying newspapers, they're relying on those newspapers to yes be producing information for them, yes to be telling them things they didn't know, but to be doing it in a, in a fair and upstanding manner and they would be horrified that the parents, that the grieving parents of an abducted child, were made to go through further torture that somehow she was alive because her voicemail messages were being retrieved or deleted and people will be asking you know, where have we got to that that was thought to be an acceptable way for parts of the British press to operate?

I: How would you react to claims from within your own party that you, like all political leaders, are scared of Murdoch, you need him on your side?

EM: I, I think I've been pretty clear, throughout this process both about the need for the police inquiry to take its cause and then the need for a further review or inquiry to take place after the police inquiries are complete. I think that nothing less than that will ensure the reputation of British journalism, that we all have an interest in.

I: Should there be a public inquiry now, into this?

EM: Yes there should be a public inquiry and I think it will probably have to take place after the police inquiries are complete but we can look at that issue. Why is that public inquiry so important? Because we need a, people to feel that they can rely, not just on what they're reading in British newspapers but on the standards and practices of British newspapers and as I say the revelations about the hacking of Milly Dowler's phone are one of the lowest days for British journalism and I honestly say to newspapers and editors around this country, they have an interest in, making self-regulation work yes but accepting that the current system doesn't work because these abuses were going on when we had a press complaints commission and you've got to look what was the press complaints commission doing about it? Why weren't they stopping this happening? That's why we need a proper look at the culture and practices of the industry so we can ensure that these kinds of things never ever happen again.

I: And lastly, there are some reports, I stress reports not firm evidence yet that other crimes were investigated in this way, particularly the Soham murders, what's your reaction to maybe a wider spread practice relating to that set of crimes?

EM: Well any further revelations about other crimes were either interfered with or where hacking took place, just adds to the view that there are at least in parts of the industry there is something very wrong. I mean this is immoral what was going on, this was truly immoral what was going on and you know ... my wife said to me this morning "this is sick what was going on" and I think that's going to be the reaction of people up and down this country.

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SS. AL. 20

From: SMITH, Adam
Sent: 06 July 2011 11:01
To: jeremy [redacted]
Subject: one pager on hacking

Importance: High

How's this look –

Phone Hacking and News Corporation's proposed acquisition of BskyB

- Phone hacking is wrong and illegal. These new allegations are absolutely shocking and appalling.
- The law is quite clear and a criminal investigation is underway. The police must be able to follow the evidence wherever it takes them and pursue such an investigation with vigour.
- These allegations and the wider issue of phone hacking are immaterial to the decision on the potential merger. The Enterprise Act 2002 sets out the process that means the Culture Secretary has to make a quasi-judicial decision about the impact of the proposed merger on media plurality issues alone.
- So however appalling and stomach churning he finds these allegations and whatever he feels about them personally he has to stick to the letter and principle of the law and judge the case on media plurality grounds.

Why can't the Culture Secretary consider these allegations?

The Government is following the process set out by the Enterprise Act 2002.

The intervention notice that was issued by the Secretary of State for Business under this legislation asked Ofcom to consider this merger under a specific public interest test – namely its impact on media plurality.

Once an intervention notice has been made on one basis, the legislation does not permit a second intervention on another basis. Section 67(5) of the Enterprise Act 2002 provides that no more than one European Intervention Notice may be given to the same relevant merger situation.

Therefore the Culture Secretary has to make his decision about the impact of the proposed merger on media plurality issues alone.

No one or no company should be above the law - that is why the police should be able to follow their investigation wherever it takes them. Equally no Minister should be above the law. It would completely undermine this important principle if the Culture Secretary were to ignore due process and take into account factors other than those of media plurality.

Why can't the Culture Secretary pause the process until these allegations have been cleared up?

Pausing the process because of these allegations would link his consideration of the merger to phone hacking. He cannot do this as he has to make his decision based on media plurality issues alone. The Culture Secretary cannot simply disregard due process and consider immaterial factors however shocking and appalling he finds them.

Political Points

Ed Miliband, 5th July, 2011 – "I think that BskyB is a separate issue, that is a separate issue about the operation of competition law"

Ivan Lewis, Shadow Culture, Media and Sport Secretary. "The serious admissions of culpability by News International aren't relevant to the News Corp-BskyB media plurality issue," he said. (Independent, 10 June 2011)

SS.A6.21

[Redacted]
From: SMITH, Adam
Sent: 06 July 2011 12:54
To: jeremy [Redacted]
Subject: Labour and the CC

Now that Labour are saying again we should refer the deal to the Competition Commission again it may be worth highlighting this to a few colleagues. You did originally announce that you would refer it – it was only after receiving advice from Ofcom and the OFT that you didn't need not to that you decided against it.

Why didn't you refer it to the Competition Commission?

When I received Ofcom's first report I announced that I was minded to refer the merger to the Competition Commission. However, under the Enterprise Act 2002 I had to examine any undertakings offered in lieu of a referral. I have considered and accepted the independent advice from Ofcom and the OFT that these undertakings mitigated or prevented their concerns. As such I have followed independent advice at each stage of the process. First when I was minded to refer to the CC and secondly when I decided to accept the undertakings. Surely the honourable member is not saying we should disagree with the expert regulators?

SS. Ab. 23

From: SMITH, Adam
Sent: 10 July 2011 21:41
To: 'jeremy [redacted] BEEBY, Sue
Subject: Re: Fwd: Spotted in shoreditch

We need it!

I will do a dear colleague on what we've done first thing. And speak to rob about briefing our mps too.

From: Jeremy Hunt [redacted]
To: SMITH, Adam; BEEBY, Sue
Sent: Sun Jul 10 19:58:47 2011
Subject: Fwd: Spotted in shoreditch

Light relief :-)

----- Forwarded message -----

From: [redacted]
Date: 10 July 2011 19:06
Subject: Spotted in shoreditch
To: jeremy [redacted]

.....you got to laugh....

anybody who is seen as being anti-murdoch will get lots of brownie points from the public, so i would be more than happy about posters like that!

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SS. AB. 24

From: SMITH, Adam
Sent: 11 July 2011 12:40
To: Jeremy Hunt; OLDFIELD PAUL; BEEBY, Sue
Subject: RE: Draft statement text

Slight tweak

From: Jeremy Hunt
Sent: 11 July 2011 12:33
To: OLDFIELD PAUL; SMITH, Adam; BEEBY, Sue
Subject: Draft statement text

Mr Speaker the events of last week shocked the nation. Our proud tradition of journalism, which for centuries has bravely held those in positions of power or responsibility to account without fear or favour, was shaken by the revelation of what we now know to have happened at News of the World. The perpetrators of those acts not only broke the law, they preyed on the grief of families who had lost loved ones either as a result of foul murders or giving their life for their country. I hope the law shows no mercy on those responsible and no mercy on any managers who knowingly condoned such appalling behaviour.

As a result of what happened the Prime Minister last week announced two independent enquiries to examine what went wrong and recommend to the government how we can make sure it never happens again [insert details of two statements]

I now also have to make a decision about News Corporation's plans to buy the shares it does not already own in BSkyB. Colleagues on all sides of this House and the public at home understandably look aghast at the prospect of the company which allegedly allowed these terrible things to happen being allowed to take control of what would become Britain's biggest media company.

I must however discharge my duties under the Enterprise Act strictly following the due process set out by this House. I will take as long as necessary to reach my decision but according to the legal advice I have received, I am not permitted to pause consideration of the deal on the basis of alleged offences that have not completed their passage through the courts.

However I am permitted and indeed will take as long as necessary to consider all relevant information. For that reason I will consider carefully the [insert] responses I received from members of the public, many of which came after the revelations of activity at News of the World started happening.

I have this morning also asked Ofcom and the Office of Fair Trading whether they stand by the advice offered to me on [insert] that said that their concerns about plurality of media ownership would be addressed if I accepted the undertakings put forward by NewsCorp in lieu of a referral to the Competition Commission. I am seeking independent advice, as I have done at every stage of this process

Protecting our tradition of a strong, free and independent media is the most sacred responsibility I have as Culture Secretary. Irresponsible, illegal and callous behaviour damages that freedom by weakening public support for the self-regulation upon which it has thrived. By dealing decisively with the abuses of power we have seen, hopefully on a cross-party basis, this government intends to strengthen and not diminish press freedom, making this country once again proud and not ashamed of the journalism that so shapes our democracy.

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SS. AB. 25

From: SMITH, Adam
Sent: 13 July 2011 12:59
To: jeremy [redacted]
Subject: DPM speech tomorrow

Looks ok to me but are you happy with it –

A potted history of failure to stand up to the media:

In recent decades, the political class has consistently failed to stand up to the media.
Seeking to curry favour with powerful media barons...
Or prevent their own personal lives from being splashed across the front pages.

This isn't a new problem.
It was the Conservative Prime Minister Stanley Baldwin who warned in 1931 that the media was exercising:
"power without responsibility".

The same challenge plagues us today.

In 19XX the then government waved through Murdoch's takeover of the Times newspapers, without proper scrutiny...
And then excluded that same proprietor from rules preventing simultaneous ownership of newspapers and television stations.

When John Major attempted, to his credit, to introduce limits to media concentration...
Labour opposed them.
In the midst of parliamentary discussions, Tony Blair travelled to the other side of the world to speak at a conference in Murdoch's defence...
Literally flying to his rescue.

The Labour Government ignored Select Committee recommendations to ban the use of private investigators by the press...
And for reform of the Press Complaints Commission.

And, in 2006, when the Information Commissioner provided incontrovertible evidence of the unlawful trade in confidential information...
Proving that private medical records, tax records, financial records, phone records, even records only accessible through the police database, were being bought and sold on an industrial scale...
Nothing was done.
Labour refused to take on Murdoch.
And, as Peter Mandelson admitted this week, the reason was simple: fear.

Corporate Governance and OFCOM's definition of "fit and proper person"

Clearly, part of the problem has been a monumental failure of corporate governance.
It cannot be right that wrongdoing and lawbreaking can become endemic within an organisation...
Yet are not picked up by internal processes.
A group of News Corps investors said this week that the company had been guilty of 'rampant nepotism and failed corporate governance'.
Most people would find it hard to disagree.

And all media organisations, News International included, should now be looking very hard at the composition of their boards and their systems of corporate governance.

But, given the behaviour we have witnessed, it would be deeply naive to leave the media to fix itself. And one specific area now needing our attention is the lack of clarity over who or what constitutes a fit and proper owner of a media corporation.

OFCOM's guidelines are extremely unclear as to whether or not institutions can be deemed unfit and unproper...

Or if the issue is one of personal liability....

And even legal experts well-versed in these issues do not agree.

That then creates potential for organisations to pin bad behaviour on a handful of bad apples...

When clearly the problem is ingrained across the culture of an institution.

So we need much greater clarity there.

Accountability of public institutions

Over the last few years, there has been greater awareness of the impact of certain institutions on the public good...

Including professions such as the law, and institutions like the banks.

And there have been huge improvements in the way professional and public bodies are now held to account through professional codes of conduct and independent scrutineers.

The medical profession, the legal profession, financial services, the police, although they have some way to go, as recent events have shown...

And all are now far more accountable for their behaviour.

Reform of PCC (need background on recent steps taken by PCC to reform)

There is also an irrefutable need for an overhaul of the regulatory system too.

The PCC is in no way an effective watchdog.

It is a complaints body at best, and a limited one at that...

Able only to respond to complaints made by the individuals directly affected by the reports in question.

So when hundreds of people register their dismay at pictures of Kate Middleton being chased down the street by paparazzi, as they have done...

Unless she herself complains, the PCC will not investigate.

It is an absolutely ludicrous situation – as if the public have no say whatsoever over the conduct of journalists.

Nor is the PCC independent.

It is run by the newspapers, for the newspapers, who act as their own judge and jury.

Even their ethics committee is chaired by the editor of a national paper that tops the ICO's list of intrusions of privacy.

They have no teeth.

A person can have their public reputation left in tatters after ruinous accusations splashed across a front page...

And all the PCC can get them is a short apology hidden somewhere at back of the paper.

And the PCC doesn't even cover the whole industry.

Major news outlets can opt out.

And that is precisely what has happened with the Daily Express, the Sunday Express and the Daily Star – between a combined circulation of xxxx.

There is no one who now thinks that status quo can continue.

Much of the debate has been about whether or not we should replace it with a reformed system of self-regulation or else a new system of statutory regulation...

But, in my view, that misses the key point:

What we need is independent regulation...

Insulated from vested interests within the media, and free from Government interference too.

The selling of personal information

And anyone who breaks the law and sells personal information to journalists must be properly punished.

That implicates a whole range of professions...

Not just the police, but also private investigators, medical professionals and phone companies.

Currently, under Section 55 of the Data Protection Act, anyone found guilty of that cannot be served a custodial sentence.

Work was done under the previous government on whether or not that should change...

And I think there is now a very strong case for looking at this again.

Plurality

So we need to look again at how the rules on plurality are applied.

the present plurality test – which can be used to prevent the concentration of ownership when it is deemed to undermine the public interest...

Came about in 2003 when the previous government relaxed the rules on ownership...

But was forced to amend the legislation and introduce the test in the face of opposition from Labour peers and Liberal Democrat MPs.

However, the central problem with that test is that it is too narrow.

It can only be applied at the point of merger or acquisition between companies..

When, clearly, there are very obvious reasons or extending it to cover companies which expand their market share gradually, over time, by natural growth...

As we have seen with...[example to be added].

Equally, it works on a definition of plurality that is not sufficiently broad....

Covering only news and current affairs.

That completely misunderstands the cultural impact of satire, drama, comedy and all of the other mediums that project certain messages, certain ideas...

And shape public opinion as a result.

Now is a chance to re-examine our existing provisions for plurality, strengthening and broadening them where that is necessary.

SS. A5. 27

From: SMITH, Adam
Sent: 18 July 2011 17:36
To: jeremy [redacted]
Subject: RE: Media Note

Updated note.

Media Plurality and Cross Media Ownership

Much has been made of the need to reform media plurality regulations and tackle concerns related to cross media ownership rules. My work on a new Communications Bill already contains an examination of these issues but clearly events have overtaken this. Below are a few comments which I think are worth highlighting in your statement on Wednesday. These pick up comments I have already made and in some cases take us further than either Ed Miliband or the Deputy Prime Minister.

Where we are now

The public inquiry into phone hacking, chaired by Lord Justice Leveson, will consider these issues and make recommendations to Government in 12 months.

But long before these latest revelations came about Government was examining these issues as part of its preparations for the next Communications Bill.

On 3 March 2011 when updating Parliament on the latest phase of the News Corp/BskyB merger I stated that "there is a potential weakness in the current public interest test with respect to media plurality-namely, that it can be applied only when there is a commercial transaction to consider. That wider question is one that I intend to consider in the context of the forthcoming review of communications regulation".

Then on 16th May 2011 I published an open letter to the sector asking for input to a Green Paper on Communications Regulations in which I stated that we were "reviewing the existing regulatory regime to ascertain if it is as effective as it can be in supporting our policy objectives on areas such as media plurality".

Potential announcements

As well as criticising Labour's record and highlighting how we were already addressing these issues you could float the following ideas as something the inquiry could look at:

- 1) **Regular reviews of plurality.** As well as examining whether there should be a threshold test so that we are not reliant on action when a merger situation arises we should consider giving Ofcom a statutory duty to review levels of plurality every 3-5 years. This could either be a regular review on a set timetable or one carried out at the request of the Secretary of State. These reviews would address two problems highlighted by Ofcom in their reports to me. Firstly they would establish an agreed way of measuring plurality. And secondly they would provide an agreed base level of what was regarded as a sufficient number of different media voices.
- 2) **Broader powers for Ofcom to intervene.** Ofcom also highlighted how they could only recommend intervention once a merger situation has been created. I have already stated that we should consider broadening this to allow them to intervene if certain levels of cross media dominance arose through organic growth. This is what the Deputy Prime Minister and Ed Miliband have called for.

- 3) **Removal of politicians.** Labour's Enterprise Act of 2002 created the quasi-judicial role for the Secretary of State in media mergers. However, although I was under no obligation to do so at every stage of my consideration of the News Corporation/BskyB deal I consulted Ofcom and the OFT, published and followed their advice. This was because, as I said in many public statements during this process, the public are unlikely to trust politicians in their dealings with media organisations. So by referring to expert and independent advice I attempted to alleviate these concerns.

We should therefore make it mandatory for Secretary of State's to do as I did and consult Ofcom and the OfT throughout the process. Or if we want to go even further we should remove the Secretary of State from these decisions and leave them entirely to the regulatory authorities.

This is something that could have a wider impact on other competition policies as there are other circumstances in which the BIS Secretary of State acts in a similar manner. So this would need to be cleared with BIS.

- 4) **Early Communications Bill.** My suggestions here and those that will come from the Leveson Inquiry are likely to need primary legislation. I therefore would suggest bringing forward the Communications Bill so we are able to enact recommendations as soon as possible after the Inquiry reports. To do this we could either move swiftly from Inquiry publication to Government White Paper on media policies to maintain momentum and progress. Or alternatively we could continue work on other aspects of the Communications Review and simply slot in the recommendations from Leveson at a later date. Either way an announcement that this Bill would be brought forward from the end of the Parliament to as soon as possible after the public inquiry has finished would help deal with an issue that clearly has large elements of cross party support.

From: SMITH, Adam
Sent: 18 July 2011 16:53
To: jeremy [redacted]
Subject: Media Note

I'm checking some of the historical stuff with officials but would something like this work –

Media Plurality and Cross Media Ownership

Much has been made of the need to reform media plurality regulations and tackle concerns related to cross media ownership rules. My work on a new Communications Bill already contains an examination of these issues but clearly events have overtaken this. Below are a few comments which I think are worth highlighting in your statement on Wednesday.

Attacks on Labour

It was the Labour Government who removed cross media ownership rules, designed to protect media plurality, in the 2003 Communications Act. They only replaced them with the current significantly weaker public interest test under great pressure from the House of Lords. A point made by the Deputy Prime Minister. And indeed it was the Labour Government who replaced the wider interpretation of the 'public interest' contained in the Fair Trading Act of 1973 with the much narrower set of public interest tests contained in the Enterprise Act of 2002.

Where we are now

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But long before these latest revelations came about Government was examining these issues as part of its preparations for the next Communications Bill.

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Potential announcements

As well as criticising Labour’s record and highlighting how we were already addressing these issues you could float the following ideas as something the inquiry could look at:

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- 3) **Removal of politicians.** Labour’s Enterprise Act of 2002 created the quasi-judicial role for the Secretary of State in media mergers. However, although I was under no obligation to do so at every stage of my consideration of the News Corporation/BskyB deal I consulted Ofcom and the OfT, published and followed their advice. This was because, as I said in many public statements during this process, the public are unlikely to trust politicians in their dealings with media organisations. So by referring to expert and independent advice I attempted to alleviate these concerns.

We should therefore make it mandatory for Secretary of State’s to do as I did and consult Ofcom and the OfT throughout the process. Or if we want to go even further we should remove the Secretary of State from these decisions and leave them entirely to the regulatory authorities.

- 4) **Early Communications Bill.** My suggestions here and those that will come from the Leveson Inquiry are likely to need primary legislation. I therefore would suggest bringing forward the Communications Bill so we are able to enact recommendations as soon as possible after the Inquiry reports. To do this we could either move swiftly from Inquiry publication to Government White Paper on media policies to maintain momentum and progress. Or alternatively we could continue work on other aspects of the Communications Review and simply slot in the recommendations from Leveson at a later date. Either way an announcement that this Bill would be brought forward from the end of the Parliament to as soon as possible after the public inquiry has finished would help deal with an issue that clearly has large elements of cross party support.

Conclusion

This new system would create a significantly better regime than the one we inherited from Labour.

Rather than relying on a merger situation to arise, then a referral system based on specific public interest tests, and a politician acting in a quasi-judicial manner...

We would establish how many different voices a truly plural media sector needs.

Have Ofcom review this regularly so we don’t get into this situation again.

And give the independent regulators, not politicians, the powers they need to preserve a varied, plural and strong media sector that our society deserves.

SS-Ab. 28

[Redacted]
From: SMITH, Adam
Sent: 18 July 2011 21:55
To: 'jeremy' [Redacted]
Subject: Fw:

From: VAIZEY, Ed [Redacted]
To: SMITH, Adam
Sent: Mon Jul 18 21:51:34 2011
Subject:

How about restricting foreign media ownership of broadcasters a la France and US to 20 per cent? That would set the cat among the pigeons!

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SS. Ab. 29

From: SMITH, Adam
Sent: 19 July 2011 10:36
To: jeremy [redacted]
Subject: FW: Neil Kinnock on a 'balanced press'

If you didn't hear this then this is incredible. Can you imagine legislating for a balanced press? We should criticise this in any media we do. Does that mean you have to have equal number of newspapers supporting each political party? Or that every newspaper had to be impartial? We want a free press not a balanced press but that with freedom comes responsibility. Best way to achieve this is with "independent" regulation.

From: [redacted]
Sent: 19 July 2011 09:47
To: [redacted] BEEBY, Sue; SMITH, Adam
Subject: Neil Kinnock on a 'balanced press'

Neil Kinnock-'balanced press'
Radio 4-08:20

<http://tinyurl.com/3vvqrnc> (clip)

Neil Kinnock: We have had since the 1950s independent television commercially dependent and commercially run subject to a charter which it has honoured with great fidelity and I see no reason at all why those general rules which have certainly no to impeded freedom of expression or activity shouldn't have wider application.

John Humphries: So you want to regulate the press in the way that television is regulated? Is that what you are saying?

Neil Kinnock: Well do we have an inhibited television system?

John Humphries Yes in many respects we do of course we do the broadcasting rules are different.

Neil Kinnock: Yes and what they require is balance and I think it is all anyone would possibly ask

John Humphries: Really? You want a balanced press? You want to legislate for a balanced press?

Neil Kinnock: If we could have a balanced press without any form of

John Humphries: What?

Neil Kinnock: Of public responsibility that would be wonderful, what we have seen over the decades is a system of concentration of ownership that throws into doubt the real independence and freedom of the press. It is questions like this that have provoked a high demand and now fortunately response for a real assessment by independent means of the system of ownership and a system of regulation. I would be the last to argue for any tightness of regulation that would be against everything I stand for.

John Humphries: When you talk about a balanced press that will ring an awful lot of warning bells with many people and if Ed Miliband believes this even more warning bells, because what you are saying effectively is break up the Murdoch press, then we would have to make sure whoever bought those newspapers supported the Labour Party because we have got lots of people already supporting...I mean that's what it comes down to.

Neil Kinnock: John you are killing your case by exaggerating it

John Humphries: I am trying to simplify it

Neil Kinnock: Well you are oversimplifying and you are not making a fair comparison with a system of second to none, home affairs, entertainment, news broadcasting that we have had from the very best television in the world.

John Humphries: The BBC is none political, newspapers are not

Neil Kinnock: Of course but there is huge political, that's what I am arguing for I would be very happy if we could ensure that there wasn't a political predetermination to the extent of prejudice that newspaper proprietors seek to infect others with and secure deference to, we would live in a much freer country of course we would.

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Back Boris Campaign here

www.backboris2012.com

Join us and help turn Britain around

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Promoted by Alan Mabbutt on behalf of the Conservative Party, both at 30 Millbank, London, SW1P 4DP

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SS. Ab. 30

From: SMITH, Adam
Sent: 20 July 2011 09:22
To: jeremy [redacted]
Subject: Draft statements
Attachments: ph statement 8 am.doc

Attached is the current version of the PM's statement which is worth reading. And below a draft of your winding up speech. I've anticipated Labour being pretty partisan. There is no formal wording that you need to say as this isn't a motion and there won't be a debate so although I've attacked Labour in the middle I've tried to end on a non-partisan point about the House working together to sort things out.

Mr Speaker, we have had an excellent debate. One that justifies both the Prime Minister's decision to ask, and indeed your decision to grant, this additional emergency sitting.

It is right that honourable members from across the House have had another chance to question the Prime Minister and that he was able to announce further measures to improve public confidence in the media and the police to this House.

[insert mentions of various MPs contributions to the debate]

Mr Speaker I said to the House last week that politicians of all parties need to approach these issues with a great deal of humility.

We have all erred.

We have all made mistakes in our dealings with media organisations.

And we all need to learn from these mistakes.

So I was disappointed, although not entirely surprised, by the contributions from the Opposition Front Benches.

They gave the Rt Hon member for Kirkcaldy and Cowdenbeath a run for his money for the greatest rewrite of history this House will have ever heard.

One would assume that phone hacking had actually happened under the Coalition Government...

That Labour politicians had never even heard of News Corporation, Rupert Murdoch or Rebekah Brooks...

Or that it would be inconceivable for ex-News International employees to work for the Labour Party...

Let me remind the House that under the last Government there were two Information Commissioner Reports setting out the scale of trade in personal information.

Two Select Committee reports on practices in the press.

And two convictions for phone hacking.

Yet the Party opposite chose to ignore these warnings.

We learned yesterday that the former Prime Minister never once raised the issue of phone hacking with Rupert Murdoch. Despite seeing him regularly. In Downing Street. At Chequers. And yes, even socially.

We also learned, thanks to the forensic work of members of the Culture, Media and Sport Select Committee, that Rebekah Brooks used to visit him six times a year.

And that he used Chequers to host a slumber party for Murdoch family members.

I have to wonder whether this close relationship was the real reason why there was no judicial inquiry under the last Government.

We know that the Rt Hon Member for Kirkcaldy and Cowdenbeath's Cabinet discussed having such an inquiry. And that he ruled it out.

And according to Mr Jonathan Powell we know that Tony Blair's Government considered reforming the way the press was regulated. But as he wrote in the Guardian yesterday they withdrew these plans

"because of the sustained onslaught we knew we would face from the press and the unreliability of any support...even on our own benches, given Gordon's desperate wooing of Dacre and Murdoch. In the end it was a battle for power and one we could not win".

More shockingly this close relationship seems to have had a direct impact on Government policy. In his 2008 Society of Editors Speech Paul Dacre explained that he, Les Hinton of News International, and Murdoch MacLennan of the Telegraph went to see Gordon Brown about the Criminal Justice and Immigration Bill.

They were concerned about Government measures in this legislation that would mean those guilty of obtaining confidential personal data unlawfully could face a two year custodial sentence.

After this meeting these plans were changed. The Bill amended and media executives satisfied.

Incredibly this all happened just months after the Information Commissioner's Report detailed how 305 journalists from more than 30 newspapers had been identified as customers in the illegal trade of personal information.

So not only did the previous Government ignore this report. But in the months after its publication they actually made it easier for such practices to continue.

I'm afraid honourable members opposite cannot hide from this record. The Leader of the Opposition was a member of the Cabinet who chose not to have an inquiry.

He was a member of the Government who failed to reform the press.

And he is the only leader of a political party who still employs an ex-news international journalist who refuses to come clean about what he knows about illegal and immoral practices that may have helped him publish stories.

As with so many problems this country faces it is this side of the House that is cleaning up the mess of 13 years of Labour rule.

Under this Government there are two on-going police inquiries.

One overseen by the Independent Police Complaints Commission.

We have greater transparency about meetings the Prime Minister has had with media executives.

Plans to extend such transparency to other Ministers.

And a full judge led inquiry that will not only get to the bottom of all these terrible allegations.

But also make recommendations about how to improve the relationships between politicians and the press and the police and the press. And as my Rt Hon Friend the Prime Minister said today answer important questions about media plurality.

We should be judged not by who shouts the loudest about the guilt of others.

But on whether we admit our share of the blame. And work hard to ensure nothing like what we have seen recently can ever happen again.

All parties have had issues of excessive closeness to media groups and media owners. And all parties missed the warnings about what was going wrong. And missed opportunities in the past to put things right.

I believe that this House has come together to recognise that we cannot let this happen again.

That is why I welcome the cross-party support for the appointment of Lord Justice Leveson and on the terms of reference for his inquiry.

I'm sure all members will wish him and his panel well. And hope we can continue to work together to sort these issues out once and for all.

SS. Ab. 31

From: SMITH, Adam
Sent: 20 July 2011 15:50
To: jeremy [redacted]
Subject: PM discussions on BskyB

Q: Did the Prime Minister discuss the BSkyB bid with Rebekah Brooks?

Any conversations the Prime Minister had with Rebekah Brooks are completely irrelevant to the BSkyB bid. As the Cabinet Secretary has confirmed, the Prime Minister had no role in the BSkyB takeover - it was not his decision to make nor did he seek to influence the decisions of Jeremy Hunt the Culture Secretary. Asked this question by the Select Committee, Rebekah Brooks said that she had 'at no time have I ever had any conversation with the Prime Minister that you in the room would disapprove of.'