



Invitation to comment for public
interest test on the anticipated
acquisition of British Sky
Broadcasting plc by News
Corporation

Invitation to comment

Publication date: 5 November 2010

Closing date for submissions: 19 November 2010

Introduction

- 1.1 On 3 November News Corporation notified the European Commission of its intention to acquire the shares in BSkyB it does not already own. On 4 November the Secretary of State issued a European intervention notice requesting Ofcom to report on the effects of the proposed acquisition on media plurality by 31 December 2010.
- 1.2 On 4 November Ofcom published a guidance note on our website¹, setting out the process and timetable for preparing our report on the public interest consideration set out by the Secretary of State.

The public interest consideration

- 1.3 In respect of the proposed News Corporation acquisition of the shares in BSkyB it does not already own, the Secretary of State for BIS has issued a European intervention notice in relation to the public interest consideration in section 58 of the Enterprise Act 2002 concerned with the sufficiency of plurality of persons with control of media enterprises, which is:

“the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience”²

- 1.4 In considering the public interest, we do so in light of the relevant statutory framework whereby Parliament has attached significance to the need for sufficient media plurality in the functioning of a healthy and informed democratic society.
- 1.5 In undertaking an initial investigation of this public interest consideration and providing advice and recommendations to the Secretary of State, we will consider the key constituent parts of the public interest issue outlined above. Specifically, we will consider:
 - Content types
 - Audiences
 - Media platforms
 - Control of media enterprises
 - Future developments in the media landscape
- 1.6 **Content types:** we will consider what are the most relevant content types and genres (for example news, current affairs, entertainment, fiction or drama) for the public interest consideration.
- 1.7 **Audiences:** we will consider whether specific consumer or citizen groups (defined by location, demographic, socio-economic group or any other relevant criteria) will be

¹ <http://media.ofcom.org.uk/2010/11/04/guidance-note-for-public-interest-test/>

² Enterprise Act 2002, s.58(2c)(a).

affected by the changes to the level of media plurality as a result of the proposed acquisition.

- 1.8 **Media platforms:** We will consider which are the relevant platforms or media enterprises (for example TV, newspapers, radio, internet, etc.) in reviewing the implications of the proposed acquisition.
- 1.9 **Control of media enterprises:** in relation to the issue of control, we will consider:
 - 1.9.1 Plurality of persons with control of the relevant media enterprises (external ownership and control)
 - 1.9.2 Plurality in the range of information and views made available to audiences, including the level of independence in editorial control or expression within the relevant media enterprises (internal control)
- 1.10 **Future developments:** we will consider how future market developments, including the convergence of broadcast, print and internet media may affect consumers consumption of relevant media and the current levels of media plurality.
- 1.11 We are seeking views from stakeholders on all the issues set out above and any other issues you think we should consider. We also welcome views on the potential future impact of the proposed acquisition on the sufficient plurality of persons with control of the media enterprises in the UK.

Advice and recommendation to the Secretary of State

- 1.12 Overall, Ofcom will consider how the proposed acquisition may affect the level of plurality of persons with control of the media enterprises serving the relevant audiences taking account of representations and analysis of relevant information.
- 1.13 Given the limited time for Ofcom's initial investigation and report on the effect on the media public interest consideration, we are also interested in third parties' views on potential remedies or mitigations to any public interest concerns identified by third parties. These will be passed to the Secretary of State (and to the Competition Commission in light of a reference) to help inform his decision.

How to make submissions

- 1.14 Ofcom invites written submissions to be made **by 19 November**. We are seeking responses that provide views, supported by evidence, on the specific questions detailed above, or on other considerations stakeholders consider relevant.
- 1.15 Please make representations via:
- 1.16 The online web form at <http://stakeholders.ofcom.org.uk/consultations/public-interest-test/responseform>
- 1.17 By email - especially for larger submissions - particularly those with supporting charts, tables or other data – to PublicInterestTest2010@ofcom.org.uk attaching your

response in Microsoft Word format, together with a consultation response coversheet.

- 1.18 Responses may alternatively be posted or faxed to the address below, marked with 'News Corp / BSkyB public interest test'.

Marco Marini
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3706

- 1.19 We do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- 1.20 Ofcom strictly observes confidentiality in all aspects of its operations. This applies to material supplied in response to this invitation to comment. We will give the Secretary of State (and the Competition Commission in the event that this acquisition is referred by the Secretary of State) all relevant submissions (including confidential ones) to enable him make his decision. If your submission includes material which is confidential, we will require a full version with confidential information omitted, together with reasons why the submission should be treated as confidential.
- 1.21 Meetings with stakeholders may also be held where appropriate. If you would like to request a meeting with Ofcom to discuss your submission, you should send a request via e-mail to PublicInterestTest2010@ofcom.org.uk explaining why a meeting is required in addition to your written submission. We will consider these requests on an individual basis and as allowed within the timescale set by the Secretary of State.