



**SKY'S RESPONSE TO
OFCOM'S CONSULTATION ON A PROPOSED
MEASUREMENT FRAMEWORK FOR MEDIA PLURALITY**

1. Introduction

- 1.1 Sky welcomes the opportunity to comment on Ofcom's consultation on a proposed framework for media plurality ("the Consultation").
- 1.2 Sky agrees that media plurality is an essential part of a well-functioning democratic society, ensuring that people have the ability to access a wide range of sources and views. However, we continue to have concerns as to how Ofcom's proposed framework would be employed and believe that adopting the uncertain measures outlined in the Consultation may actually have unintentional detrimental effects on plurality.
- 1.3 We would be particularly concerned if the intention is for this measurement framework to form part of a plurality assessment that is triggered not by a merger or acquisition but as a result of organic growth or market exits. Such an approach could seriously undermine commercial operators' incentives to invest, potentially restricting growth and resulting in perverse outcomes.
- 1.4 We note that Ofcom's work in this area is prompted by a request from the Department for Culture, Media and Sport (DCMS), and that the Government will be responsible for any decisions regarding how a framework will be used.
- 1.5 In our response to Ofcom's 2014 Call for Inputs ("the CFI Response"), we outlined a number of concerns regarding the limitations of the proposed metrics and potential risks to plurality and the efficacy of the existing regime. As Ofcom has proposed no significant changes to its previous approach, these concerns still stand.

2. Sky continues to consider that many of the metrics proposed by Ofcom have limitations

- 2.1 In line with its previous approach, Ofcom has suggested a range of complex metrics as part of a plurality measurement framework. As highlighted in the CFI Response, Sky considers that most of Ofcom's metrics have flaws which prevent them from being absolute and objective measures of cross-platform media plurality. These flaws mean that such metrics are of limited use, perhaps only providing additional qualitative insight, rather than being able to provide a coherent and reliable indicator of a sufficiency of plurality.
- 2.2 We remain of the view that a count of the number and range of providers available at the point of consumption is the most appropriate approach to measuring plurality. This approach accurately reflects the availability of news providers to the public, and is comparatively easy to quantify.
- 2.3 Ofcom has considered evaluating plurality not only in terms of the number and range of providers but also by reference to media enterprises' 'ability to influence and inform opinion'. It is in pursuit of this factor that additional metrics focusing on consumption, impact and context are now being considered by Ofcom.

- 2.4 Ofcom itself acknowledges¹ that the proposed ‘consumption’ indicators in the framework present particular challenges and describes their bespoke ‘share of references measure’ as imperfect. We agree that such measures may provide an approximate snapshot of news consumption, but reliance on consumer recall rather than active monitoring is prone to inaccuracy – again a flaw that Ofcom has noted but chosen to disregard on account of the lack of “any methodology that can capture media consumption across all platforms, and for a large sample”.²
- 2.5 Furthermore, the metric falls short of being an accurate measure of a provider’s ‘ability to influence’ as it fails to take into account factors such as the varying ability of different media to influence opinion, the impact of multi-sourcing and consumers’ own pre-existing judgements and media literacy – all of which are subjective factors that cannot accurately be measured.
- 2.6 Ofcom proposes to measure more closely the ability of media enterprises to influence consumers by including ‘impact’ indicators that capture how peoples’ opinions are formed. Both ‘personal importance’ and ‘perceived impartiality, reliability and quality’ of platforms and providers are suggested as potential metrics in this context.
- 2.7 Sky considers that the relative importance of different media in shaping public opinion – i.e. the ‘impact’ that news providers have – cannot be determined in any mechanistic and general fashion but rather varies by individual and source. We cannot see how a generalised framework could begin to measure such variations. Attempts to measure ‘impact’ could only ever provide a limited and qualitative perspective on plurality.
- 2.8 Finally, Ofcom suggests that there may be ‘contextual factors’ which should be captured as part of a media plurality measurement framework. The examples given are of internal plurality, internal governance processes, editorial plurality, impartiality, and market trends and future market developments.
- 2.9 Sky agrees that some of the examples of qualitative ‘contextual factors’ provided in Ofcom’s report are relevant to considerations of plurality. However, as with other metrics, it is difficult to see how such factors can be objectively measured on a cross-platform basis. At best, they act as additional qualitative insight.
- 2.10 In summary, Sky is concerned that Ofcom is at risk of adopting an unduly complicated approach which would, in any event, fail to provide a meaningful or accurate measure of plurality. We believe that focusing on availability, as opposed to a raft of complex, layered and subjective metrics, should be the core focus of Ofcom’s framework. We disagree with Ofcom’s assertion that this offers limited insight on its own. The number and range of providers available at the point of consumption is a clear, simple and undeniable indication of the plurality available to consumers.

3. If the intention is for this measurement framework to form part of a revised plurality regime, then these limitations would pose significant risks to plurality

- 3.1 The suggestion by a number of bodies (including Ofcom) that there is a need for additional measures to ensure plurality risks introducing significant uncertainty to the sector. Measures such as ownership limits, or plurality reviews that could be triggered by organic growth and market exits, would pose significant risks by undermining commercial operators’ incentives to invest in news.
- 3.2 The existing regime delivers much needed certainty for commercial investors and has underpinned the development of flourishing news services serving the UK. Any new measures must be justified by a failure with the existing system – otherwise Ofcom’s time

¹ The Consultation, paragraph 4.6, p.11.

² The Consultation, paragraph 4.40, p.18.

and resource would be better served elsewhere. Sky has seen no evidence to suggest that any such failure currently exists. Creating uncertainty for organisations that currently contribute significant plurality could be an unintentional consequence of such intervention.

4. The existing regime works well, and there is no reason to amend it

- 4.1 The combination of media ownership rules,³ media Public Interest Test,⁴ public service obligations and broadcast content regulation, together with competition law already provides a comprehensive set of measurements to ensure there is a diversity of viewpoints available in the UK media.
- 4.2 The transformation of the media market and the explosion of new sources available online clearly demonstrate that the existing regulatory regime is able to facilitate plurality. We see no reason to fundamentally change a system that is working well for consumers.
- 4.3 Outside the existing framework, media plurality is best served by Parliament and regulators creating an economic and regulatory environment that encourages investment and innovation in the provision of news and current affairs content, such that plurality continues to increase through the entry and development of new media enterprises and services.

Sky

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³ Schedule 2 to the Broadcasting Act 1990, sections 280, 281 and 283 of the Communications Act 2003, Schedule 14 to the Communications Act 2003 and Part 3 of the Enterprise Act 2002.

⁴ Sections 26, 42 and 58(2C) of the Enterprise Act 2002.