

Statement to Parliament: Sky/Fox Merger – CMA Provisional Findings

Mr Speaker, I am here in my new capacity as the quasi-judicial decision-maker in relation to the proposed merger between 21st Century Fox and Sky Plc to update the House regarding the CMA's interim report that they issued today.

The decision-making role is one that my Rt Hon Friend, the Member for Staffordshire Moorlands discharged having met her commitment – given many times on the floor of this House – to the greatest possible transparency and openness the process allows.

And while I come to this fresh I intend to follow that process of being as open as possible while respecting the quasi-judicial nature of the decision.

Background and referral

As this House well knows, after the proposed acquisition was formally notified to the competition authorities last year, my Rt Hon Friend the Member for Staffordshire Moorlands issued an Intervention Notice on media public interest grounds – namely of media plurality and genuine commitment to broadcasting standards. This triggered a Phase 1 investigation of the merger, requiring Ofcom to report on the specified public interest grounds and the CMA on jurisdiction.

Having received advice from Ofcom and from the CMA, in September she referred the proposed Sky / Fox merger to the CMA for a Phase 2 investigation on both grounds.

CMA's final report

The original statutory deadline for the final report was 6 March but the CMA has, today, confirmed that this will be extended by a further eight weeks and that the revised deadline is 1 May.

Once I have received that final report I must come to a decision on whether – taking into account the specified public interest considerations of media plurality and genuine commitment to broadcasting standards – the merger operates or may be expected to operate against the public interest.

Following receipt of the final report, I will have 30 working days in which to publish my decision on the merger – so if I receive the CMA's report on 1 May that would be 14 June.

CMA's provisional report

To be clear the publication today is the CMA's provisional findings. I have placed a copy in the House Library.

With regards to the need for a genuine commitment to broadcasting standards – the CMA provisionally finds that the merger is not expected to operate against the public interest.

On media plurality grounds the CMA provisional finding is that the merger may be against the public interest. It cites concerns that the transaction could reduce the independence of Sky News and would reduce the diversity of viewpoints available to, and consumed by, the public. It also raised concerns that the Murdoch Family Trust would have increased influence over public opinion and the political agenda.

The CMA has identified three remedy approaches and seeks views from interested parties on them. These remedy approaches are:

Firstly, to prohibit the transaction.

Secondly, undertake structural remedies – either to recommend the spin-off of Sky News into a new company, or to recommend the divestiture of Sky News.

Thirdly, behavioural remedies which could for example include enhanced requirements around the editorial independence of Sky News.

The CMA also recognises that the proposed acquisition of Fox by Disney could address concerns set out in the provisional findings; however the uncertainty about whether, when, or how, that transaction will complete means the CMA has also set out potential approaches which include introducing remedies which would fall away subject to the Disney / Fox transaction completing.

The CMA has invited written representations on the provisional report's findings, and the potential remedy approaches, with 21st Century Fox and Sky – as well as other interested parties – before producing a final report.

As such, and given the quasi-judicial nature of this process, I hope the House will understand that I cannot comment substantively on the provisional report before us and I must wait for the final report before I comment.

I am, however, aware of the keen interest of the House on this important matter. I know that Right Honourable and Honourable Members will be closely scrutinising the CMA's provisional findings and will have views on them.

The CMA's investigation will continue over the coming weeks – it has set out the process for making representations on the remedy options outlined, and on the provisional findings, with deadlines of 6 February and 13 February, respectively. I feel sure that today's debate will provide helpful context for that work.

Next steps

What I am able to confirm today is that – I will undertake to keep the House fully informed, and follow the right and proper process considering all the evidence carefully when the time comes to make my decision on receipt of the CMA's final report.

I commend this statement to the House.