

SS D 01

Jeremy Hunt



Newscorp

2 messages

Jeremy Hunt

12 March 2011 08:43

To: Jonathan Stephens

OLDFIELD PAUL



Jonathan/Paul

I am a bit worried. I asked for advice on what meetings I need to have and process I need to follow during the consultation period at the end of last week, have followed up with [redacted] but a week later have heard nothing. We are now half way through the consultation. We talked about meetings with the Guardian/BBC/38 Degrees etc and really if we were being professional we would have contacted them on Friday or Monday to arrange. Could you possibly look into and make sure I get the advice first thing on Monday?

Many thanks

Jeremy

STEPHENS JONATHAN

12 March 2011

09:00

To:

OLDFIELD PAUL



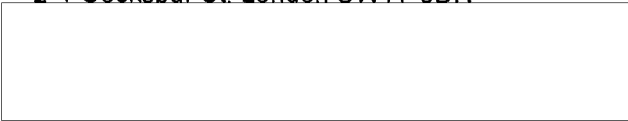
Jeremy

Yes, we'll follow up. I'd seen something on process after consultation ends but I'm afraid this had passed me by. We'll get you something for Mon am.

Jonathan

Jonathan

Jonathan Stephens
Permanent Secretary
Department of Culture, Media & Sport
2-4 Cockspur St. London SW1Y 5DH



From: Jeremy Hunt

To: STEPHENS JONATHAN; OLDFIELD PAUL

Sent: Sat Mar 12 08:43:30 2011

Subject: Newscorp

Jonathan/Paul

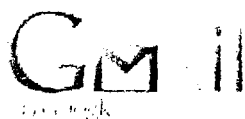
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Jeremy

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SS. D. 02

Jeremy Hunt

Fw: Newscorp

5 messages

ZEFF JON [redacted] 10 July 2011 15:35

To: [redacted] OLDFIELD PAUL
[redacted] "BEEBY, Sue" [redacted]

Jeremy

Draft briefing note for No10 attached, agreed with lawyers. Am copying to Paul and Sue but if you'd like a word my mobile is [redacted]

Jon

From: [redacted]
To: ZEFF JON
Cc: [redacted]
Sent: Sun Jul 10 15:28:28 2011
Subject: Newscorp

[redacted]
Legal Advisers to the Department for Culture, Media and Sport

[redacted] ***
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Newscorp - current position (3).docx
18K

BEEBY, Sue [redacted] 10 July 2011 16:06

To: ZEFF JON [redacted]
[redacted] OLDFIELD PAUL [redacted]

Are we making clear that we are looking into the legal viability of these options rather than just proposing that this is what we could do. I don't think we want to get into a situation where number 10 think we can go ahead with one option when actually legally it wouldn't be robust.

From: ZEFF JON
To: [redacted] OLDFIELD PAUL; BEEBY, Sue
Sent: Sun Jul 10 15:35:58 2011
Subject: Fw: Newscorp

Jeremy

Draft briefing note for No10 attached, agreed with lawyers. Am copying to Paul and Sue but if you'd like a word my mobile is [redacted]

Jon

From: [redacted]
To: ZEFF JON
Cc: [redacted]
Sent: Sun Jul 10 15:28:28 2011
Subject: Newscorp

[redacted]
Legal Advisers to the Department for Culture, Media and Sport

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BEEBY, Sue [redacted] 10 July 2011 16:09
To: ZEFF JON [redacted], "jeremv" [redacted]
[redacted] OLDFIELD PAUL [redacted]

I also think it is worth including on the list of options writing to ofcom as a matter of urgency asking them to address the following issues that have arisen over the past week.

Letter along the lines of...
Have received numerous consultation responses will of course consult ofcom and offt once we have processed them but there are further questions that have been raised in light of recent events which I would like to seek your advice on in the meantime.

1. Given the closure of the NOTW to what extent does this impact on your original report on media plurality and how would you propose addressing this in the current merger process.
2. I note your advice to John whittingdale on friday 8th july. Can you let me know whether a potential fit and proper persons test would impact on the issue of media plurality, specifically whether we should be considering whether any potential withdrawal of a broadcasting licence to News Corp would have such a significant impact on plurality in the media that we should be considering it as part of the current merger process.
3. Also in light of your statement on fit and proper persons whether we should also be considering the extent to which the UIL can be taken in good faith and relied upon to be legally robust and enforceable.

From: ZEFF JON
To: [redacted] OLDFIELD PAUL; BEEBY, Sue
Sent: Sun Jul 10 15:35:58 2011
Subject: Fw: Newscorp

Jeremy

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Jeremy Hunt [redacted] 10 July 2011 20:05
To: ZEFF JON [redacted]
Cc: OLDFIELD PAUL [redacted] "BEEBY, Sue"

Hi Jon
Would be really grateful for the letter draft in the next hour so I can go to bed! Many thanks.
J.

On 10 July 2011 15:35, ZEFF JON [redacted] wrote:
Jeremy

Draft briefing note for No10 attached, agreed with lawyers. Am copying to Paul and Sue but if you'd like a word my mobile is [redacted]

Jon

From: [redacted]
To: ZEFF JON
Cc: [redacted]
Sent: Sun Jul 10 15:28:28 2011
Subject: Newscorp

[redacted]
Legal Advisers to the Department for Culture, Media and Sport

[redacted] *****
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ZEFF JON [redacted] 10 July 2011 20:31
To: "jeremy" [redacted]

Cc: [redacted] BEEBY, Sue"

Draft is well on the way - will be with you shortly subject to comments from sue/adam and daniel.

Jon

From: Jeremy Hunt [redacted]
To: ZEFF JON
Cc: OLDFIELD PAUL; BEEBY, Sue
Sent: Sun Jul 10 20:05:07 2011
Subject: Re: Newscorp

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J.

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NCIC Briefing Note

SS-D-03

Background

Currently News Corporation owns 39.1% of shares in BSkyB. It made a bid in 2010 to own 100% of shares, which creates a relevant merger situation under the Enterprise Act 2002. The Secretary of State for BIS intervened in the merger on public interest grounds, citing the need for there to be a sufficient plurality of persons with control of media enterprises.

The consideration of the Secretary of State, now the Culture Secretary, is quasi-judicial. That means that the decision is for the Culture Secretary alone, not subject to Cabinet collective responsibility, not on political lines, nor subject to the confirmation of parliament. The Culture Secretary decided to seek independent advice from the OFT and Ofcom. His decision is subject to appeal to the Competition Appeal Tribunal, along judicial review lines.

The Culture Secretary announced in March that he was minded to allow the merger to proceed on the basis of undertakings in lieu of a reference to the Competition Commission. He has just completed a second round of consultations on draft undertakings and the next step is to decide whether to accept those undertakings or whether to refer the issue to the Competition Commission to consider media plurality.

The Culture Secretary has already made it clear that there had been a large number of responses to the consultation (over 150,000), and that this would take some time to consider. At the same time, he confirmed that he would consider all relevant factors to the merger, including whether the closure of the News of the World had an impact on media plurality.

Phone hacking

Phone hacking is not material to the question of media plurality per se. It could, however, be relevant insofar as it would cause the Culture Secretary to have reservations over whether News Corp would genuinely seek to abide by the undertakings they have given. At the point of the 1 July announcement the Culture Secretary said that he considered that the undertakings were offered in good faith.

The options open to the Culture Secretary at this stage:

- Accept the undertakings in lieu and allow the merger to proceed. Once accepted, that is the end of the matter (subject to successful legal challenge). It is not possible, for example, to give a provisional or time limited agreement.
- There is no statutory time scale within which the Culture Secretary must take his decision and he has already said that it will take some time. Any further delay to the decision would have to be clearly justified as it would be subject to challenge.

- Refer the merger to the Competition Commission for a further consideration of the plurality implications. He could consider that the extent and seriousness of recent allegations are sufficient for him to no longer have confidence that the undertakings would be honoured. Normally it would take the CC 6 months to conduct an inquiry though it may be shorter this time in view of the amount of scrutiny that the merger has already had. If the merger was referred, the final decision would still be for the Culture Secretary based on the advice from the CC.
- He could in principle make further changes to the undertakings and consult again.

"Fit and proper" person test

Under section 3 of the Communications Act, Ofcom have a duty to ensure that holders of broadcast licences are and remain fit and proper persons.

This is entirely a decision for Ofcom and they have said that are in contact with the relevant authorities. Ofcom have an on-going duty to consider whether the holder of a broadcast licence is a fit and proper person, notwithstanding the current merger. Ofcom have confirmed that they are keeping track of the situation, and it could be expected that they would act if there were grounds to do so at any time. Ofcom already considers that News Corp has material influence over BSkyB because of its existing shareholding, and therefore the merger is of limited relevance to this on-going duty.

We believe that licences have been withdrawn in the past following criminal convictions, but, although allegations themselves are unlikely to provide grounds for withdrawing licences, there are other grounds for doing so other than criminal conviction.

Closure of News of the World

The Culture Secretary has publicly said that he will consider all relevant considerations in reaching his decision on whether to accept undertakings, or whether to refer the matter to the Competition Commission at this stage. He will need to consider whether the closure of News of the World changes the position such that it affects his decision on the merger. His consideration may include asking Ofcom for their view. Absent other developments, it appears that closure of News of the World would lead to a decrease in News Corp's share of voice in the newspaper market.

Communications Review

DCMS is currently undertaking a review of communications legislation, which will include reviewing media ownership provisions in the Communications Act and the Enterprise Act. It may consider changes to the public interest regime. A Green Paper is scheduled for November 2011.

SS-D-04

EDWARDS, Steven

From: ZEFF JON
Sent: 10 July 2011 15:36
To: [redacted] OLDFIELD PAUL; BEEBY, Sue
Subject: Fw: Newscorp
Attachments: Newscorp - current position (3).docx

Jeremy

Draft briefing note for No10 attached, agreed with lawyers. Am copying to Paul and Sue but if you'd like a word my mobile is [redacted]

Jon

From: [redacted]
To: ZEFF JON
[redacted]
Sent: Sun Jul 10 15:28:28 2011
Subject: Newscorp

[redacted]

Legal Advisers to the Department for Culture, Media and Sport

[redacted]

SS-D-05

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SS.D.06

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To: [redacted]
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Cc: OLDFIELD PAUL; BEEBY, Sue
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Subject: Re: Newscorp

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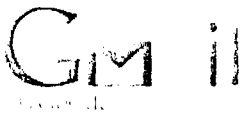
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Subject: Newscorp

[redacted]
Legal Advisers to the Department for Culture, Media and Sport

[redacted] *****
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SS-D. 07

Jeremy Hunt

Fw: News Corp letters

2 messages

ZEFF JON

10 July 2011 21:48

To: "jeremv"

Cc:

"BEEBY, Sue"

<Sue.Beeby

Jeremy

3 attachments:

Draft letter to ofcom agreed with sue

Draft to newscorp likewise though I'm not sure its quite as urgent to write to them given that we're not planning immediate decisions?

pointed out that we might also write to offt re. UILs - draft attached though shd probably spk to offt in the morning before finalising.

Jon

From:

To: ZEFF JON

Sent: Sun Jul 10 21:43:21 2011

Subject: News Corp letters

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3 attachments

Draft Letter to Ofcom (6).docx
17K

Draft Letter to News.docx
14K

Draft Letter to OFT.docx
16K

Jeremy Hunt

10 July 2011 22:07

To: ZEFF JON

Cc: OLDFIELD PAUL

"BEEBY, Sue"

Hi Jon

Thanks. I have made some grammatical amendments but nothing substantive. I suggest we only brief out the Ofcom letter for tomorrow morning and leave the News one till Tuesday. No changes to the OFT letter.

Thanks for all your help - if you are only making minor amendments no need to run it by me again.

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Jeremy

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
Jon


From: [redacted]
To: ZEFF JON
Sent: Sun Jul 10 21:43:21 2011
Subject: News Corp letters

[redacted]
Legal Advisers to the Department for Culture, Media and Sport

[redacted] *****
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2 attachments

 **Draft Letter to News 2.docx**
12K

 **Draft Letter to Ofcom 7.docx**
15K

SS-D.08

From: Jeremy Hunt
Sent: 10 July 2011 22:07
To: ZEFF JON
Cc: OLDFIELD PAUL; BEEBY, Sue
Subject: Re: News Corp letters
Attachments: Draft Letter to News 2.docx; Draft Letter to Ofcom 7.docx

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