

File News International?

1. N/A 2. N/A 3. N/A



For inf.



1/8



C03/01687/DC

Les Hinton  
Executive Chairman  
News International plc  
1 Virginia Street  
LONDON  
E98 1EX

Department for Culture,  
Media and Sport

2-4 Cockspur Street  
London SW1Y 5DH

Department of  
Trade and Industry

1 Victoria Street  
London SW1H 0ET

30/01/27/279/4

30 May 2003

Thank you for your letter of 17 April 2003, in response to ours of 14 March. We would like to apologise again for cancelling the meeting we were due to have on 14 April. We wanted to take this opportunity to explain again why we think the policy in the Communications Bill is right.

We are glad you accept that the new regime will represent a significant deregulation. Your remaining concerns relate mainly to the prospective role of OFCOM, so we wanted to take a step back and explain why we think OFCOM's involvement is important.

As you know, the Communications Bill gives OFCOM powers to act as an independent regulator across the whole range of media and communications industries. It is explicitly not given any power under the Bill to intervene in newspaper content. Nor is there any sense in which any form of regulatory creep would allow it to do so - particularly given the backdrop of the Human Rights Act and the protection it affords to freedom of expression.

However, we think it is entirely appropriate to give OFCOM a clearly defined advisory role in relation to newspaper mergers. Unlike DTI officials, it will be able to take a position entirely independent of Government. Unlike the OFT, it will have a remit that extends beyond issues of competition. Certainly, OFCOM will need to acquire some new expertise, not least so that it can carry out its responsibility to review the operation of the merger regime every three years. DTI officials will therefore share their knowledge of the sector with OFCOM during the transition to the new regime.

The only purpose for which OFCOM will need to look at the content of newspapers will be to consider what effect a given merger would have, set against the position without the merger. OFCOM will offer advice to the Secretary of State on the application of a clearly defined public interest test, assessing the impact of a merger on the accurate presentation of news, the free expression of opinion and the plurality of views available. That is quite different from monitoring content on a day-to-day basis. It is very similar to some of the analysis DTI officials and the Competition Commission undertake under the current regime. It is important,

moreover, to recognise that the new regime will narrow rather than broaden the range of 'public interest' issues that can be taken into account. Neither the OFT nor OFCOM would in future be able to address employment issues of the kind raised in the case of Century Newspapers. Only competition and the three defined elements of the newspaper public interest test will be considered relevant.

We believe newspaper mergers should continue to be treated differently. The media are of such vital importance to our democracy that they need special treatment. In broadcasting, that means licensing broadcasters and regulating content. For newspapers, it means protecting freedom of expression at all costs, but also making sure that free speech is not put at risk by undesirable mergers.

If this involves a slightly more complicated regime for newspaper mergers, so be it. We don't think, however, that the involvement of both OFT and OFCOM in merger decisions should be too onerous. In all cases, the starting point will be the OFT and the decision-maker will be the Secretary of State. There is nothing new in Ministers taking views from sectoral regulators as well as the competition authorities. We are confident they will be able to operate together in an effective and streamlined fashion.

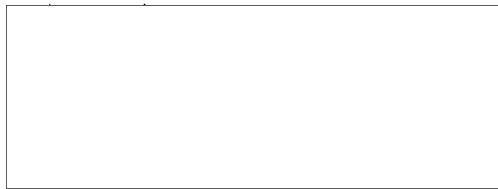
It is fair to say that our proposals in this area were not subject to the same extensive degree of pre-legislative scrutiny as the rest of the Communications Bill. We would like to apologise again for that. However, we think we have now provided you with all the detail available on the structure of the proposed regime. We hope this letter can offer you some further reassurance, but if not please get in touch and we can try again to arrange another meeting.

We have copied this letter to:

Sly Bailey, Chief Executive, Trinity Mirror plc  
Tim Bowdler, Chief Executive, Johnston Press  
Jeremy Deedes, Managing Director, Telegraph Group Ltd  
Richard Desmond, Chairman, Northern and Shell plc  
Murdoch MacLennan, Managing Director, Associated Newspapers Ltd  
David Newell, Director, Newspaper Society



TESSA JOWELL



PATRICIA HEWITT