

Murdoch's Fox Effect: How full ownership of Sky risks undermining British broadcasting standards



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About Avaaz

Avaaz—meaning "voice" in several European, Middle Eastern and Asian languages—launched in 2007 with a simple democratic mission: organize citizens of all nations to close the gap between the world we have and the world most people everywhere want.

Avaaz empowers millions of people from all walks of life to take action on pressing global, regional and national issues, from corruption and poverty to conflict and climate change. Our model of internet organising allows thousands of individual efforts, however small, to be rapidly combined into a powerful collective force.

The Avaaz community campaigns in 18 languages, served by a core team on 6 continents and thousands of volunteers. We take action -- signing petitions, funding media campaigns and direct actions, emailing, calling and lobbying governments, and organising "offline" protests and events -- to ensure that the views and values of the world's people inform the decisions that affect us all. We have over 1.6 million members in the United Kingdom.

About Media Matters for America

Media Matters for America is a web-based, not-for-profit, 501(c)(3) progressive research and information center dedicated to comprehensively monitoring, analysing, and correcting conservative misinformation in the U.S. media.

Launched in May 2004, *Media Matters for America* put in place, for the first time, the means to systematically monitor a cross section of print, broadcast, cable, radio, and Internet media outlets for conservative misinformation - news or commentary that is not accurate, reliable, or credible and that forwards the conservative agenda - every day, in real time.

Using the website mediamatters.org as the principal vehicle for disseminating research and information, *Media Matters* posts rapid-response items as well as longer research and analytic reports documenting conservative misinformation throughout the media. Additionally, *Media Matters* works daily to notify activists, journalists, pundits, and the general public about instances of misinformation, providing them with the resources to rebut false claims and to take direct action against offending media institutions.

Introduction - The Public Interest Test

21st Century Fox (21C Fox) has bid to own Sky plc outright, and Secretary of State Karen Bradley has requested Ofcom, the regulator, to assess 21C Fox in two areas. One of these is the “broadcast standards public interest consideration”. This requires Ofcom to be satisfied that:

*“...persons carrying on media enterprises, and for those with control of such enterprises, to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in section 319 of the Communications Act 2003”.*¹

Ofcom’s role is to “conduct an initial investigation into the public interest considerations and to provide advice and recommendations on the Secretary of State’s decision on whether she should refer the case to the Competition and Markets Authority (CMA) for further analysis.” This document aims to aid Ofcom in this initial investigation, presenting evidence of the threat Fox poses to broadcasting standards contained in the 2003 Communications Act and the Broadcasting Code mandated by that act.

We argue that the bid should not be allowed to go ahead because it fails the broadcast standards public interest consideration in two material ways:

1. 21C Fox claim to have introduced strong compliance and corporate governance systems since the phone hacking and associated scandals of 2012, yet there is continued pattern of poor corporate governance
2. There is an overwhelming pattern of failure to comply with the broadcasting standards objectives, particularly impartiality, accuracy, offensive and harmful material, and independence of editorial control. This pattern of non-compliance demonstrates 21C Fox’s lack of any genuine commitment to the section 319 standards objectives.

This submission argues these points with as much detail as we were able to provide within the deadline for submissions to the invitation to comment, and points to a wealth of further evidence Ofcom should draw on in its assessment. *Media Matters for America* has been cataloguing the inaccuracies, lack of impartiality, and the offensive material broadcast by Fox News Channel and Fox Business Network -- both owned by 21C Fox -- for years, the documentation of which can be found on their website².

In addition, we recommend that Ofcom requests further information from the bidder 21C Fox as part of its public interest test analysis, including material on internal company policies and procedures that would be required to guarantee implementation of the Broadcasting Code. This should include documents from Fox companies in the US and Australia that detail:

¹ Invitation to comment for public interest test on the proposed acquisition of Sky plc by Twenty- First Century Fox, Inc., Ofcom, 16th March 2016, p.1.

² <https://mediamatters.org/>

- Information about any Fox News host(s) who have been taken off air after making abusive or derogatory treatment of individuals, groups, religions or communities, noting also if they have subsequently been reemployed in any capacity by 21C Fox, News Corporation, or by Rupert Murdoch or his children directly
- Information about any Fox News host(s) who have been taken off air after making repeated inaccurate claims, noting also if they have subsequently been reemployed in any capacity by 21C Fox, News Corporation, or the Murdochs directly
- Policies that require impartiality in news and current affairs presentation, including apologising for inaccurate or offensive content, and examples of how these policies are enforced
- Policies and procedures relating to sexual harassment and related abuse of staff
- Minutes showing any examples of the independent board members voting against substantive policies recommended by the Murdochs.

In her letter to 21C Fox of 3rd March 2017, the Secretary of State says that “the extent to which 21C Fox and the individuals who will have control of Sky and/or who will be responsible for carrying on the business of Sky following the merger have a good record of compliance more generally (i.e. with the rules and standards applicable in the other markets in which they have operated) may also be relevant to this ground”³ and that UK authorities have previously identified serious failures of corporate governance at Murdoch-owned companies.

Fox’s track record in the United States and in Australia, and to a lesser extent in the UK in its retransmission of Fox News, shows that it cannot be trusted to comply with the section 319 broadcasting standards objectives and the Broadcasting Code. The way that Murdoch-owned companies have operated in several jurisdictions, including the recent moves to make Sky Australia more like Fox News, gives good grounds to believe that they would use this takeover to stretch, break, and then change the code to suit their agenda.

The UK deserves a TV news and current affairs broadcaster that is fair, fact-driven, and free from interests that seek to influence public policy. If 21C Fox’s bid to take full control of Sky is approved, the UK is likely to see irreparable harm done to both its media and political landscapes. Produced by Avaaz and *Media Matters for America*, this report demonstrates the damage 21C Fox’s executive chairman, Rupert Murdoch, and his news outlets have inflicted on the integrity of a free press, politics, and public opinion in the United States, playing a leading role in fueling post-truth politics.

The same pattern of conduct can be seen at 21C Fox and News Corp, both companies under the effective control of Rupert Murdoch and his sons - who also play executive roles. They use their newspapers in the US, the UK and Australia to meddle in politics, as well as their US broadcast reach. Additionally, they spread divisive and frequently false stories in the US through Fox News, and have started doing the same in Australia in the last year, the same period during

³ Bradley, Karen, “To Jeffrey Palker and James Conyers” 3 March 2017. 21st Century Fox Inc. and Sky Plc. European Intervention Notice, p.6. DCMS website www.gov.uk/government/uploads/system/uploads/attachment_data/file/596538/20130303_Sky_letter_FINAL.pdf.

which they took full control of Sky Australia. This shows a clear danger for the UK if the Sky takeover is allowed to proceed.

The Murdochs have a demonstrated record of both tearing up promises they make ahead of takeovers and using their massive power to twist the arms of editors and politicians to advance their political and commercial interests. UK regulations provide some protections against partisan TV news and current affairs programming, but they are far from complete, and far from safe from the Murdoch's demonstrated power to influence UK law and regulations in their favour.

With one-third of the newspaper market, the Murdochs already have disproportionate influence across all news platforms, pursuing a partisan agenda and pushing news that is then picked up by TV news channels. If 21C Fox is allowed to own all of Sky, the Murdochs will likely succeed in shifting Sky News and other factual programming on Sky channels from serving as a professional, impartial news and information service for the British public to another powerful, poisonous one-sided mouthpiece for the family's agenda.

While this briefing focuses on the public interest test, much of the evidence and analysis is also relevant to Ofcom's current review of fitness and propriety. In its 2012 review of BSkyB licences, Ofcom confirmed that "should further material evidence become available, Ofcom would need to consider that evidence in light of its duty" to be satisfied that licensees remain fit and proper.⁴

⁴ Ofcom "Decision under Section 3 (3) of the Broadcasting Act 1990 and section 3 (3) of the Broadcasting Act 1996: Licences Held by British Sky Broadcasting Limited".

Part 1: Contextual factors relevant to broadcasting standards

The Broadcasting Code does not set out guidance on corporate governance. However, effective corporate governance is a key contextual factor in fulfilling the code. The Secretary of State's view that corporate governance failings should be reviewed by Ofcom in the context of this merger, was confirmed by Ofcom in its reply to Avaaz's lawyers, Hausfeld, on 14th March 2017. This letter stated that:

"In considering whether a person had a 'genuine commitment' to the attainment of standards set out in Section 319, Ofcom would be entitled, if we considered it relevant to do so, to consider the track record of that person in establishing and maintaining appropriate governance and compliance arrangements in relation to the legal and regulatory regimes to which they are subject, including respect for rights of privacy or compliance with the criminal law in relation to journalistic conduct".⁵

When referring to "corporate governance failures" we believe Ofcom should consider:

- criminal conduct
- civil wrongful conduct
- breaches of regulation
- cover-up of wrongdoing, through concealment, gagging, destruction of evidence, false denial with intent to deceive the public and authorities, or willful blindness and failure to investigate.
- failure to provide adequate sanctions for wrongdoing, or rewarding of failure in corporate governance (thereby creating a culture of impunity)
- the placing of "corporate reputation" above the need to respect the law and the public interest
- other reckless or negligent conduct.

Equally with regard to plurality, the *Invitation to comment for public interest test on the proposed acquisition of Sky plc by TwentyFirst Century Fox, Inc.* asks for input on:

Contextual factors ... which help to interpret the quantitative data. Contextual factors may include but are not limited to:

- *governance models; ... and*
- *regulation and oversight.*

⁵ Letter from Mark Sweeney, Director Government and Parliament, Ofcom, to Hausfeld, 14th March 2017.

The Murdochs' effective control of both 21C Fox and News Corporation

The Murdochs exercise common control of both 21C Fox and News Corp by using their cross-holdings of shares as well as their close personal ties to their supposedly "independent" directors and to other key shareholders.

21C Fox's submissions to the Secretary of State claim that the split of 21C Fox and News Corp in 2013 created entirely separate companies run by boards with a majority of "independent" directors and other shareholders who dilute the Murdochs' control. They argue that the correct legal test is to examine "*the actual extent of the control*" rather than the Murdochs' cross-ownership.

21C Fox's argument falls apart under close scrutiny as well as ignoring Ofcom guidance on control of media companies. Elaine Chao's recent resignation to join the Trump administration forced News Corp to notify NASDAQ in February that it is no longer in compliance with rules requiring that a majority of the Board be comprised of independent Directors. This was only shortly after 21C Fox's submissions to the Secretary of State asserting the existence of such a majority and just before its recent letter to her. 21C Fox's letter of 8 March is highly misleading because the company had an opportunity to be transparent with the Secretary of State about a recent material change to the facts and failed to do so.

Shareholder litigation from the US also casts doubt on the supposed 'independence' of 21C Fox and News Corp and their directors. Claims arguing that Rupert Murdoch enjoys complete control of the 21C Fox board were settled in 2013 for \$139m, one of the largest in Delaware corporate litigation. The claimants presented convincing evidence challenging the independence of many of the current members of the boards of 21C Fox and News Corp. This evidence is examined in our longer briefing referred to below.

The Murdochs also rely on the consistent support of other substantial minority shareholders, such as Prince Alwaleed bin Talal of the Kingdom of Saudi Arabia or Jeffrey Ubben of ValueAct (who is also a director of 21C Fox) in order to turn their c.39% of the voting shares in both 21C Fox and News Corp into a consistent majority of the votes on key issues such as, for example, the retention of Murdoch family members in senior executive positions or the retention of the dual class share structure which entrenches the Murdochs' power base.

The links between the Murdochs and other directors and shareholders are sufficient in any context to cast doubt on independence and to assert that the Murdochs exercise de facto control of both companies, as described by Ofcom in paragraph 3 of its 2006 guidance on the definition of control of media companies. They are highly relevant to all 3 areas for current review by Ofcom and the evidence presented in other Avaaz briefings. In the case of media plurality, directors and shareholders who are seen to share the political outlook of the Murdochs, cannot be expected to object to steps being taken to distort Sky News coverage. In the case of commitment to broadcasting standards, as the phone hacking scandal amply demonstrates, weak and ineffective boards of the kind in place at 21C Fox and News Corp are incapable of holding the Murdochs to account to any meaningful standard. Similarly in the case of fitness

and propriety, such boards cannot compensate for the evident lack of qualification of Murdoch family members to hold responsibility for a broadcasting licence.⁶

21C Fox under fire for sexual harassment and cover-ups

In recent months, serious allegations of sexual harassment, other abuse and discrimination, and corporate misgovernance have been levelled at subsidiaries of 21C Fox. Many of these allegations are against the highest and most influential people at the organisation. Investigative news reports, victims' testimonies, and court documents paint a picture of a management with no meaningful accountability and no credible governance structure. The situation is so serious that federal prosecutors are now investigating.

In July 2016, Fox News anchorwoman Gretchen Carlson filed a lawsuit against Fox News CEO Roger Ailes in the New Jersey Superior Court. After reportedly trying hard to campaign against the culture of harassment, she alleges that Ailes "sabotaged" her career because she "refused his sexual advances." She was forced to file against Ailes and not Fox News because her contract had a clause that mandated employment disputes be resolved in private arbitration - an approach Fox News adopts repeatedly, denying victims their day in court.

A stark pattern of corporate negligence and management failure emerges, with a number of alleged incidents occurring after 2012, the date when 21C Fox claims to have introduced a new corporate conduct compliance mechanism. This pattern has strong echoes of years-long attempts by executives to mislead authorities, investors, staff and the public about phone hacking and other illegal activity in the UK.⁷

⁶ This is a summary of "21st Century Fox and News Corporation: the Murdochs' common control", Avaaz, 30 March, 2017, a fully-referenced document submitted separately to Ofcom.

⁷ This is a summary of "Sexual harassment, denials and cover ups: evidence of a rotten corporate culture at Fox", Avaaz, March 30, 2017, a fully-referenced document submitted separately to Ofcom.

Part 2: The Broadcasting Code

This section sets out failures against broadcasting standards regards to the more detailed Broadcasting Code mandated by the 2003 Communications Act. This submission focuses on sections 3, 5 and 6 of the Broadcasting Code, the areas where the most egregious breaches have been noted in the news and current affairs of 21C Fox. It also highlights behaviour by News Corporation that demonstrates a willingness to ignore the broadcasting standards. News Corporation examples are relevant in examining 21C Fox's behaviour because both companies are ultimately controlled by the Murdochs, as outlined above.

Although the broadcasts and newspaper articles referred to are not governed by the broadcasting Code, the pattern they represent demonstrates that 21C Fox is not genuinely committed to the section 319 standards objectives.

Section three of the Code: Crime, disorder, hatred and abuse

The Broadcasting Code says:

3.2 Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context.

3.3 Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context. (See also Rule 4.2).

Since Fox News' launch in 1996, the network has had a consistent pattern of derogatory or abusive statements about a variety of groups, religions and communities as well as singling out specific individuals for unfair treatment. One of the most recent examples concerns Fox's coverage of this month's deadly attack on Westminster. As with all Fox News, this was broadcast in the UK to Sky subscribers.

Fox News' *The O'Reilly Factor* hosted two guests with exactly the same views: Aaron Cohen and Jim Hanson from the Centre for Security Policy. Aaron Cohen even remarked on this, saying, "We've parked our cars in the same counter terror garage for a long time."⁸ Not only did this fail to present the range of views required for impartiality. The segment also included highly offensive statements such as, "East London has been in great trouble or grave danger for some time right now in terms of the mesh of Sharia believers and ideologists who live within those communities."

Katie Hopkins expressed similar sentiments on the prime-time show *Tucker Carlson Tonight*: "People are cowed by one particular religion which is promoted by the Muslim mayor Sadiq

⁸ Fox news, "New details emerge on London terror attack", *Youtube*, March 23rd 2017, <https://www.youtube.com/watch?v=MJtVWr-Nzdo>

Khan, the son of a bus driver -- that's his only credential. We are a nation of ghettos. Liberals here think multiculturalism is that we all die together. That's not a view I support." Carlson closed the interview editorialising: "I suspect your leadership hates the rest of the country and we recognise that very clearly here."⁹

This is not an isolated set of incidents. Fox News hosts have a history of making abusive and derogatory statements about Muslims -- and booking guests who do the same¹⁰. In two instances, for example, Fox host Brian Kilmeade said "all terrorists are Muslims." He later claimed that he "misspoke."¹² In another segment, Fox guest host said, "You have to admit there is a Muslim problem in the world."¹³ And negative statements about Muslims aren't limited to coverage about terrorism¹⁴.

An example of how Fox News has misrepresented a community by location, as well as by religion, is also well known in the UK because it was about a British community. In 2015, frequent Fox guest Steve Emerson -- part of the network's stable of extremists who lead its conversation about Islam -- made the false claim that the city of Birmingham is "totally Muslim" and a place "where non-Muslims just simply don't go in."¹⁵ Prime Minister David Cameron and Ofcom both condemned the segment, and Fox News host Jeanine Pirro apologised for Emerson's "incorrect" comments, telling viewers¹⁶, "We deeply regret these errors and apologize to the people of Birmingham, our viewers and all who have been offended."¹⁷ But Fox's retraction was inadequate and the myth of no-go zones has been repeated, including by

⁹ TNTV Total News T.V Youtube Channel, "BREAKING : Katie Hopkins & Tucker Carlson On Attacks & Multiculturalism", *Youtube*, March 23 2017, <https://www.youtube.com/watch?v=bx3d3hnpLFNI>.

¹⁰ Media Matters Staff, "Fox News Hosts "Professional Muslim Basher" To Attack Ninth Circuit's Stay On The Muslim Ban", *Media Matters for America*, February 9, 2017 <https://mediamatters.org/blog/2017/02/09/fox-news-hosts-professional-muslim-basher-attack-ninth-circuits-stay-muslim-ban/215291>.

¹¹ Libby Watson, "Meet The Extremists Who Lead Fox's Conversation About Islam", *Media Matters for America*, January 13, 2015 <https://mediamatters.org/blog/2015/01/13/meet-the-extremists-who-lead-foxs-conversation/202119>.

¹² Justin Berrier, "Kilmeade "misspoke" about "all terrorists" being "Muslims" -- twice", *Media Matters for America*, October 18, 2010 <https://mediamatters.org/research/2010/10/18/kilmeade-misspoke-about-all-terrorists-being-mu/172077>

¹³ Media Matters Staff, "Fox's Watters Tells Imam "There Is A Muslim Problem In The World"", *Media Matters for America*, February 17, 2017 <https://mediamatters.org/video/2017/02/17/foxs-watters-tells-imam-there-muslim-problem-world/215394>

¹⁴ Brian Tashman, "Fox News' Top Five Islamophobic Smears", *Right Wing Watch*, March 1 2013 <http://www.rightwingwatch.org/post/fox-news-top-five-islamophobic-smears/>.

¹⁵ Dylan Stableford, "Fox News apologizes for terror expert's 'totally Muslim' claim," *Yahoo News*, 18 Jan. 2015, <https://www.yahoo.com/news/fox-news-apologizes-muslim-only-city-birmingham-uk-154509889.html>.

¹⁶ Dylan Stableford, "Fox News apologizes for terror expert's 'totally Muslim' claim," *Yahoo News*, 18 Jan. 2015, <https://www.yahoo.com/news/fox-news-apologizes-muslim-only-city-birmingham-uk-154509889.html>.

¹⁷ Dylan Stableford, "Fox News apologizes for terror expert's 'totally Muslim' claim," *Yahoo News*, 18 Jan. 2015, <https://www.yahoo.com/news/fox-news-apologizes-muslim-only-city-birmingham-uk-154509889.html>.

Donald Trump during his presidential candidacy,¹⁸ Louisiana Governor Bobby Jindal,¹⁹ and various other commentators and outlets.²⁰

Fox News has often presented abusive and derogatory treatment to people on the basis of their sexuality. For example, host Bill O'Reilly has repeatedly warned that legalising gay marriage will lead to people marrying animals. In different segments, he discussed same sex marriage in the context of people marrying goats, dolphins and ducks.²¹

Individuals have also been targets of Fox News' around-the-clock baseless speculation and abusive rhetoric. In 2009, Fox News and its websites Fox Nation and FoxNews.com repeatedly advanced the falsehood that Department of Education official Kevin Jennings, in the words of Fox News host Bill Hemmer, knew of a "statutory rape" and "never reported it." While pushing this attack on Jennings, Fox News ignored evidence that the student who told Jennings about his relationship with an older man was of legal age of consent at the time. Many conservatives called for Jennings to be fired, including Fox host Sean Hannity and 53 Republican members of the House. Jennings also faced a host of death threats as a result of the stories.^{22 2324}

All in all, there is a consistent pattern of regular abusive and derogatory treatment of a range of individuals, groups, religions and communities that is absolutely not justified by the context of the broadcasts in question. Fox has largely failed to adequately correct or respond to complaints, and has let similar abusive and derogatory material air on subsequent occasions -- again, uncorrected.

¹⁸ Mark Molloy, "Trump facts: Twitter users mock Donald Trump's 'radicalised London' comments," *The Telegraph*, 8 Dec. 2015, <http://www.telegraph.co.uk/news/worldnews/donald-trump/12040300/Trump-facts-Twitter-users-mock-Donald-Trumps-radicalised-London-comments.html>.

¹⁹ "Louisiana governor unapologetic after Muslim 'no-go zones' comments," Associated Press, 20 Jan. 2015, <https://www.theguardian.com/us-news/2015/jan/20/boby-jindal-muslim-no-go-zones>.

²⁰ Alex Kaplan, "Pro-Trump Media Push Myth Of Muslim 'No-Go Zones' In Sweden," *Media Matters for America*, 22 Feb. 2017, <https://mediamatters.org/research/2017/02/22/pro-trump-media-push-myth-muslim-no-go-zones-sweden/215420>.

²¹ Media Matters staff, "The porpoise-driven wife: O'Reilly links same-sex marriage to UK woman who "married" dolphin", *Media Matters for America*, January 5, 2006, <https://mediamatters.org/video/2006/01/05/the-porpoise-driven-wife-oreilly-links-same-sex/134563>.

²² Media Matters Staff, "Fox News tirelessly advanced false accusation that Jennings covered up "statutory rape"", *Media Matters for America*, October 5, 2009 <https://mediamatters.org/research/2009/10/05/fox-news-tirelessly-advanced-false-accusation-t/155358>.

²³ Matt Gertz, "Unraveling the Right's false attacks on Kevin Jennings", *Media Matters for America*, December 15, 2009, <https://mediamatters.org/research/2009/12/15/unraveling-the-rights-false-attacks-on-kevin-je/158160#3>.

²⁴ Paul Bedard, "Kevin Jennings Works to Beat the Anti-Gay Critics", *US News*, August 16 2010, <https://www.usnews.com/news/blogs/washington-whispers/2010/08/16/kevin-jennings-works-to-beat-the-anti-gay-critics>.

Section five of the Code: Due impartiality and due accuracy

The Broadcasting Code says:

5.1 News, in whatever form, must be reported with due accuracy and presented with due impartiality.

There are a host of examples where Fox News fails to report with due accuracy and/or due impartiality, often for political ends. Although most of these examples come from outside the UK, where the Broadcasting Code does not apply, the pattern is so pervasive, and so exactly mirrored by newspaper titles owned and controlled by the Murdochs, that it suggests a Sky entirely owned by 21C Fox would likely be used in a similar way, as has happened in Australia.

In 1996, marking his first venture into the 24-hour cable news market, Rupert Murdoch appointed Ailes -- a former adviser to Presidents Richard Nixon, Ronald Reagan, and George H.W. Bush -- to launch and build what would become the most-watched cable news network in the US.

Murdoch's selection of Ailes to run Fox News ushered in a new era in American news media and conservative politics, but the general approach has been enabled and driven by Murdoch. For example, after Ailes was ousted over sexual assault allegations from senior employees, Murdoch took over as Fox News CEO and said it would be "business suicide" to change the editorial direction of the network.²⁵

Murdoch's approach is highly partisan with a clear political motivation, which is legal for US broadcasters. However, Fox has a history of using false stories to promote its political objectives. This abuse, and its resulting damage in American public discourse, has been so widespread that it has been termed the "Fox effect."

The pattern is best understood in six unique steps:

- 1) Right-wing bloggers, talk radio hosts, and other conservative media outlets start to focus on a story that fits their ideology and political agenda and distort it.
- 2) Fox News picks up the story and gives it heavy, one-sided coverage, elevating far-right activists and politicians as expert informants.
- 3) Fox News and conservative media then attack the so-called "liberal media" for ignoring the distorted story.
- 4) Mainstream media outlets eventually cover the story, echoing the right-wing distortions.
- 5) Fox News receives credit for promoting the story.
- 6) The story is later proved false or wildly misleading, long after damage is done.

Here is a play-by-play of how this system of fabrication has worked:

In 2008, then Senator Barack Obama and then Senator Hillary Clinton were campaigning for the presidency. A fringe outlet InsightMag.com published an anonymously sourced report claiming that Obama attended a madrassa, or Islamic religious school, as a boy and that Clinton's campaign was the source of the story. With the aid of Fox News, these two lies turned into 11

²⁵David Bauder, "Fox boss: We want to keep Megyn Kelly," Associated Press, 27 Oct. 2016, <http://bigstory.ap.org/article/ce7de1c83d1f498cb4930bfb24ac8501/fox-boss-we-want-keep-megyn-kelly>.

*days of fact-free accusations against the leading candidates for the 2008 Democratic presidential nomination.*²⁶

In the first stage as outlined above, right-wing radio personalities gave InsightMag.com's post a platform. On January 19, the story hit the far-right radio airwaves, with hosts Rush Limbaugh, Sean Hannity, Michael Savage, and others uncritically discussing its accusations.²⁷

Then in stage two, the story jumped to Fox News, which devoted four segments to the story. Mainstream media outlets followed suit. For example, on January 25, on the front page of ABC News' website, a headline read: "Madrasa Madness: Was Hillary Behind Obama Smear?" While CNN, The Associated Press, and the conservative-leaning *Washington Times* all debunked the smear and discredited its source, other mainstream media outlets and commentators continued to amplify it. Starting January 27, editorials in the *Chicago Tribune*, *Newsweek*, and *The Washington Post*, and a front-page article in *The New York Times*, had all been forced to dedicate space to this complete fabrication.²⁸

Ultimately the baseless story decelerated in the news cycle, but the lie at its core was pushed for years by politicians and media figures and shaped public perceptions of Obama's faith. A 2015 poll found that 29 percent of Americans say they think Obama, a Christian, is a Muslim, including 43 percent of Republicans.²⁹

The network has succeeded in entrenching fictions in its audience so deeply that many believe these lies as irrefutable fact. Following the 2010 election, the University of Maryland released a study showing that Fox News viewers were the most misinformed audience of any major news network. Compared to other cable news viewers, they were, for example, 31 percentage points more likely to agree that "it is not clear that Obama was born in the United States."³⁰

A national poll conducted by Suffolk University in October 2016 found that 65 percent of loyal Fox News viewers expressed concern that 2016 election results could be manipulated,³¹ echoing President Trump's baseless claims - which Fox News heavily promoted - that the election was "rigged" and would be influenced by widespread "voter fraud."³²

²⁶ Rob Dietz, "Timeline of a smear," *Media Matters for America*, 30 Jan. 2007, <http://mediamatters.org/research/2007/01/30/timeline-of-a-smear/137882>.

²⁷ Rob Dietz, "Timeline of a smear," *Media Matters for America*, 30 Jan. 2007, <http://mediamatters.org/research/2007/01/30/timeline-of-a-smear/137882>.

²⁸ Rob Dietz, "Timeline of a smear," *Media Matters for America*, 30 Jan. 2007, <http://mediamatters.org/research/2007/01/30/timeline-of-a-smear/137882>.

²⁹ Jennifer Agiesta, "Misperceptions about Obama's faith, but aren't so widespread," CNN, 14 Sept. 2015, <http://www.cnn.com/2015/09/13/politics/barack-obama-religion-christian-misperceptions/>.

³⁰ Clay Ramsay, Steven Kull, Evan Lewis, and Stefan Subias, "Misinformation and the 2010 Election: A Study of the US Electorate," College Park: University of Maryland, 10 Dec. 2010, http://drum.lib.umd.edu/bitstream/handle/1903/11375/Misinformation_Dec10_rpt.pdf;jsessionid=340BDC03BE188476C86E5AF078554031?sequence=4.

³¹ Brian Stelter, "Fox News fans pessimistic about the country, and Clinton," CNNMoney, 28 Oct. 2016, <http://money.cnn.com/2016/10/28/media/fox-news-conservative-media-poll/>.

³² "US election 2016: Trump says election 'rigged at polling places'," BBC, 17 Oct. 2016, <http://www.bbc.com/news/election-us-2016-37673797>.

The Broadcasting Code says:

5.4 Programmes in the services (listed above) must exclude all expressions of the views and opinions of the person providing the service on matters of political and industrial controversy and matters relating to current public policy (unless that person is speaking in a legislative forum or in a court of law). Views and opinions relating to the provision of programme services are also excluded from this requirement.

The Broadcasting Code says:

5.7 Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes.

Ailes and his executive team have actively required staff to express the views and opinions of the Murdochs on views of current public policy. For example, according to leaked internal emails and sources at the network, Fox News' vice president of news and Washington managing editor, Bill Sammon, directly ordered staff to echo Republican pollster recommendations about what messaging to use when covering health care reform.³³ Sometimes these orders require staff to misrepresent views and facts. The same leaks showed Sammon directly ordered staff to cast doubt on established climate science.³⁴ Discussing the dynamics in the Washington bureau during an interview, a Fox source said of Sammon's approach, "When news is being tampered with, you have to worry ... If things are being classed as news that aren't, that is a problem."³⁵

Fox News and Fox Business News also regularly blur the lines between fact and opinion due to the format of their broadcasts. They both regularly running opinion pieces with factual news ticker tape underneath.

The Broadcasting Code says:

5.8 Any personal interest of a reporter or presenter, which would call into question the due impartiality of the programme, must be made clear to the audience.

Fox Business Network has crossed this line on several occasions. On three consecutive days in April 2011, for example, it repeatedly promoted a controversial oil shale venture in Israel without disclosing that Rupert Murdoch was one of the project's most prominent investors.³⁶

Murdoch's UK papers also show a strong pattern of examples that contradicts this provision. Murdoch papers often promote movies being shown on Sky, without acknowledging the shared ownership. For example, the *Sun* provided a history lesson on Gary Powers, the man who

³³ Trudy Lieberman, "Frank Luntz Rides Again: The wordsmith and the public option," *Columbia Journalism Review*, 10 Dec. 2010, http://archives.cjr.org/campaign_desk/frank_luntz_rides_again.php.

³⁴ Jack Mirkinson, "Fox News Boss Ordered Staffers To Cast Doubt On Climate Change Science," *Huffington Post*, 15 Dec. 2011, http://www.huffingtonpost.com/2010/12/15/fox-news-climate-change-email_n_796963.html.

³⁵ "LEAKED EMAIL: Fox boss caught slanting news reporting." *Media Matters for America*, 9 Dec. 2010, <http://mediamatters.org/blog/2010/12/09/leaked-email-fox-boss-caught-slanting-news-repo/174090>.

³⁶ Sarah Pavlus, "Conflict of Interest: Fox Doesn't Disclose Murdoch Ties To Oil Shale Venture", *Media Matters for America*, 11 May 2011, <https://mediamatters.org/blog/2011/05/11/conflict-of-interest-fox-doesnt-disclose-murdoc/179523>.

inspired the film *Bridge of Spies* in December 2016. Then in January the Sun gave the same in depth treatment to little known Hugh Glass, real life story behind the film *The Revenant*. Stories like this might be more understandable when a film has just been released with a big red carpet premier, but in both cases the movie was being shown exclusively on Sky well after their original UK cinema debut.

Similar examples can be found of Murdoch papers promoting tv shows on Sky channels. For example in September 2016, *The Sunday Times* illustrated an article about the book *Conclave* with a large still from the unconnected TV show *The Young Pope*, available to watch on Sky Atlantic, along with details of when and where to view it.

Even totally unrelated articles in the Murdoch press needlessly plug the Sky brand. In a 2014 *Times* obituary for L'Wren Scott, the line "She had Sky tv in her Paris flat so that she could watch cricket" was pulled out and enlarged.

Each single example may seem trivial, but it's a pervasive and long standing pattern. A piece back from September 1999 on the police appealing for information on missing person Laura Kane included the helpful information of where to watch the football match where help was requested: "A further plea for help was flashed up on the electronic scoreboard before the kick-off of the live Sky Sports game."

This kind of cross-promotion could be expected to increase if 21C Fox takes full control of Sky.

The Broadcasting Code says:

5.12 In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

One of clearest recurring examples of a factually inaccurate view being presented as a fact is the widely debunked and condemned "birther" conspiracy (that President Obama is not a natural-born US citizen and therefore disqualified to be president) that originated during the 2008 presidential campaign. In 2011, Trump came forward and became the leading voice of the "birther" movement, raising questions about Obama's birth certificate in a series of interviews³⁷, including on Fox News, despite all the evidence to the contrary.³⁸ The network promoted Trump's claims in dozens of segments³⁹, and several of the network's hosts joined in⁴⁰,

³⁷ Nina Mast, "Flashback: How Fox News Promoted Trump's Birtherism", *Media Matters for America*, September 16, 2016, <https://mediamatters.org/research/2016/09/16/flashback-how-fox-news-promoted-trumps-birtherism/213152>.

³⁸ Ashley Parker and Steve Eder, "Inside the Six Weeks Donald Trump Was a Nonstop 'Birther'," *New York Times*, 2 July 2016, <https://www.nytimes.com/2016/07/03/us/politics/donald-trump-birther-obama.html>.

³⁹ Julie Millican, Justin Berrier, Eric Schroeck, Chelsea Rudman and Melody Johnson, "REPORT: Fox Promotes Birther Myth In At Least 52 Segments", *Media Matters for America*, April 27, 2011,

suggesting that Obama's birthplace was in doubt. This was the start of Trump's ascent to the White House, and the network's years of fearmongering about Obama's birthplace, as well as about progressive policies and immigrant and Muslim communities, provided the ladder.

Recently, there was another case of a view being represented as fact that actually led to a diplomatic incident between the US and the UK. The US government had to issue a formal apology after White House press secretary Sean Spicer cited a Fox News report to accuse the Government Communications Headquarters (GCHQ) of spying on Donald Trump on behalf of then President Barack Obama.⁴¹ Spicer used Fox's report to make the claim even after the US House and Senate intelligence committees stated they had seen no evidence of spying on Trump towers.

The claim came from Fox News' senior judicial analyst, Judge Andrew Napolitano, and can be traced in part back to an interview on the state-sponsored Russian network RT with a former CIA official who has a history of making ludicrous accusations.⁴² Once again, after this massive error in broadcasting led to political impact, the network's response was largely muted. Napolitano was removed from air briefly but then brought back as a commentator again. The presenter gave Napolitano the prompt to ask if he stood by the story, to which he replied "I do." The presenter did not challenge him and instead replied "and we'll see how the story plays out in time."⁴³

It is extremely rare for the network to publicly suspend hosts, analysts, and contributors after airing egregious rhetoric and accusations on its airwaves. Furthermore, when employees are suspended, they often return to their regular programs soon after disciplinary action despite their long track records of problematic commentary. In December 2015, Ralph Peters, a Fox News strategic analyst, was suspended for calling President Obama "a total pussy" on air and soon after returned to comment on a wide range of stories and issues.⁴⁴ Peters has a long history of promoting false claims and hate-based rhetoric on Fox News programs.

<https://mediamatters.org/research/2011/04/27/report-fox-promotes-birther-myth-in-at-least-52/179060>.

⁴⁰ Nina Mast, "Flashback: How Fox News Promoted Trump's Birtherism", *Media Matters for America*, September 16, 2016,

<https://mediamatters.org/research/2016/09/16/flashback-how-fox-news-promoted-trumps-birtherism/213152>.

⁴¹ Steven Swinford, "Donald Trump fuels diplomatic row with Britain after apology from US officials over GCHQ wiretapping claims", *Telegraph*, March 18 2017 <http://www.telegraph.co.uk/news/2017/03/17/us-makes-formal-apology-britain-white-house-accuses-gchq-wiretapping/>.

⁴² Bobby Lewis, "Fox News Conspiracy Theory That Obama Asked British Intelligence To Wiretap Donald Trump Echoes RT Interview", *Media Matters For America*, March 14 2017,

⁴³ Media Matters Staff, Fox Analyst Returns To Fox, Stands By His Debunked Theory That Obama Had The British Spy On Trump, *Media Matters For America*, March 29 2017, <https://mediamatters.org/people/andrew-napolitano>.

⁴⁴ Brian Stelter, "Fox News suspends two commentators for profanity while criticizing Obama", *CNN*, December 8 2015, <http://money.cnn.com/2015/12/07/media/fox-profanities-against-obama/index.html>.

The Broadcasting Code says:

5.13 Broadcasters should not give undue prominence to the views and opinions of particular persons or bodies on matters of political or industrial controversy and matters relating to current public policy in all the programmes included in any service (listed above) taken as a whole.

Often Fox News breaks both 5.12 and 5.13 together, driving real world political impact. For example, there is currently a debate in the US about the future of the Affordable Care Act (also known as “Obamacare”). A thoroughly debunked, Fox News-promoted lie from 2009 is still being used by some politicians as a reason to make healthcare inaccessible to millions of Americans.

Here’s how it happened. In July 2009, former New York Lieutenant Governor Betsy McCaughey falsely claimed in the Murdoch-owned *New York Post* and *Wall Street Journal* that a health care reform bill introduced by the House of Representatives would “require” end-of-life counseling for seniors to “tell them how to end their life sooner.”⁴⁵ Fox News pundits began citing her claims immediately, but the smear was popularised with the frame “death panels” by former Republican vice presidential nominee Sarah Palin in August 2009. Within days, Fox personalities had picked up and spread the false “death panels” smear – and Fox hired Palin as a commentator just months later.⁴⁶

Although the claim was widely debunked, including via its selection by PolitiFact as its 2009 “Lie of the Year,”⁴⁷ Fox pushed the myth in various forms for years. Elected officials still uncritically cite “death panels” to this day. For example, at a recent Republican town hall meeting in Florida, a local GOP county official explained his support for repealing the Affordable Care Act by saying, “There is a provision in there that anyone over the age of 74 has to go before what is effectively a death panel.”⁴⁸

The recent example of Australia provides a blueprint for turning Sky into Fox with regard to accuracy and impartiality. The Murdochs completed a 100% takeover of Sky Australia in December 2016, a takeover process which started in 2015. Previously ownership was split between Nine News, Seven News and Sky Europe.⁴⁹

Sky News in Australia is already becoming like Fox News. Sky News’ daytime broadcast is still a rolling news format with some excellent anchors and quality political news. But the prime time schedule, starting from 7PM, is very different. It is opinion-led, with a bias towards the extreme

⁴⁵ Karen Famighetti, “A History Of Death Panels: A Timeline,” *Media Matters for America*, 22 March 2011, <http://mediamatters.org/research/2011/03/22/a-history-of-death-panels-a-timeline/177776#1>.

⁴⁶ Hannah Dreier, “Fox News personalities advance Palin’s ‘death panel’ claim,” *Media Matters for America*, 10 Aug. 2009, <http://mediamatters.org/research/2009/08/10/fox-news-personalities-advance-palins-death-pan/153138>.

⁴⁷ Angie Drobnic Holan, “PolitiFact’s Lie of the Year: ‘Death panels,’” PolitiFact, 18 Dec. 2009, <http://www.politifact.com/truth-o-meter/article/2009/dec/18/politifact-lie-year-death-panels/>.

⁴⁸ Eric Bradner, “‘Death panel’ disputes erupt at Florida GOP congressman’s town hall,” CNN, 11 Feb. 2017, <http://www.cnn.com/2017/02/11/politics/death-panel-florida-gop-congressman/>.

⁴⁹ Darren Davidson, “News Corp completes takeover of Sky News parent ANC”, *The Australian*, December 1 2016

<http://www.theaustralian.com.au/business/media/news-corp-completes-takeover-of-sky-news-parent-anc/news-story/64795d6f2d93d261dffdf8ad392e39a4>.

right. Many of its hosts are News Corp columnists, and they regularly interview other columnists and journalists from News Corp coverage preferences a series of conservative viewpoints. On issues, there are many biases displayed, including against renewable energy, against gay marriage, against Muslim immigration, against Australia's public broadcaster ABC and against unions.⁵⁰

Media analyst Steve Allen, chief executive of Fusion Strategy (which has done work for Sky) argues that Sky has adopted the playbook developed by Roger Ailes for Fox News in America, which runs straight news during the day and seeks to draw viewers in the evenings with a line-up of partisan commentators, overwhelmingly of the right, in the evenings. This unbalanced approach is unlike any other TV station in Australia. Allen believes that in the long run Murdoch is aiming to create a "potent and dangerous" political voice.⁵¹

Section six: Elections and referendums

The Broadcasting Code says:

6.1 The rules in Section Five, in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy, apply to the coverage of elections and referendums.

6.6 Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during the election period. BBC ODPS are not required to remove archive content for the election or referendum period.

Fox News' partial and inaccurate coverage continues during US election seasons, with the objective of influencing election outcomes. Starting in 2009, the network played a key role in the rise of the Tea Party - a far-right social movement that became a recognisable arm of the Republican party. Fox News aired repeated segments encouraging viewers to join the movement and its upcoming protests, even providing protest dates, locations and website information.⁵² By encouraging people to attend local rallies, the network lent structure and legitimacy to what might have otherwise been a brief episode. In contrast, Fox News aired

⁵⁰ "Sky News is not yet Fox News, but it has the good, the bad and the uglies", The Conversation, February 15, 2017, <https://theconversation.com/sky-news-is-not-yet-fox-news-but-it-has-the-good-the-bad-and-the-uglies-72510>.

⁵¹ Nick O'Malley, "The strategy behind Mark Latham's Sky News controversies", March 29, 2017 <http://www.smh.com.au/entertainment/tv-and-radio/the-strategy-behind-mark-lathams-sky-news-controversies-20170328-gv88xf.html>.

⁵² Eric Hananoki, "REPORT: 'Fair and balanced' Fox News aggressively promotes 'tea party' protests," *Media Matters for America*, 8 April 2009, <http://mediamatters.org/research/2009/04/08/report-fair-and-balanced-fox-news-aggressively/149009>.

negative coverage of 2011 protests that favoured collective bargaining rights, with hosts and pundits falsely calling pro-union protesters “violent.”⁵³

Fox News followed up by supporting the Republican party on an industrial scale. A report found that during the 2009-2010 election cycle, more than 30 Fox News personalities endorsed, raised money for, or campaigned for Republican candidates or organizations in more than 600 instances. In the run up to the 2014 and 2016 election cycles, the network became an incubator for Republican politicians and served as the stage for Republican presidential primaries. Numerous Fox News personalities have left the network to run for office (several returned to Fox after losing) especially for the 2016 presidential election. In many instances, the network helped launch those Republicans’ political careers while they were on the payroll, including Ben Carson, Mike Huckabee, Newt Gingrich, John Kasich, Rick Santorum, and Scott Brown.⁵⁴

Just as they have with Fox News in the US, the Murdochs have used their UK newspapers as tools to advance their political priorities and shape policy. The perception of power around Murdoch-owned media is so powerful that the threat of being attacked by his press has forced at least the last five British prime ministers to seek his support to get into office and remain there. Here are some telling examples of how his newspapers have pushed their political agenda in the UK:

- For years, Murdoch and *The Sun* have skirted journalistic integrity to fuel Euroscepticism. In the run up to last year’s referendum, the newspaper published a misleading front page story declaring that the “Queen backs Brexit,” which forced Buckingham Palace to issue a complaint to the Independent Press Standards Organisation (IPSO). The IPSO called the headline “significantly misleading” and said it breached the first clause (accuracy) of its Editors’ Code of Practice.⁵⁵ Buckingham Palace released a statement saying, “The Queen remains politically neutral, as she has for 63 years. We will not comment on spurious, anonymously sourced claims. The referendum is a matter for the British people to decide.”⁵⁶
- Following the Conservative leadership race after the referendum, Murdoch threw his weight behind his former *Times* reporter and Conservative Member of Parliament Michael Gove, declaring he’d be “happy for Michael Gove to get” the top post.⁵⁷ Later, Gove obtained the first post-election UK exclusive interview with President-elect Trump, ahead of any working journalist, and ahead of any official meetings with representatives

⁵³Melody Johnson, “‘Frothing,’ ‘Rabid,’ ‘Slobs,’: The Right-Wing Media’s Smear Campaign Of Pro-Union Protesters,” *Media Matters for America*, 10 March 2011, <http://mediamatters.org/research/2011/03/10/frothing-rabid-slobs-the-right-wing-medias-smear/177452>.

⁵⁴Eric Hananoki and Ben Dimiero, “Roger Ailes’ Legacy: Building The GOP’s Communications Arm Under the Guise Of A ‘News Network’,” *Media Matters for America*, 19 July 2016, <http://mediamatters.org/research/2016/07/19/roger-ailes-legacy-building-gops-communications-arm-under-guise-news-network/211722>.

⁵⁵“Sun’s Queen Brexit headline ruled ‘misleading,’” BBC, 18 May 2016, <http://www.bbc.com/news/uk-36319085>.

⁵⁶“Sun editor defends ‘Queen backs Brexit’ headline as watchdog rules it inaccurate,” *The Guardian*, 18 May 2016, <https://www.theguardian.com/uk-news/2016/may/18/queen-backs-brexite-headline-in-the-sun-was-inaccurate-press-watchdog-rules>.

⁵⁷Peter Sterne, “Rupert Murdoch’s influence felt in post-Brexit political chaos,” *Politico*, 30 June 2016, <http://www.politico.com/media/story/2016/06/murdochs-influence-felt-in-post-brexit-political-chaos-004640>.

of the British government. Gove asked no critical questions and it was later revealed that Murdoch had sat in on the interview.⁵⁸

- Murdoch was formative in shaping the British agenda around the Iraq War. Freedom of information requests reveal that he had three conversations with then-Prime Minister Tony Blair in the nine days before the war. His British newspapers *The Sun* and *The Times* kept up a steady drumbeat of stories and editorials in support of the war despite growing opposition among readers. *The Times* declared, “Winning the public-relations battle is almost as vital as military victory.”⁵⁹ In 2003, nearly all of News Corp.’s 175 newspapers worldwide aired support for the war, even in countries like Australia where public opinion was strongly against intervention without a UN mandate.⁶⁰ Blair’s deputy director of communications, Lance Price, called Murdoch the “24th member of the cabinet,”⁶¹ and Murdoch later admitted that News Corp. “basically supported the Bush policy in the Middle East.”⁶²

These practices are of course legal with regards to British newspapers. While there are currently different rules governing broadcast news in the UK, these are not foolproof, as discussed below. Murdoch’s use of US broadcast news and UK newspapers for political outcomes gives a preview of what he might aim to do with Sky News if the Murdochs take full control and use their considerable power to change or skirt broadcasting standards.

6.5 Broadcasters may not publish the results of any opinion poll on polling day itself until the election or referendum poll closes. (For European Parliamentary elections, this applies until all polls throughout the European Union have closed.)

The aim of this rule is to ensure that broadcast coverage on the day doesn’t unduly impact people’s voting choices, and ultimately the election and referendum outcomes. An example from the 2000 US election doesn’t contradict the letter of this provision, but it breaks the Code’s spirit, showing that Fox News had a significant and partisan impact on the outcome of that election.

Fox News hired right-wing media consultant John Ellis, a cousin of the candidate George W. Bush, to cover the election. It was Ellis who decided Fox News should call the state of Florida, and therefore the election, for Bush. Fox retracted this hours later, but the projection by a major news network, despite not carrying any official weight, set in motion the dynamic that Bush had already won and created the perception that Gore’s attempts to get a recount made him a sore

⁵⁸ James Martinson, “Rupert Murdoch was in room for Michael Gove’s Donald Trump Interview,” *The Guardian*, 9 Feb. 2017. <https://www.theguardian.com/media/2017/feb/09/rupert-murdoch-was-in-room-for-michael-goves-donald-trump-interview>.

⁵⁹ Roy Greenslade, “Their master’s voice,” *The Guardian*, 17 Feb. 2003, <https://www.theguardian.com/media/2003/feb/17/mondaymediasection.iraq>.

⁶⁰ Roy Greenslade, “Their master’s voice,” *The Guardian*, 17 Feb. 2003, <https://www.theguardian.com/media/2003/feb/17/mondaymediasection.iraq>.

⁶¹ Ryan Chittum, “Murdoch’s Threat To Democracy,” *Columbia Journalism Review*, 4 Oct. 2010, http://archives.cjr.org/the_audit/murdochshttps://www.washingtonpost.com/news/morning-mix/wp/2014/07/17/five-things-rupert-murdoch-and-henry-luce-would-agree-on/?utm_term=.90ed47a61ff3_threat_to_democracy.php.

⁶² Justin Moyer, “Five things Rupert Murdoch and Henry Luce would agree on,” *Washington Post*, 17 July 2014. https://www.washingtonpost.com/news/morning-mix/wp/2014/07/17/five-things-rupert-murdoch-and-henry-luce-would-agree-on/?utm_term=.90ed47a61ff3.

loser. Ellis was far from an impartial observer. In addition to being Bush's cousin, he was in communication with the campaign's headquarters all night⁶³.

Part 3: Communications Act 2003 (which mandates the Broadcasting Code)

The Communications Act states:

In setting or revising any standards under this section, OFCOM must have regard, in particular and to such extent as appears to them to be relevant to the securing of the standards objectives, to each of the following matters—
f. the desirability of maintaining the independence of editorial control over programme content.

There is widespread evidence that Rupert Murdoch is a hands-on owner whose media outlets promote his political views despite promises to the contrary. He actively undermines editorial control. A few examples from his UK titles demonstrate a clear pattern:

- Former reporters for *News of the World* shared that Murdoch “used to turn up unannounced -- you wouldn't know he was there. No jacket, sleeves rolled up, at the back bench, quite hands-on.”⁶⁴
- Kelvin MacKenzie, a former editor for *The Sun*, said he “would hear from Murdoch on a daily basis” in the 1980s.⁶⁵
- Roy Greenslade, former senior editor at both *The Sun* and *Sunday Times*, observed, “As an editor you were never in any doubt about what pleased him.”⁶⁶
- Former editor of the *Sunday Times* and *The Times* Sir Harold Evans told the Leveson Inquiry that “Mr Murdoch was constantly sending for my staff without telling me and telling them what the paper should be.”⁶⁷
- Former *Sunday Times* editor Andrew Neil told a House of Lords committee looking into media ownership in 2008, “On every major issue of the time and every major political personality or business personality, I knew what he thought and you knew, as an editor,

⁶³ Justin Berrier, FLASHBACK: How Fox's Biased Reporting Clouded The 2000 Election, November 6, 2012,

<https://mediamatters.org/blog/2012/11/06/flashback-how-foxs-biased-reporting-clouded-the/191187>.

⁶⁴ Mark Hosenball and Kate Holton, “Special report: Rupert Murdoch, a hands-on newspaperman,” Reuters, 19 July 2011, <http://www.reuters.com/article/us-newscorp-murdoch-papers-idUSTRE76I1IT20110719>.

⁶⁵ Mark Hosenball and Kate Holton, “Special report: Rupert Murdoch, a hands-on newspaperman,” Reuters, 19 July 2011, <http://www.reuters.com/article/us-newscorp-murdoch-papers-idUSTRE76I1IT20110719>.

⁶⁶ Mark Hosenball and Kate Holton, “Special report: Rupert Murdoch, a hands-on newspaperman,” Reuters, 19 July 2011, <http://www.reuters.com/article/us-newscorp-murdoch-papers-idUSTRE76I1IT20110719>.

⁶⁷ James Cusick, “Rupert Murdoch is ‘evil,’ former editor Sir Harold Evans tells Leveson Inquiry,” *The Independent*, 2011, <http://www.independent.co.uk/news/uk/politics/rupert-murdoch-is-evil-former-editor-sir-harold-evans-tells-leveson-inquiry-7763811.html>.

that you did not have a freehold, you had a leasehold ... and that leasehold depended on accommodating his views ... Rupert Murdoch is obsessed with what his newspapers say. He picks the editors that will take the kind of view of these things that he has and these editors know what is expected of them when the big issues come and they fall into line."⁶⁸

Murdoch also has a habit of breaking promises about how news outlets will be run. For example, soon after taking over *News of the World*, Murdoch abandoned his pledge to run the paper with the Carr family which had sold the paper to him after running it for 80 years.⁶⁹

In another example, Fred Emery, a former *Sunday Times* assistant editor, said Murdoch told him in March 1982 that he was considering firing then-*Times* editor Evans. Emery reminded Murdoch of his promise that editors wouldn't be fired without the approval of the independent directors. Murdoch answered, "God, you don't take all that seriously, do you?"⁷⁰ When Murdoch acquired Times Newspapers Limited in 1981, he soon fired Evans as editor of *The Times*. Evans had been the twelfth editor at *The Times* in its nearly 200 year run. And Murdoch employed and fired five editors in just eleven years. In response to Murdoch's testimony before Parliament on the phone hacking scandal, Evans wrote, "Political independence was only one of the promises he made and broke."⁷¹

In 2007, when Murdoch bought the *Wall Street Journal*, he promised the previous owners that he would maintain the paper's journalistic integrity. However, the *Journal* has come under fire both inside and outside the newsroom for its rightward shift at the expense of transparency and objectivity.

For example, during the 2016 election coverage, *Journal* staffers expressed dismay with the paper's "galling" and "absurd" Trump coverage that they believed not only undermined the paper's journalistic integrity, but also its competitive standing compared to the investigative wherewithal of *The New York Times* and *The Washington Post*.⁷² Despite the internal tumult, the *Journal* stayed the course after the election. For example, in February of this year, a memo was sent by Baker that "instructed editors to stop referring to the countries targeted in President Trump's travel and refugee executive order as 'seven majority Muslim countries' in news coverage,"⁷³ a move that divided the newsroom even more and paved the way for more staff

⁶⁸ Mark Hosenball and Kate Holton, "Special report: Rupert Murdoch, a hands-on newspaperman," Reuters, 19 July 2011, <http://www.reuters.com/article/us-newscorp-murdoch-papers-idUSTRE7611IT20110719>.

⁶⁹ Ken Auletta, "PROMISES, PROMISES. What might the Wall Street Journal become if Rupert Murdoch owned it?" *The New Yorker*, 2 July 2007, <http://www.newyorker.com/magazine/2007/07/02/promises-promises-2>.

⁷⁰ Steve Stecklow, Aaron O. Patrick, Martin Peers, and Andrew Higgins, "In Murdoch's Career, A Hand on the News," *Wall Street Journal*, 5 June 2007, <https://www.wsj.com/articles/SB118100557923424501>.

⁷¹ Harold Evans, "Harold Evans Responds To Murdoch," *The Daily Beast*, 25 April 2012, <http://www.thedailybeast.com/articles/2012/04/25/harold-evans-responds-to-murdoch.html>.

⁷² Tyler Cherry, "The Newsroom At Rupert Murdoch's WSJ Is Fed Up With Its 'Galling' Pro-Trump Coverage," *Media Matters for America*, 14 Oct. 2016, <http://mediamatters.org/blog/2016/10/14/newsroom-rupert-murdochs-wsj-fed-its-galling-pro-trump-coverage/213837>.

⁷³ Steven Perlberg, "Wall Street Journal Editor: Stop Calling The Travel Ban Countries 'Majority Muslim'," Buzzfeed News, 31 Jan. 2017, https://www.buzzfeed.com/stevenperlberg/wall-street-journal-editor-stop-calling-the-travel-ban-count?utm_term=.hpkz1RZAB#.poMdmAEx5.

departures, including the *Journal's* editorial features editor.⁷⁴

Jonathan Aitken, a Conservative MP, once summarised this tendency in the House of Commons as follows: “The plain fact is that Mr. Murdoch has strewn assurances and safeguards on newspaper and television ownership like confetti, all around the world, and that the more one examines those assurances the more one has to say that in far too many instances they have proved to be worthless”.⁷⁵

⁷⁴ Rosie Gray, “Conflict Over Trump Forces Out An Opinion Editor At The Wall Street Journal,” *The Atlantic*, 10 Feb. 2017, <https://www.theatlantic.com/politics/archive/2017/02/conflict-over-trump-forces-out-an-opinion-editor-at-the-wall-street-journal/516318/>.

⁷⁵ *Hansard*, House of Commons, 27 January 1981.

Part 4: The Murdochs' disregard for, ways around, and plans to change the broadcasting standards

Ofcom's Invitation to comment for public interest test on the proposed acquisition of Sky plc by TwentyFirst Century Fox, Inc. states that:

1.14 Subject to responses to this invitation to comment, we provisionally consider that all genres of content and all the broadcast standards objectives concerned are relevant to this public interest consideration.

Firstly, it is important to look at evidence which demonstrates a lack of support for the Broadcasting Standards.

This submission has argued that a frequent disregard for impartiality and accuracy, for example, would migrate from the US to the UK. It has demonstrated that these problems have already started to spread from the US to Australia. It is also worth looking in the other direction, to show that failures of journalistic integrity that were widespread in the UK, also spread to the US.

Even while News of the World was under public pressure for phone hacking, Murdoch's companies and news outlets continued to use these tactics elsewhere. In 2010, well after the news had broken of hacking in the UK, Media Matters senior reporter Joe Strupp investigated behaviour at Fox News; in doing so, Strupp reported on what anonymous sources at the network had told him. Years later, on September 2, 2016, reports surfaced that Fox News had sought Strupp's phone records through almost certainly illegal means in order to identify these anonymous network sources.⁷⁶

In 2011, the U.S. Department of Justice and Federal Bureau of Investigation (FBI) reviewed allegations that News Corp.'s advertising division -- News America Marketing -- hacked into competitor Floorgraphics' computers to steal information. The investigations failed to pinpoint those responsible. Years after Floorgraphics filed a lawsuit against News Corp., the salesman responsible for hacking Floorgraphics openly talked about receiving a preview of the company's ad campaigns before their rollout.⁷⁷

⁷⁶ Gabriel Sherman, "The Revenge of Roger's Angels," *New York Magazine*, 2 Sept. 2016, http://nymag.com/daily/intelligencer/2016/09/how-fox-news-women-took-down-roger-ailes.html?mid=nymag_press.

⁷⁷ Eliot Caroom, "Alleged computer hacking of N.J. company by News Corp. subsidiary gets new attention," *The Star-Ledger*, 18 July 2011, http://www.nj.com/business/index.ssf/2011/07/alleged_computer_hacking_of_nj.html.

There are also breaches that Ofcom have already cited with regard to Fox News' willingness to breach existing rules. Notable examples include:

1. During "routine monitoring," Ofcom found three episodes in which Fox News host Sean Hannity's coverage of the US elections was heavily biased in favour of Trump. The regulator said there were "no criticisms of Donald Trump's policies, actions or integrity analogous to criticisms in the same areas made about Hillary Clinton."⁷⁸
2. Ofcom ruled that Fox News violated election broadcast rules by airing pro-Brexit coverage on the day of the European Union (EU) referendum. An Ofcom spokesman said, "Following a careful investigation, we found that Fox News breached broadcasting rules by showing a discussion about the EU referendum while the polls were open on the day of the referendum."⁷⁹ The coverage breached rule 6.4 for programmes at the time of elections and referendums.⁸⁰
3. The Fox News programme that reported that Birmingham was a city "where non-Muslims just simply don't go" -- the heart of the "no-go zone" myth noted above -- also breached impartiality rules.⁸¹ Ofcom reported that the broadcast was "materially misleading and had the potential to cause harm and offence to viewers" in the wake of the *Charlie Hebdo* attack in Paris.
4. Ofcom ruled that a *Fox Extra* broadcast on April 7 about whether abortion should be lawful in the US breached broadcasting rules because alternative viewpoints were completely excluded.⁸²

Fox's attitude to covering the 22nd March attack on Westminster shows it hasn't learned from these breaches and changed its approach significantly.

Secondly, Fox-style tactics could legally spread to the UK despite the different regulatory regime.

Some of the Murdochs' tactics described above would not easily go without consequence in the UK. For example, the Ofcom Broadcasting code forbids politicians acting as newsreaders, interviewers or reporters unless there is an exceptional editorial justification. This would make it much harder to have the same kind of revolving door between a Fox-owned UK newsroom and Westminster as there is between the Fox-owned US newsroom and Washington.

⁷⁸ Ofcom, "Ofcom Broadcast and On Demand Bulletin," *Issue Number 317*, p. 22, 21 Nov. 2016, https://www.ofcom.org.uk/__data/assets/pdf_file/0023/94271/Issue-317.pdf.

⁷⁹ Mark Sweney, "Fox News broke broadcasting rules with pro-Brexit views on EU referendum day," *The Guardian*, 22 Aug. 2016, <https://www.theguardian.com/media/2016/aug/22/fox-news-brexit-eu-referendum-bbc-ofcom>.

⁸⁰ Ofcom, "Ofcom Broadcast and On Demand Bulletin," *Issue Number 311*, p. 8, 22 Aug. 2016, https://www.ofcom.org.uk/__data/assets/pdf_file/0028/88750/Issue_311_of_Ofcoms_Broadcast_and_On_Demand_Bulletin.pdf.

⁸¹ John Plunkett, "Ofcom criticises Fox News for calling Birmingham no-go zone for non-Muslims," *The Guardian*, 21 Sept. 2015, <https://www.theguardian.com/media/2015/sep/21/ofcom-criticises-fox-news-for-calling-birmingham-no-go-zone-for-non-muslims>.

⁸² Ofcom, "Ofcom Broadcast and On Demand Bulletin," *Issue Number 311*, p.12, 22 Aug. 2016, https://www.ofcom.org.uk/__data/assets/pdf_file/0028/88750/Issue_311_of_Ofcoms_Broadcast_and_On_Demand_Bulletin.pdf.

However, other tactics to distort the truth and alter public opinion for political gain are permitted under UK regulations. For example, the decision of what stories to cover is not governed by Ofcom's impartiality rules. Fox News is free to use its share of voice to turn a fringe story into a massive media circus. This concern was noted by the Secretary of State in her recent letter about the acquisition:

The parties contend that the requirements of impartiality in the Broadcasting Code provide a significant constraint on the ability of owners to exert control over the output of Sky News. However, while Ofcom considered these requirements to be relevant, in its report on the 2010 bid Ofcom concluded that they did not adequately address all potential concerns in particular because they "would not necessarily prevent an individual with control of a media organisation from influencing the news agenda through the selection or omission of stories".⁸³

Perhaps more importantly, after the fact enforcement will not prevent the damage Fox News' tactics will have on British public opinion and the overall state of public discourse. Fox's tactic of quickly amplifying false news to the extent that even denials feed the story and further impact public opinion cannot be stopped by after the fact intervention. Given both Murdoch's disregard for the rules and Fox News' run ins with regulators here in the UK, it is very reasonable to assume that the "Fox effect" will continue to be a problem.

Finally, there is significant evidence to conclude that the Murdochs will attempt to dilute existing broadcasting standards in the UK.

In the US, Murdoch has worked for years to ease regulations on media consolidation. During the Clinton administration, he mobilised Republican support when the then-Federal Communications Commission (FCC) chairman, Reed E. Hundt, launched an investigation into whether News Corp. violated commission rules in its acquisition of television stations to form the Fox Network.⁸⁴ After being confronted by Murdoch's then-chief lobbyist, the FCC granted News Corp. a waiver, permitting Murdoch's network to remain intact. The deal was later determined to be in violation of the rules. This marked the first of many successful attempts by Murdoch to win exemptions and expand his company.⁸⁵ Marking the height of Murdoch's influence in championing deregulation in the US media landscape, the mogul was asked by President Trump in January 2017 to submit the names of possible nominees for FCC chairman.⁸⁶

Murdoch has also successfully pressured UK governments from different parties. Similar to the

⁸³ Bradley, Karen, "To Jeffrey Palker and James Conyers" 3 March 2017. 21st Century Fox Inc. and Sky Plc. European Intervention Notice. *DCMS website* www.gov.uk/government/uploads/system/uploads/attachment_data/file/596538/20130303_Sky_letter_FINAL.pdf.

⁸⁴ Jo Becker, "Murdoch, Ruler of a Vast Empire, Reaches Out for Even More," *New York Times*, 25 June 2007, <http://www.nytimes.com/2007/06/25/business/media/25murdoch.html>.

⁸⁵ Jo Becker, "Murdoch, Ruler of a Vast Empire, Reaches Out for Even More," *New York Times*, 25 June 2007, <http://www.nytimes.com/2007/06/25/business/media/25murdoch.html>.

⁸⁶ Gabriel Sherman, "Megyn Kelly's Departure Is A Big Clue About the Future of Fox News," *New York Magazine*, 3 Jan. 2017, <http://nymag.com/daily/intelligencer/2017/01/megyn-kellys-departure-is-clue-about-future-of-fox-news.html>.

waiver News Corp won from the FCC, Rupert Murdoch's influence was clear on the final Broadcasting Act, 1990. This Act introduced a ban on foreign ownership of TV stations, but exempted Rupert Murdoch, whose new Sky TV was a satellite service. The same Act introduced new cross-media ownership rules, which did apply to satellite TV, but exempted Rupert Murdoch *because* he was foreign. Then, one year later, when Sky had to merge with BSB, to avoid going bust, Murdoch had to admit he was now a British operator but "managed to squeeze through yet another loophole in the law with Maggie's blessing ... the rules were being bent every which way to Rupert could get his way".⁸⁷

In May 1995, Conservative Government proposals to limit media ownership to 20 percent of market share was met with such hostility by Murdoch-owned media that the government dropped the plan. The Labour Government under Tony Blair also refused to take on the Murdoch media over the issue of media plurality. Blair's Deputy Prime Minister John Prescott commented "he buys influence, doesn't he? I mean, how did he get us to change our media laws to give him cross-media control? That requires government to agree." And Murdoch's influence over the Blair government was confirmed by Conservative peer Lord Fowler, who steered the 2003 Communications Act through the House of Lords. Fowler says that a late amendment to this law which made it possible for Murdoch to bid for BSkyB "had come straight from Number 10".⁸⁸

As the Murdochs have already influenced one of the key Acts of Parliament that are germane to this review, it is highly likely that they may try to carve out exceptions or changes to another one, the Broadcasting Act. Indeed, in 2009, James Murdoch referred to Broadcasting Act standards objectives as "authoritarianism," implying that the Murdochs may have set their sights on weakening broadcasting standards regulations.⁸⁹

Additionally, the behaviour of the Murdochs and of executives and lobbyists paid by them around the 2010-11 BSkyB bid shows a clear intent to obtain and use inappropriate information about a quasi-judicial process, to their commercial advantage. For example, Fred Michel, a senior lobbyist, wrote to his employer James Murdoch on 24 January 2011 saying "Managed to get some infos on the [Secretary of State's] plans for tomorrow, though absolutely illegal". This referred to advance notice on the planned release of a key Ofcom report to Parliament. Less than two weeks earlier, Michel had written to James Murdoch saying that the minister had asked them to "find as many errors as we can in the Ofcom report" (which they had obtained advance sight of before its release), and asking for "some favourable op-ed coverage" in *The Sun*.⁹⁰

⁸⁷ Paul Barry, "Breaking News, Sex, Lies and the Murdoch Succession", *Allen and Unwin*, p.61.

⁸⁸ Murdoch's Scandal, film transcript. Available at: <http://www.pbs.org/wgbh/frontline/film/murdochs-scandal/transcript/>.

⁸⁹ James Murdoch. "The Absence Of Trust." *2009 Edinburgh International Television Festival*, Edinburgh International Conference Centre, Edinburgh. 28 Aug. 2009. <http://image.guardian.co.uk/sys-files/Media/documents/2009/08/28/JamesMurdochMacTaggartLecture.pdf>.

⁹⁰ James Murdoch, "Oral evidence to The Leveson Inquiry", 25 April, 2012, afternoon, p.11, www.levesoninquiry.org.uk/wp-content/uploads/2012/04/Transcript-of-Afternoon-Hearing-24-April-2012.pdf. For a record of the many meetings between News Corporation representatives and politicians during this time, see Exhibit KRM19, www.levesoninquiry.org.uk/wp-content/uploads/2012/04/Exhibit-KRM-18.pdf and www.levesoninquiry.org.uk/wp-content/uploads/2012/04/Exhibit-FM-1.pdf.

Conclusion: Fox's bid to take full ownership of Sky presents material public interest issues and should be stopped

Rupert Murdoch has expressed a clear desire for Sky News to become more like Fox News. For example, House of Lords committee minutes reveal that Murdoch wants Sky News to more closely resemble Fox News.⁹¹

If he and his companies were to take on sole ownership of Sky, he would have the power to reshape Sky in Fox's image. The experience of the US shows that Fox has tested and perfected a series of tactics to use broadcast news to create widespread belief in false news stories which result in political outcomes. The experience in Australia shows that he will replicate Fox in other countries by significantly altering Sky news. Experience in both the US and the UK shows that Murdoch's promises with regard to journalistic integrity and editorial independence cannot be trusted. And again evidence from both countries shows that Rupert Murdoch is willing to use his share of voice to achieve policy goals for both general political purposes and to alter the regulatory regimes relevant to his companies.

The serious corporate governance and compliance issues at Murdoch companies on both sides of the Atlantic also demonstrates a lack of genuine commitment to standards objectives, and the difficulty of regulating the companies. They additionally raise significant questions about the Murdochs' fitness and propriety to hold a UK broadcast licence.

It is therefore incumbent upon Ofcom to recognise that there is a serious material public interest issue on broadcasting standards and to recommend that the Secretary of State should refer the case to the Competition and Markets Authority (CMA) for further analysis.⁹²

⁹¹ Owen Gibson, "Murdoch wants Sky News to be more like rightwing Fox," *The Guardian*, 24 Nov. 2007, <https://www.theguardian.com/media/2007/nov/24/bskyb.television>.

⁹² Additional submissions by Avaaz and other organisations to this March 2017 Ofcom consultation process also demonstrate serious a material public interest issue with regard to plurality that Ofcom should also recommend be referred to the CMA by Secretary of State, and outline why Ofcom should declare the Murdochs not fit and proper under the licensing regime.