

Ofcom advice to Hunt published

By Damian Tambini

Jeremy Hunt today released Ofcom's report on the proposed acquisition of the remaining stake in BSkyB by News International. The regulator recommends that the Competition Commission conduct a further inquiry into media plurality because:

'it may be the case that the proposed acquisition may be expected to operate against the public interest since there may not be a sufficient plurality of persons with control of media enterprises providing news and current affairs to UK-wide cross-media audiences.'

This might seem like qualified hedging on top of qualified hedging, but Ofcom's threshold is relatively low: it merely had to establish enough doubt about the public interest and plurality impact of the merger to call for a further inquiry. Assuming Hunt heeds this advice, the Competition Commission's task will be more difficult.

One of the more interesting aspects of the report is that it is so deeply sceptical about remedies. If News International can think of some way of satisfying authorities that the merger doesn't operate against the public interest, they may still get it through. But this report merely states that stakeholders had nothing to say about potential 'undertakings' – such as selling Sky News, partly because there appears to be no one who would pay for the flagship news operation.

Jeremy Hunt could theoretically of course choose to rule against Ofcom's advice. But he would have to give some pretty convincing reasons why – particularly given the question marks over relations between his government and the News International camp.

Hunt does seem determined to avoid referring to the Competition Commission. He has **announced** that he is hearing – with advice from the Office of Fair Trading – representations on undertakings that may address the plurality concerns. From a News International point of view this would avoid costly delays at this difficult time.

See Ofcom's *Report on public interest test* published today, and Ofcom's other reports on the **Public Interest Test** (November 2010).

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