

OFFER BY 21ST CENTURY FOX, INC. FOR THE REMAINING SHARES IN SKY PLC

UNDERTAKINGS GIVEN BY THE WALT DISNEY COMPANY PURSUANT TO PARAGRAPH 9 OF SCHEDULE 2 OF ENTERPRISE ACT (PROTECTION OF LEGITIMATE INTERESTS) ORDER 2003

WHEREAS:

- (a) 21CF proposes to acquire the entire issued and to be issued share capital of Sky that 21CF does not already own.
- (b) On 16 March 2017 the then Secretary of State issued a European Intervention Notice under section 67(2) of the Act and the Order in connection with the Transaction.
- (c) On 20 September 2017 the then Secretary of State, in exercise of her powers under Article 5(3) of the Order in connection with the Transaction, made a reference to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 in order that the group might investigate and report on the questions referred to in Articles 6(2), (3) and (4) of the Order within the period set down in Article 9 of the Order (the **Reference**).
- (d) On 1 May 2018 the Secretary of State received a report of the CMA under Article 8 of the Order.
- (e) On 5 June 2018 the Secretary of State published his decision in connection with the Transaction under Article 12(2) of the Order (the **Decision**). In the Decision, the Secretary of State decided that the conditions set out in Article 12 (6)(a) – (c) are met.
- (f) Under Article 12(7) of the Order, the Secretary of State has a discretion to take such action under paragraph 9 or 11 of Schedule 2 to the Order as he considers reasonable and practicable to remedy, mitigate or prevent any of the effects adverse to the public interest which he has decided may be expected to result from the creation of the European relevant merger situation.
- (g) Under paragraph 9 of Schedule 2 to the Order, the Secretary of State may accept undertakings as he considers appropriate to remedy, mitigate or prevent such effects.
- (h) Disney has proposed to purchase from 21CF all of the issued share capital of Sky News pursuant to the Divestiture Agreement.
- (i) The Secretary of State considers that the undertakings given below by Disney, when considered in conjunction with the 21CF Undertakings, are appropriate to remedy, mitigate or prevent the effects adverse to the public interest which the Secretary of State has decided may be expected to result from the creation of the European relevant merger situation.

NOW THEREFORE Disney hereby gives to the Secretary of State the following undertakings for the purpose of remedying, mitigating or preventing the effects adverse to the public interest which may be expected to result from the Transaction.

1. EFFECTIVE DATE OF THE UNDERTAKINGS

1.1 These undertakings shall take effect from the date that, having been signed by Disney, they are accepted by the Secretary of State.

2. COMMITMENT TO TAKE REASONABLE STEPS TO FACILITATE THE ACQUISITION OF SKY NEWS

2.1 Disney shall take all reasonable steps to enable the acquisition by Disney of Newco pursuant to the Divestiture Agreement to proceed to completion and implementation as swiftly as possible and at the latest by the Long Stop Date.

2.2 Without prejudice to the generality of section 2.1, Disney shall take all reasonable steps to ensure that it secures the regulatory approvals listed at section 3.1(d) of the Divestiture Agreement.

2.3 If Disney considers that the transfer of Newco to Disney is unlikely to take place before the Long Stop Date it shall immediately inform the Secretary of State, explaining why it has formed such a belief.

3. PROHIBITION ON APPOINTMENTS TO DISNEY GROUP COMPANIES

3.1 Disney shall not appoint as a director of Newco or any subsidiary of Newco or as the person to whom the Head of Sky News directly reports any person who does not qualify as an Independent Director.

3.2 Disney shall not employ any member of the Murdoch Family as an officer (including as an executive or non-executive director) or senior manager at Newco or at any direct or indirect parent company of Newco (including, without limitation, the Walt Disney Company), and shall not appoint any member of the Murdoch Family or any Associated Person to any position that would allow that person to exercise influence or control over Sky News.

4. COMMITMENT TO OPERATE SKY NEWS FOR 15 YEARS

4.1 If Disney completes and implements its proposed acquisition of Newco, then it shall, subject to section 6, operate Sky News for a 15-year period (commencing on the Divestiture Date) by maintaining a Sky-branded news service received primarily in the UK which will abide by the principle of editorial independence and integrity in news reporting.

5. COMMITMENT TO INVEST IN THE OPERATION AND DEVELOPMENT OF SKY NEWS

5.1 If Disney completes and implements its proposed acquisition of Newco, then Disney shall develop the Sky News services with continued investment in high quality news and UK- based journalism and shall continue to target a UK-wide reach and in particular shall:

- (i) maintain the operating investment in Newco at a level not materially different (taking into account Cost Inflation) from £ [REDACTED] (the **Newco Disney Financial Envelope**), for 5 years from the Divestiture Date (the **Initial Period**);

- (ii) in the ten-year period thereafter, conditional upon receipt by Newco of the Newco 21CF Financial Envelope, maintain the Newco Disney Financial Envelope at a level not materially different to the preceding period (taking into account Cost Inflation and market conditions), save that this level shall not be lower than (i) the operating investment made in respect of the fifth year plus (ii) an adjustment to reflect Cost Inflation in the period between the fifth year and the year in respect of which the operating investment is being made;
- (iii) ensure that Newco receives for its own use the full amount of the Newco 21CF Financial Envelope; and
- (iv) ensure that for each of the 15 years from the Divestiture Date the total funds available to Newco shall be not less than £100m, taking account of the sums payable as part of the Newco 21CF Financial Envelope but excluding potential borrowings such as overdrafts, loans and other credit facilities. Disney shall not prohibit or otherwise limit or restrict Newco's ability to spend any or all of the total funds available.

6. RESTRICTIONS ON THE DISPOSAL OF SKY NEWS

- 6.1 Disney shall not dispose of Sky News (whether through a sale of shares or assets or otherwise) during the period of 15 years from the date on which Disney completes and implements the acquisition of Newco without obtaining the prior written approval of the Secretary of State, such approval not be unreasonably withheld, and, for the avoidance of doubt, the Secretary of State shall be free to refuse to grant approval if the proposed purchaser identified by Disney:
- (i) does not meet the Purchaser Suitability Criteria defined in Annex 1; and/or
 - (ii) refuses to provide undertakings to the Secretary of State that are materially the same as these undertakings to the extent that all or any portions of them have not yet expired.

7. COMMITMENT ABOUT DISNEY GROUP'S DEALINGS WITH SKY NEWS

- 7.1 Whilst Disney owns Sky News, Disney shall procure that the Walt Disney Company and any member of the same Group of Interconnected Bodies Corporate as Disney (other than Sky News) and shall use its best endeavours to procure that its Affiliates (other than Sky News) deal with Sky News on terms that are no less favourable to Sky News than arm's length normal commercial terms.

8. ARTICLES OF ASSOCIATION

- 8.1 For a period of 15 years from the Divestiture Date, Disney shall:
- (i) maintain the corporate governance structure of Newco described in the first sentence of section 3.1(i) of the 21CF Undertakings;
 - (ii) ensure that the Articles of Association provide that no changes may be made to the Sky News Editorial Guidelines without the prior approval of Ofcom;

- (iii) not cause, or attempt to cause, Newco to act in breach of its Articles of Association.

9. ONGOING REGULATORY APPROVALS

- 9.1 Disney shall take all reasonable steps to ensure that it secures all regulatory approvals, and complies with all regulatory requirements, needed for it to operate Sky News for a 15-year period (i.e. as specified in section 4.1 above).

10. COMPLIANCE

- 10.1 Disney shall comply promptly with such written directions as the Secretary of State may from time to time give:
 - (i) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
 - (ii) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.
- 10.2 Disney shall procure that any member of the same Group of Interconnected Bodies Corporate as Disney complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as Disney shall be attributed to Disney for the purposes of these undertakings.
- 10.3 Where any Affiliate of Disney is not a member of the same Group of Interconnected Bodies Corporate as Disney, Disney shall use its best endeavours to procure that any such Affiliate will comply with these undertakings as if it had given them.

11. VARIATION AND TERMINATION

- 11.1 These undertakings shall remain in force for 15 years from the Divestiture Date or until such earlier time as they are varied, released or superseded under the Order.
- 11.2 In the event of a material change of circumstances, the Secretary of State may, in response to a written request from Disney, vary or release one or more of these undertakings.
- 11.3 The Secretary of State may, in response to a written request from Disney, or otherwise at his or her own discretion, grant an extension to any time period referred to in these undertakings.
- 11.4 The variation, release or supersession of these undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

12. PROVISION OF INFORMATION

- 12.1 Disney shall furnish promptly to the Secretary of State such information as the Secretary of State considers necessary in relation to or in connection with the implementation and/or enforcement of and/or monitoring the compliance with these undertakings, including for the avoidance of doubt, any confidential information.

13. GOVERNING LAW

- 13.1 These Undertakings shall be governed and construed in all respects in accordance with English law.
- 13.2 Any dispute concerning these Undertakings shall be subject to the jurisdiction of the courts of England and Wales.

14. INTERPRETATION

- 14.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.
- 14.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.
- 14.3 In these undertakings the word "including" shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 14.4 For the purposes of these undertakings:

“**21CF**” means 21st Century Fox, Inc.;

“**21CF Undertakings**” means the undertakings given to the Secretary of State by 21CF for the purpose of remedying, mitigating or preventing the effects adverse to the public interest which may be expected to result from the Transaction.

“**Act**” means the Enterprise Act 2002;

“**Affiliate**” of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

“**Articles of Association**” means the articles of association of Newco in the form attached at **Annex 1** to the 21CF Undertakings.

“**Associated Person**” means a person or persons associated with 21CF, News Corp or any member of the Murdoch Family within the meaning of section 127(4) of the Act and includes any Subsidiary;

“**business**” has the meaning given by section 129(1) and (3) of the Act;

“**CMA**” means the Competition and Markets Authority;

“**Control**” shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 40 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body

corporate of 40 per cent or more of the total number of votes which may be cast at such meetings;

“**Cost Inflation**” means CPI or RPI, whichever is the greater;

“**CPI**” means the consumer prices index, as published from time to time by the Office for National Statistics;

“**Disney**” means The Walt Disney Company or an Affiliate of The Walt Disney Company;

“**Divestiture Date**” has the meaning set out in section 7.1 of the 21CF Undertakings;

“**Divestiture Agreement**” has the meaning set out in section 7 of the 21CF Undertakings;

“**Effective Date**” means the date that, having been signed by Disney, these undertakings are accepted by the Secretary of State, as described at 1.1 above;

“**Group of Interconnected Bodies Corporate**” has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

“**Head of Sky News**” means the individual responsible for setting commercial strategy and operating within the Newco Financial Envelope, and setting editorial strategy and direction for Sky News’ digital, television and radio output, including holding the ultimate responsibility for the appointment and dismissal of Sky News employees (including presenters);

“**Independent Director**” means a member of the company’s board of directors who:

- has not been an employee of 21CF, News Corp, any member of the Murdoch Family or any member of the same Group of Interconnected Bodies Corporate as 21CF (excluding the company and Disney) or News Corp in the ten-year period preceding the Effective Date or within the five year period preceding the date of their first appointment;
- does not have, and has not had within the three year period preceding the date of their first appointment to the company’s board of directors, a material business relationship with 21CF, News Corp or any member of the Murdoch Family, either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship (Sky’s independent directors shall not be excluded from this definition by virtue of having served on Sky’s board); For these purposes, employees of Disney and staff employed within Sky News shall be deemed not to have any such material business relationship unless they are members of the Murdoch Family or were employed by 21CF (other than within the Sky News business) or News Corp within the last three years;
- has not received and does not receive additional remuneration from 21CF, News Corp or any member of the Murdoch Family, apart from a director’s fee, does not participate in 21CF’s or News Corp’s share option or

performance-related pay scheme, and is not a member of the company's, 21CF's or News Corp's pension scheme;

- does not have close family ties with any of 21CF's or News Corp's advisers, directors or senior employees or with any member of the Murdoch Family;
- does not have significant links with directors of 21CF or News Corp through involvement in other companies or bodies or with any member of the Murdoch Family;
- does not represent a significant 21CF or News Corp shareholder or any member of the Murdoch Family; and
- has not served on the board of 21CF, News Corp, any company controlled by any member of the Murdoch Family or any company on whose board any member of the Murdoch Family has served in the ten-year period preceding the Effective Date or within the nine year period preceding the date of their first appointment;

“Interest” includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders' meetings; and for this purpose “an interest in shares” includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

“Long Stop Date” means the Long Stop Date specified in the Divestiture Agreement, as modified by any directions from the Secretary of State under section 14.3 of the 21CF Undertakings.

“Murdoch Family” means Rupert Murdoch, Lachlan Murdoch and James Murdoch;

“Newco” means the private limited company (including, where relevant, any wholly-owned subsidiary of such private limited company) into which the business of Sky News will be transferred and which will continue to operate that business, as described in section of the 21CF Undertakings;

“Newco 21CF Financial Envelope” has the meaning set out in sections 5.2 and 8 of the 21CF Undertakings;

“Newco Board” means the board of directors of Newco;

“Newco Disney Financial Envelope” has the meaning set out in section 5.2 of the 21CF Undertakings;

“Newco Financial Envelope” means, together, the Newco 21CF Financial Envelope and the Newco Disney Financial Envelope;

“News Corp” means News Corporation;

“Ofcom” means the Office of Communications as established by the Office of Communications Act 2002, or, where relevant, the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;

“**Order**” means the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003, as amended by the Enterprise Act 2002 (Protection of Legitimate Interests)(Amendment) Order 2014;

“**RPI**” means the retail prices index, as published from time to time by the Office for National Statistics;

“**Secretary of State**” means Secretary of State for Digital, Culture, Media and Sport;

“**Sky**” means Sky plc;

“**Sky News**” means the business of news gathering and production, and creating and offering (whether on a free to air or subscription basis) the broadcast television news channels currently branded “Sky News” and “Sky News HD” provided by Sky UK and received primarily in the United Kingdom and related services under the Sky News brand (including digital and radio services) and/or news services provided to third parties, including the wholesale provision of news input to third party media enterprises. For the avoidance of doubt, “Sky Sports News” is a separate business which will remain under the sole control of Sky;

“**Sky News Editorial Guidelines**” has the meaning given to it in section 4.1 of the 21CF Undertakings;

“**Sky UK**” means Sky UK Limited or any successor company that holds the licence for the Sky News service;

“**Subsidiary**” shall be construed in accordance with section 1159 of the Companies Act 2006 (as amended), unless otherwise stated;

“**Transaction**” means the proposed acquisition by 21CF of the entire issued and to be issued share capital of Sky that 21CF does not already own; and

“**Working Day**” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday.

ANNEX 1

PURCHASER SUITABILITY CRITERIA

The Purchaser Suitability Criteria are:

- (a) the acquisition by the proposed purchaser of Sky News remedies, mitigates or prevents the effects adverse to the public interest which may be expected to result from the Transaction, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to those effects;
- (b) the proposed purchaser is independent of and unconnected to 21CF, News Corp, the Murdoch Family Trust, any member of the Murdoch Family, or any member of the same Group of Interconnected Bodies Corporate as 21CF or News Corp and any Associated Person or Affiliate of 21CF, News Corp, any member of the Murdoch Family or such Group of Interconnected Bodies Corporate;
- (c) the proposed purchaser has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate Newco as a viable and active news service from the date of completion of the divestiture taking account of commitments by 21CF to make payments to Sky News;
- (d) the proposed purchaser is reasonably to be expected to obtain all necessary approvals, licences and consents from any regulatory or other authority, including (where applicable) landlord's consent to the transfer of any leasehold interest; and
- (e) the acquisition by the proposed purchaser of Sky News does not create a realistic prospect of a substantial lessening of competition within any market or markets in the UK, and may not be expected to operate against the public interest in terms of the considerations specified under section 58 of the Act.