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Murdoch's Fox returns to the hen-house

Steven Barnett

Speaking in the House of Commons just days after the phone hacking scandal broke in July 2011, the then Prime Minister David Cameron tackled head-on the media ownership issue which had been bubbling up in the wake of revelations about the News of the World's ill-fated pursuit of the Milly Dowler story. He said: "[the] challenge is how we address the vexed issue of media power. We need competition policy to be properly enforced. We need a sensible look at the relevance of plurality and cross-media ownership.... never again should we let a media group get too powerful."

Six weeks later, speaking to the House of Commons Liaison Committee Inquiry, Cameron conceded that proper engagement with ownership issues "wasn't happening, and I think that's been happening under governments of both parties for some time."

His words were echoed by the two other party leaders. Deputy Prime Minister Nick Clegg declared that "...diversity of ownership is an indelible liberal principle because a corporate media monopoly threatens a free press almost as much as a state monopoly does." Labour leader Ed Miliband also railed against the UK's inadequate anti-monopoly regime: "If one thing comes out of what we have seen in the past two weeks and over many years, it must be that we understand the point about concentrations of power in our society because large concentrations of power are more likely to lead to abuses of power."

Returning to the theme at Prime Minister's Questions in April 2012, Cameron named names: "I think on all sides of the House there's a bit of a need for a hand on heart. We all did too much cosyng up to Rupert Murdoch." In response to needling from Ed Miliband (whose own party in government had scarcely covered themselves in glory), Cameron responded angrily: "The problem of closeness between politicians and media proprietors had been going on for years and it's this government that's going to sort it out."

Predictably, absolutely nothing happened. In the remaining years of that Parliament, there was not a single political initiative and no new regulatory rules were proposed beyond Ofcom updating its plurality measurement framework. Meanwhile, Rupert Murdoch split his empire into 21st Century Fox, a film and TV-based entertainment business, and News Corporation embracing print media; the Sun on Sunday was launched to replace the brand-tarnished News of the World; Rebekah Brooks was reinstalled as Chief Executive of Murdoch's British press arm; and News Corp quietly expanded its UK operation into radio through the £220 million acquisition of TalkSport owners, the Wireless Group.

Then came the Brexit political earthquake and Cameron's rapid fall from grace. Immediately after returning from Buckingham Palace, installed as our new Prime Minister, Theresa May addressed some equally fine words directly to British voters: "the government I lead will be driven not by the interests of the privileged few but by yours. When we take the big calls we'll think not of the powerful but you. When we pass new laws we'll listen not to the mighty but to you. When it comes to taxes, we'll prioritise not the wealthy but you. When it comes to opportunity we won't entrench the advantages of the fortunate few".

Less than three months later it emerged that, on a 36 hour visit to New York to address the United Nations, May had found time for a private meeting with Rupert Murdoch. Analysis of meetings between Murdoch and his senior executives and senior government ministers, gathered

by the campaign groups Media Reform Coalition and 38 degrees, showed that they met twenty times in the 18 months from April 2015 to September 2016, including ten meetings with the Prime Minister or Chancellor. A further eight were with the Culture Secretary.

Fox and Sky

That is the political background for a Murdoch acquisition that has been widely touted for months: a renewal of his attempt to raise his current 39% holding of Sky (formerly BSkyB) to the full 100%. That attempt had foundered in July 2011 when the phone hacking fallout rendered the Murdoch brand so toxic that politically the bid was unsustainable and was withdrawn.

Although the vehicle might be different this time – 21st Century Fox, rather than News Corporation – the ownership repercussions of this £21.7 billion bid are identical: one Murdoch son, James, now runs Fox while Murdoch senior and his other son, Lachlan, are joint chairmen of both 21st Century and News Corporation. James has been reinstated as chairman at Sky after stepping down in 2012. Moreover, Rupert is no backseat observer: since Roger Ailes was forced out as chairman of the Fox News channel following allegations of sexual harassment, Murdoch has been directly involved in running the channel himself: he is reported to have personally appointed Tucker Carlson for the prime-time 9.00 p.m. slot following Megyn Kelly's high profile defection to NBC.

All of which poses something of a dilemma for Theresa May's government and, more specifically, for her Culture Secretary Karen Bradley once the bid is formally notified to the European Commission – expected to be in March. It is Bradley who, in a “quasi-judicial” capacity, will then have ten working days to make a decision: whether to wave the transaction through or whether to issue a “public interest intervention notice” referring the bid to Ofcom on media plurality grounds.

Supporters of the bid argue that no referral is necessary because the media landscape has changed dramatically since November 2010 when the then Business Secretary Vince Cable referred the first News Corporation bid. First, they say, the real threats to plurality come from the new digital intermediaries such as Facebook and Google who are cannibalising advertising revenue and are displacing traditional media as the primary source of news and information. Second, they argue that the rapid growth in online readership – in particular the news sites of the Mail, Guardian, and BBC – have changed the dynamics of market dominance, making the Murdoch press significantly less powerful than it was even six years ago.

These arguments might be convenient fig-leaves for a political decision to bypass the regulator, but in plurality terms neither cuts much ice. Facebook, Twitter, Google and other intermediaries may well be increasingly powerful news sources, but they are not newsgatherers. They provide links – albeit with somewhat opaque algorithms – to stories which invariably lead back to the legacy news brands. Even in the age of fake news and post-truth, it is the long-established print and broadcast publishers which provide the vast majority of voters with their information diet.

Journalism or Power?

In journalistic terms, the reputation of Rupert Murdoch might accurately be described as Marmite on stilts. For some he is journalism's saviour, investing in reporters while others lay them off, and through his brutal but effective 1980s battle of Wapping saving newspapers from

the antediluvian tyranny of print unions. For others he is journalism's nemesis, leading a tabloid race to the bottom with an empire built on the trashing of private lives, political vindictiveness, and highly dubious ethical practices which culminated in the criminality of phone hacking.

Apologists for each argument will line up on different sides of the plurality debate, although even some of Murdoch's supporters acknowledge an anxiety over Sky News. Given the dramatic success of Fox News in the US and Murdoch's well-established hands-on approach, can the UK's impartiality rules really protect Sky from a subtle and gradual process of Foxification? After all, replacing the Head of News with someone more biddable, and then "suggesting" that some stories should be prioritised over others – on immigration, say, or the dangers of ISIS rather than public spending cuts – would not breach any Ofcom rules.

In truth, however, this bid is not about journalism but about the acquisition of power: power to set the news agenda, power over the political process, and power to overwhelm competitors in print, broadcast, and online through economies of scale and cross-promotion which no other corporate entity can match.

Newspapers' enduring agenda-setting power was well established even before studies demonstrated the influence of front pages news stories during the referendum campaign. Both Robert Peston and John Ryley, Sky's head of news, have attested to the tendency of broadcasters to follow agendas set by their print colleagues. And while new entrants like BuzzFeed, Vice and Huffington Post may be establishing a small journalistic presence, when was the last time we saw a BuzzFeed or Vice columnist on *Question Time*, *Newsnight* or *Channel Four News*? And when was the last time a HuffPo "front page" was flashed onto the screen during one of the countless newspaper reviews on Sky or the BBC? Any deal which gives an already powerful proprietor complete control over one of only two 24 hour news channels must at least be treated with caution.

More intangible, but potentially more corrosive, is the power to influence government ministers, parliamentarians, and policy makers. The sheer scale of Rupert Murdoch's direct access to government which caused such widespread concern in 2011 has increased rather than diminished, and does not have a happy track record. During the Leveson inquiry, four successive prime ministers admitted, either implicitly or explicitly, that they were bound too closely to News Corporation and Rupert Murdoch. Given the stories now emerging about Murdoch's direct access to President Trump – one well-sourced rumour suggests that the President calls him twice a day for policy advice – an expanded empire would scarcely diminish his power base at Number 10.

On a purely commercial level, full acquisition of Sky will allow further leverage of sports rights, film rights and Fox Network-owned US programme rights. Given News Corp's acquisition of TalkSport, it will surely not be long before the Murdoch press launches a full frontal attack on Radio 5 Live and the BBC's exclusive rights to most live sport on radio. And on a regulatory level, an expanded and wealthier Murdoch empire will be able to exert disproportionate influence over an independent regulator. After stepping down as Ofcom Chief Executive, Ed Richards described the "intense pressure from the participants" during the 2010 bid and the "unhelpful" and costly legal battles which BSkyB fought through the courts whenever its dominance was challenged.

Bradley's decision

Coincidentally, as we wait for formal notification of the bid and then Bradley's decision, the House of Lords has been debating amendments to the Digital Economy Bill which would update the plurality regime and allow more specific grounds for referral by the Secretary of State. These include concerns about editorial independence of a media enterprise following a takeover; and ensuring that Ofcom's "fit and proper" test for those owning a broadcast licence is applied to transactions as well as to ongoing ownership. Given Ofcom's verdict when it applied the same "fit and proper" test to Sky in 2012 – that James Murdoch's conduct in respect of the phone hacking scandal "repeatedly fell short of the exercise of responsibility to be expected of him as CEO and Chairman" – such amendments could make life very uncomfortable now that James has been reinstated as Chairman of Sky.

During the Lords debate, Labour's David Puttnam, the architect of the plurality regime in the 2003 Communications Act, argued passionately for these additional protections to complete the "unfinished business" of his own 2003 legislative framework. He also gave his own verdict on how Karen Bradley should proceed: "Given that the government has the world's most highly regarded media regulator at their disposal, it's extremely hard on the face of it to see why they wouldn't be eager to distance themselves from the well documented suspicion of favours given and favours returned which now sadly dog their predecessors."

Puttnam concluded with reference to his own party's record under Tony Blair: "I am quite ashamed of some of the things that my own government did in respect of cosyng up to and colluding with media owners. That has got to stop." Bradley and May will have to decide between the politically responsible route of transparency and referral, or the traditional genuflection to Murdoch market dominance that has afflicted British governments for decades. It will be a very interesting test of the new Prime Minister's commitment to "listen not to the mighty but to you".

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