

<b>Institution:</b> Birkbeck, University of London		
<b>Unit of Assessment:</b> 32		
<b>Title of case study:</b> The Importance of Diversity in News Sources: Blocking a Major Media Merger		
<b>Period when the underpinning research was undertaken:</b> 2012-2017		
<b>Period when the claimed impact occurred:</b> 2017-19		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<b>1. Summary of the impact</b>		
<p>This case study shows how the Secretary of State's eventual decision in 2018 to block the proposed merger between 21<sup>st</sup> Century Fox and Sky on plurality grounds was rooted in evidence produced by Schlosberg over the course of the merger review, as referenced by the Secretary of State, Ofcom and the Competition and Markets Authority (CMA). The cost of the deal was put at £11.7 billion and it would have given 21<sup>st</sup> Century Fox access to Sky's 22 million customers in Europe and given the Murdoch family full control over the UK's third largest television news provider, and an unparalleled news audience reach across platforms.</p> <p>The implications of the CMA's findings extend beyond the merger and set important precedents for media plurality regulation going forward. Ofcom's report to the Secretary of State on media ownership rules in November 2018 repeated the CMA's conclusions, noting that "the evidence indicates that the rise of news online has not yet materially reduced the influence of traditional news" whose "content is widely consumed on third party platforms".</p>		
<b>2. Underpinning research</b>		
<p>Probing the significance of agenda influence by mainstream and legacy news has formed the bedrock of Dr Schlosberg's research into media plurality, most comprehensively addressed in his 2016 book <i>Media Ownership and Agenda Control</i> (Routledge)<sup>4</sup>.</p> <p>This book revisited critical questions of media ownership and political economy amidst the complexities of the information age, from the resurgence of press barons to the new influence wielded by tech giants. It drew on a body of research led by Schlosberg and dating back to 2012.</p> <p>A key message from Schlosberg's research is that digital platforms like Google and Facebook are not inherently pluralising forces when it comes to news consumption, and that there remain a very small number of news providers at the level of wholesale daily newsgathering. In contrast to what is often assumed, the voice of 'legacy media' – including newspapers and television news – tends to be amplified rather than marginalised by the platforms. This is set against an emergent consensus on the need to replace legacy frameworks for regulating plurality, but a degree of policy inertia and uncertainty over how to do it.</p> <p>Many of Schlosberg's published outputs contain key policy recommendations that have gained significant traction in media policy debates, ranging from a proposed levy on intermediaries to reforms of the public interest test governing media mergers<sup>3,5</sup>.</p>		

### 3. References to the research

1. Schlosberg, J. (2018). 'Digital agenda setting: re-examining the role of platform monopolies', in M. Moore and D. Tambini (eds) *Digital Dominance*. Oxford University Press.
2. Schlosberg, J. (2017). '21st Century Fox / Sky merger inquiry: Submission to the Competition and Markets Authority on plurality', Media Reform Coalition / Avaaz. Available at <https://assets.publishing.service.gov.uk/media/5a008480ed915d15b657741f/media-reform-coalition-and-avaaz-resp-to-fox-sky-issues-statement.pdf>
3. Schlosberg, J. (2017). 'Consolidating Control: The Fox/Sky merger and news plurality in the UK', February 2017. Available at: <https://www.mediareform.org.uk/blog/consolidating-control-foxsky-merger-plurality-uk>
4. Schlosberg, J. (2016). *Media Ownership and Agenda Control: The hidden limits of the information age*. Routledge.
5. Schlosberg, J. (2016). 'The mission of media in an age of monopoly', *ResPublica*. Available at <https://www.respublica.org.uk/our-work/publications/mission-media-age-monopoly/>
6. Schlosberg, J. (2013) *Power beyond Scrutiny: Media, justice and accountability*. London: Pluto.

#### *Related grants:*

September 2014: Edmund J. Safra Center for Ethics, Harvard University (\$3,500)

February 2016: British Academy (£8,000)

March 2017: Avaaz (£2,500)

### 4. Details of the impact

Over the course of the 2010s, the internet has become an increasingly common way in which people access the news. This has produced a number of emergent policy and regulatory challenges, not least concerning how to ensure that the public is exposed to plural sources of news. In the UK and much of the developed world, the ascendance of platform monopolies has coincided with the consolidation of reach and dominance by 'legacy' media in the online news market.

Schlosberg's research has been instrumental in understanding this rapidly changing landscape, the dangers it poses to media plurality, and in shaping governmental response. In 2014, Schlosberg was invited to present oral evidence to a Lords Select Committee Inquiry into media plurality, on behalf of the Media Reform Coalition and on the basis of his 2013 book on *Power beyond Scrutiny* (output 6). His evidence was cited in the Committee's [final report](#)<sup>1a</sup> immediately prior to a key recommendation: that any monitoring and assessment of media plurality should not limit itself to the media channel through which content is primarily delivered but should also factor in the influence of digital intermediaries. The government subsequently endorsed this recommendation in its response to the report<sup>1b</sup>.

In 2015, Schlosberg was invited to author an essay for the influential Westminster think tank ResPublica on the [Mission of Media in an Age of Monopoly](#). In addition to echoing his evidence to the Select Committee, in this essay Schlosberg pushed the recommendation that major online platforms should be subject to plurality regulation. In 2018, Schlosberg also pressed this point with Dame Cairncross ahead of her government-commissioned review into the [sustainability of journalism](#). A key recommendation from the Cairncross Review was that a news quality obligation should be imposed on online platforms<sup>2</sup>. The Cairncross review was accepted by the government and in the resulting 2019 [white paper](#) on Online Harms called for a new code of practice and imposed a statutory duty of care on online platforms which included the objective of "promoting diverse news content" directly in line with Schlosberg's recommendations<sup>3</sup>.

The evidence produced by Schlosberg's research directly informed the Government's review of the proposed merger between 21<sup>st</sup> Century Fox Inc and Sky Plc.

In December 2016, Fox and Sky announced their intention to merge. The cost of this deal was put at £11.7 billion (or GBP11,700,000,000) and it would have given 21<sup>st</sup> Century Fox access to Sky's 22 million (i.e. 22,000,000) customers in Europe<sup>4</sup>. Most controversially, it would have allowed the Murdoch family to gain complete control over Sky News – the UK's third biggest television news provider – alongside their existing dominance in both print and online news markets. (Fox was also in a second £54.2 billion (or GBP54,200,000,000) merger negotiation with Disney at the same time which, if both mergers went ahead, would, by default, have given Disney full ownership of Sky, extending its global reach into Europe significantly). The Fox/Sky merger proposal was submitted for government approval and opened to public consultation. From the beginning, Schlosberg's research proved pivotal in opposing the merger.

Schlosberg wrote an initial report on behalf of Media Reform Coalition and Avaaz on the likely impact of the proposed merger on plurality (output 2 in the underpinning research section). According to the then Secretary of State, this was one of 'approximately 50 written submissions' from third parties submitted to the government in the wake of the merger proposal, but the only one cited in [her letter of March 2017](#) to the merging parties<sup>5</sup>. This informed the parties of her provisional decision to refer the merger for regulatory review, noting that "Aspects of [Schlosberg's] report appear to support some of the considerations [...] that have informed the Secretary of State's current provisional view."

Ofcom's subsequent [public interest test report](#)<sup>6</sup> in June 2017 made 26 references to a further submission authored by Schlosberg, considerably more than any other by third party experts or civil society groups. Issues which were uniquely vocalised in Schlosberg's submission and featured Ofcom's report include arguments about wholesale and inter-media agenda influence. These were flagged in the key findings as raising substantial concerns about the public interest risks posed by the deal.

The second phase of the inquiry, which opened in September 2017, focused on two public interest grounds for considering the impact of the proposed merger: media plurality and a commitment to broadcasting standards. Schlosberg was the sole expert speaking to media plurality issues in [a hearing convened](#) by the Competition and Markets Authority (CMA) with advocacy groups and other third parties in October 2017 and was the individual subject to most questions fielded by the CMA<sup>7</sup>.

Throughout the inquiry, Schlosberg was the sole author of reports and submissions on plurality made on behalf of the Media Reform Coalition and Avaaz but his work was recognised by other organisations who also campaigned against the merger primarily on grounds of the detrimental impact to broadcasting standards.

In November 2017, 21<sup>st</sup> Century Fox submitted a [93-page dossier](#) to the CMA solely focussed on critiquing Schlosberg's evidence, including two appended reports by commercial consultancy firms. Schlosberg responded [in full](#) to this submission at the invitation of the CMA in a report that included a statement of support from Professor Philip M. Napoli, a leading global authority on media plurality whose record of publications and testimony to US regulators is extensive.

Both the CMA's [provisional findings](#)<sup>9a</sup> in January 2018 and [final report](#)<sup>9b</sup> published by the CMA in May 2018 broadly concurred with Ofcom's findings and the arguments on plurality put forward by Schlosberg, including several direct quotations from his authored submissions and an [appendix](#)<sup>9b</sup> in which Schlosberg's analysis of news agenda leading was profiled (along with a similar study conducted by researchers at Cardiff University in 2015). This appendix found that 'The evidence in these studies does, however, support the view at least that traditional news providers (whether on their established print or broadcast medium or online) together play a significant part in driving the news agenda.'

The CMA went further than Ofcom's public interest test report and adjusted Ofcom's allocation of cross-platform market shares to reflect, in part, two key findings from Schlosberg's research: 1) in the UK, much of the news consumed via intermediaries is in fact produced by wholesale news providers, including those owned and controlled by the Murdoch family and 2) much of the news delivered by commercial UK radio stations is in fact produced by Sky.

The CMA concluded that these adjustments contributed to an increase in the combined market share attributable to NewsCorp/Sky (were the merger to go ahead) by up to 3%. This adjustment meant that the merged entity would overtake ITN, giving it the largest cross-market wholesale share of any news organisation apart from the BBC.

The CMA further underscored the significance of this by pointing out that the increase in market share as a result of the merger is large relative to the shares of all other established news providers, except BBC and ITN. But unlike Sky, both BBC and ITN have additional public service regulations which promote plurality.

Ultimately, the CMA found that the merger 'may be expected to operate against the public interest taking account of the need, in relation to every different audience in the UK or in a particular area or locality of the UK, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience (the media plurality consideration).'

On 1<sup>st</sup> May 2018 the CMA submitted their final report to the Secretary of State, who accepted the CMA's recommendation that the anticipated acquisition was not in the public interest due to media plurality concerns, a decision which sets an important precedent in media plurality policy and regulation in the UK.<sup>10</sup>

## 5. Sources to corroborate the impact

1a. See paragraphs 50 and 51 in the final report of the Select Committee which is available here: [Microsoft Word - Media Plurality Final Report for TSO \(parliament.uk\)](#).

1b. Paragraph 51 of the Select Committee Report is endorsed in paragraph 264 of the Government's response, which is available here: [Media Ownership & Plurality Consultation Report - GOV.UK \(www.gov.uk\)](#).

2. The Cairncross review is available here: [THE CAIRNCROSS REVIEW A sustainable future for journalism \(publishing.service.gov.uk\)](#) Recommendation 3 on page 10 relates to News Quality Obligation.

3. Paragraphs 7.28 and 7.29 of the online harms white paper address the objective of promoting diverse news content and a news quality obligation. The white paper can be seen at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793360/Online\\_Harms\\_White\\_Paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf).

4. The figures quoted here are taken from the BBC news website: [What are the issues in Fox's Sky deal? - BBC News](#).

5. The secretary of states letter is accessible at [Sky letter FINAL.pdf \(publishing.service.gov.uk\)](#). The section quoted is under representations towards the bottom of page 2.

6. Ofcom's [public interest test report](#) includes for example references to the Avaaz submission on pages 12, 13, 14, 15, 78, 79, 83, 118, 126, 128, 130, 133, 135, and 136.

7. A transcript of the session is available here: [campaign-groups-transcript-hearing-271017.pdf \(publishing.service.gov.uk\)](#) ; A written statement from Avaaz is also available to confirm the evidence provided in this section.

9a. The CMA's [provisional findings](#) in January 2018 for example cites the Avaaz submission on pages 92, 141, 163, 176, 197, 198, 240, 253, 287, 295, 297, and 299.

9b. The CMA's [final report](#) published in May 2018 for example cites the Avaaz submission on pages 101, 156, 178, 192, 215, 246, 258, 263, 277, 282, 314, 322, 323, 325, 327, 328, 332, 333, and 355. Appendix D relates to the Background to the media plurality consideration and cites the Avaaz submission on pages F1, F2 and F3

10. The Full information about the CMA investigation can be found here:

<https://www.gov.uk/cma-cases/twenty-first-century-fox-sky-merger-european-intervention-notice> including the following statement about the final report: "5 June 2018: Following receipt of the CMA's report, which was sent to DCMS on 1 May 2018, the Secretary of State for Digital, Culture, Media and Sport has accepted the CMA's recommendation that the anticipated acquisition was not in the public interest due to media plurality concerns, and accepted the CMA's recommendation that the most effective and proportionate remedy is for Sky News to be divested to a suitable third party."