



POB 9576
Washington, DC 20016
July 11, 2011

Robert Mueller
Director, Federal Bureau of Investigation
935 Pennsylvania Avenue
NW Washington, D.C. 20535-0001

Assistant Director in Charge
FBI, New York Field Office
Janice K. Fedarcyk
26 Federal Plaza, 23rd Floor
New York, NY 10278-0004

George S. Canellos
Regional Director, Securities and Exchange Commission
3 World Financial Center, Suite 400
New York, NY 10281-1022

Re: Foreign Corrupt Practices Act Violations By News Corp

Dear Director Mueller, ADIC Fedarcyk, and Regional Director Canellos:

I am writing to request the FBI and SEC to immediately launch broad criminal and parallel civil investigations of News Corporation (“News Corp”), whose headquarters are located at 1211 Avenue of Americas, New York, New York 10036, for violating the Foreign Corrupt Practices Act. News Corp is an American company, owned in large part by Rupert Murdoch, who became an American citizen on September 3, 1985. In light of recent revelations and admissions by News Corp that its employees have engaged in widespread obstruction of justice, bribery and destruction of evidence in relation to the “Hacking Gate” scandal, we urge you to act immediately to seize and secure all evidence in the possession of News Corp.¹

The number of crimes committed by News Corp and its employees in the “HackingGate” scandal in the United Kingdom is staggering. In short, over a period of almost a decade, News Corp employees from the highest executive level willfully and knowingly

¹ Nick Davies and Amelia Hill, “Phone hacking: Police probe suspected deletion of emails by NI executive,” The Guardian, July 8, 2011,
<http://www.guardian.co.uk/media/2011/jul/08/phone-hacking-emails-news-international>

approved, knew of, conspired to and committed more than 4,000 illegal phone hackings of all levels of UK society, and did so by bribing public officials including police to provide them with information, including phone numbers, bank accounts and itineraries of people of interest.² This illegal conduct included hacking the phones of politicians, the royal family, celebrities, families of soldiers killed on the battlefield, and even a kidnap victim who had been murdered. Just today, a private investigator in New York disclosed that he had been contacted by News Corp to provide the phone records of the 9/11 victims in order to illegally access their voice mails.³ Law enforcement officials in the UK seized documents from a private investigator hired by News Corp. “These documents show the hacking was not just one or two attempts at accessing voicemails. More than 4,000 people had their phone hacked. This was hacking on an industrial scale.”⁴

As noted, News Corp employees have also apparently engaged in intentional obstruction of justice by lying to investigators and deleting “millions” of emails. This has outraged investigators at Scotland Yard.⁵

The investigation of this scandal in the UK has been ongoing for six years with minor players being sacrificed with arrest and conviction as part of a broad cover-up. However, over the past week, with more disclosures, the scandal has engulfed the top staff of News Corp and is threatening to topple UK leader David Cameron. Britain’s most widely read tabloid, *News Of The World*, which served as the hub for the criminal enterprise, was shuttered on Sunday because of the scandal. Three of its top executives were arrested on Friday, including Andy Coulson, who also served as PM Cameron’s Director of Communications, and Clive Goodman, its former royal editor. At least nine journalists and three police officers have been named for arrest. The London Metropolitan Police Department is under investigation for taking bribes of more than £100,000 paid by News Corp officials via a private investigator in exchange for information. Members of Parliament have accused James Murdoch, son of media tycoon Rupert, and News International chief executive Rebekah Brooks, of being “part of the criminal underworld.” Ms. Brooks told the staff that in the coming days and months, even more serious criminal activity would be disclosed that would make it apparent just why *News*

² Polly Toynbee “The game has changed. The emperor has lost his clothes,” *The Guardian*, July 8, 2011, <http://www.guardian.co.uk/commentisfree/2011/jul/08/ed-miliband-broken-omerta-old-monster>

³ David Collins, Phone hacking: 9/11 victims 'may have had mobiles tapped by News of the World reporters', *Daily Mirror*, July 11, 2011, <http://www.mirror.co.uk/2011/07/11/phone-hacking-9-11-victims-may-have-had-mobiles-tapped-by-news-of-the-world-reporters-115875-23262694/#ixzz1RIE5RHux>

⁴ Id.

⁵ *Supra*.

Of The World had to be closed.⁶ Advertisers have determined that News Corp is “toxic,” and have pulled virtually all advertising from its UK operations.

The Foreign Corrupt Practices Act

The Foreign Corrupt Practices Act (“FCPA”) (15 U.S.C. §§ 78dd-1, et seq.) prohibits the bribery of foreign officials. The anti-bribery provisions of the FCPA prohibit:

Issuers, domestic concerns, and any person from making use of interstate commerce corruptly, in furtherance of an offer or payment of anything of value to a foreign official, foreign political party, or candidate for political office, for the purpose of influencing any act of that foreign official in violation of the duty of that official, or to secure any improper advantage in order to obtain or retain business.

“Issuers” include any U.S. or foreign corporation that has a class of securities registered, or that is required to file reports under the Securities and Exchange Act of 1934.

“Domestic concerns” refers to any individual who is a citizen, national, or resident of the United States and any corporation and other business entity organized under the laws of the United States or having its principal place of business in the United States. And “any person” covers both enterprises and individuals.

The anti-bribery provisions of the FCPA make it unlawful for a U.S. person, and certain foreign issuers of securities, to make a payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person. Since 1998, they also apply to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. The meaning of foreign official is broad. There is no materiality to this Act, making it illegal to offer anything of value as a bribe, including cash or non-cash items. The government focuses on the intent of the bribery rather than on the amount.

FCPA provides for serious criminal and civil penalties for corporations and individuals. Under 15 U.S.C. § 78ff(a), corporations can be fined up to \$2 million for each criminal violation of the FCPA, and up to \$25 million for “willful” violations. 15 U.S.C. § 78ff(a). Under the Alternative Fines Act, 18 U.S.C. § 3571(D), the government may impose a fine equal to twice the benefit the defendant sought from making the corrupt payment. Civil penalties to corporations can include up to \$10,000 for each violation. Under an SEC enforcement action a court can fine a corporation the the greater of (i) the gross amount of the pecuniary gain to the defendant as a result of the violation, or (ii) a specified dollar limitation, based on the egregiousness of the violation, ranging from \$50,000 to \$500,000. And, the federal government may also suspend or revoke the company’s privileges of conducting business with government agencies.

⁶ “News of the World phone-hacking scandal -As it happened,” The Guardian (ongoing updated report). <http://www.guardian.co.uk/media/blog/2011/jul/08/news-of-the-world-phone-hacking-scandal#block-71>

Individuals also face potential criminal and civil penalties under FCPA. An individual faces a maximum term of imprisonment of five years for each FCPA violation, and 20 years for “willful” violations of the FCPA, 15 U.S.C. §§ 78ff(a). An individual can be subject to a criminal fine of up to \$100,000 for each violation of the FCPA, and up to \$5 million for “willful” violations. 15 U.S.C. §§ 78ff(a), 78-ff(c)(2). Under the Alternative Fines Act, the government may impose a fine equal to twice the benefit the defendant sought by from making the corrupt payment. 18 U.S.C. § 3571(D).

The government may bring a civil action against individuals seeking a fine of up to \$10,000 for each violation of the FCPA. In an SEC enforcement action, the court may impose an additional fine not to exceed the greater of (i) the gross amount of the pecuniary gain to the defendant as a result of the violation, or (ii) a specified dollar limitation, based on the egregiousness of the violation, ranging from \$5,000 to \$100,000. The SEC may also seek to prohibit an individual defendant from serving as an officer or director of a public company. These fines must be paid by the individual as a corporation cannot indemnify an officer, director, stockholder, employee, or agent for fines imposed for violations of the FCPA. 15 U.S.C. § 78dd-2(g)(3).

Conclusion

The facts set forth above are undisputed and have already resulted in arrests, convictions, and seizures in the UK. Many more arrests and convictions will be forthcoming in the near future.

These facts show that News Corp executives paid massive bribes to officials in UK, including police, over a period of years, in order to obtain information that was used to illegally hack phones and other records. News Corp in turn used that illegally obtained evidence to discover information that would form the basis for News Corp stories in order to increase its revenue. At least 4,000 people were illegal hacked on the basis of this information. This constitutes a prima facie violation of the Foreign Corrupt Practices Act.

News Corp should be fined for each violation, and all those who participated in the corrupt practices should be prosecuted to the full extent of the law. Although Scotland Yard has amassed a great deal of evidence in the UK, much from recent seizures, News Corp headquarters is located in New York City, and that location should be immediately searched, and any evidence discovered pertaining to this “industrial scale” criminal operation should be seized.

Sincerely,

Kevin Zeese
Attorney at Law
301-996-6582