

NEWS CORP LTD
Form S-8
February 02, 2004

As filed with the Securities and Exchange Commission on February 2, 2004

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

Under

The Securities Act of 1933

THE NEWS CORPORATION LIMITED

(Exact name of registrant as specified in its charter)

Australia
(State or other jurisdiction
of incorporation or organization)

Not Applicable
(I.R.S. Employer
Identification No.)

2 Holt Street

Surry Hills, New South Wales 2010, Australia

(Country Code 61) 2-9-288-3000

(Address and telephone number of Registrant's principal executive offices)

Arthur M. Siskind, Esq.

News America Incorporated

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1211 Avenue of the Americas

New York, New York 10036

(212) 852-7000

(Name, address and telephone number of agent for service)

NEWS AMERICA 401k SAVINGS PLAN

(Full title of the plan)

Copy of communications to:

Jeffrey W. Rubin, Esq.

Hogan & Hartson L.L.P.

875 Third Avenue

New York, New York 10022

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee
Ordinary Shares (1)	1,000,000 (2)	US\$9.13 (3)	US\$9,130,000 (3)	US\$1,156.77 (3)(4)
Preferred Limited Voting Ordinary Shares (1)	1,000,000 (2)	US\$7.92 (3)	US\$7,920,000 (3)	US\$1,003.47 (3)(4)

(1) This Registration Statement also covers an indeterminate amount of interests in the News America 401k Savings Plan.

(2) The number of Ordinary Shares and Preferred Limited Voting Ordinary Shares being registered represents the number of Ordinary Shares and Preferred Limited Voting Ordinary Shares that may be issued on the date hereof to U.S. Persons under the News America 401k Savings Plan (the "401k Plan") plus an incremental amount to account for the Ordinary Shares and Preferred Limited Voting Ordinary Shares issuable under the 401k Savings Plan to persons who may become U.S. Persons in the future.

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- (3) Estimated pursuant to Rule 457 under the Securities Act of 1933 solely for the purpose of calculating the registration fee based on $\frac{1}{4}$ of the average of the high and low sales prices of the Registrant's American Depositary Shares (ADSs) on January 29, 2004, as reported on the New York Stock Exchange Composite Tape. Each Ordinary ADS represents four News Corporation Ordinary Shares and each Preferred ADS represents four News Corporation Preferred Limited Voting Ordinary Shares.

- (4) Filing fee previously paid. Pursuant to Rule 457(p), the aggregate amount of the registration fee is being offset by \$1,160.65, representing the dollar amount of the registration fee previously paid by the Registrant in respect of 500,000 unissued Ordinary Shares and by \$1,067.52, representing the dollar amount of the registration fee previously paid by the Registrant in respect of 500,000 Preferred Limited Voting Ordinary Shares previously registered on a Post-Effective Amendment No. 1 to the Registration Statement on Form S-8, filed May 10, 1999 (Registration No. 333-10338 and 033-89584).

EXPLANATORY STATEMENT

On February 17, 1995, The News Corporation Limited (the Company) filed a Registration Statement on Form S-8 (Registration No. 33-89584) with respect to the News America Savings Plan (Savings Plan), registering thereunder 2,390,000 Ordinary Shares and 2,620,000 Preferred Limited Voting Ordinary Shares of the Company. On May 10, 1999, the Company filed a Registration Statement on Form S-8 (Registration No. 333-10338) with respect to the News America Savings Plan II (Savings Plan II), registering thereunder 500,000 Ordinary Shares and 500,000 Preferred Limited Voting Ordinary Shares of the Company. Pursuant to a merger of Savings Plan II into Savings Plan, on July 3, 2003, the Company filed a Post-Effective Amendment No. 1 to the Registration Statement on Form S-8 (Registration No. 033-89584) and transferred the shares of the Company remaining for issuance under Savings Plan II to Savings Plan. In addition, on July 3, 2003, the Company filed a Post-Effective Amendment No. 1 to the Registration Statement on Form S-8 (Registration No. 333-10338) to reflect the transfer of shares issuable under Savings Plan II to the Registration Statement relating to Savings Plan.

Effective February 1, 2004, the Company (i) restated Savings Plan and renamed Savings Plan as the News America 401k Savings Plan (the 401k Plan) to include as eligible employees certain hourly employees of the Company and its subsidiaries and (ii) adopted a new savings plan named the News America Savings Plan (New Savings Plan) to include as eligible employees certain salaried employees of the Company and its subsidiaries.

This Registration Statement is being filed to register 2,000,000 Ordinary Shares and 2,000,000 Preferred Limited Voting Ordinary Shares for issuance under the 401k Plan.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The documents listed below are incorporated by reference in the registration statement:

- (a) The Registrant's Annual Report on Form 20-F for the fiscal year ended June 30, 2003 filed on October 29, 2003, and an amendment to such report on Form 20-F/A filed on December 8, 2003;
- (b) The Report on Form 6-K dated November 5, 2003, as amended;
- (c) The description of the Registrant's Ordinary Shares set forth in its Registration Statement on Form 8-A (SEC File No. 1-9141) filed with the SEC pursuant to Section 12 of the Exchange Act on November 2, 1994 and any amendment or report filed for the purpose of updating such descriptions; and
- (d) The description of the Registrant's Preferred Limited Voting Ordinary Shares set forth in its Registration Statement on Form 8-A (SEC File No. 1-9141) filed with the SEC pursuant to Section 12 of the Exchange Act on November 2, 1994 and any amendment or report filed for the purpose of updating such descriptions.

All documents subsequently filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters the securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be part hereof from the date of filing of such documents. Any statement contained in a document incorporated by reference herein (or in any other subsequently filed document which also is incorporated by reference herein) modifies or supercedes such statement. Any statement so modified or superseded shall not be deemed to constitute a part hereof except as so modified or superseded.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

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With respect to News Corporation, Section 199A of the Australian Corporations Act provides:

- (1) A company or a related body corporate must not exempt a person (whether directly or through an interposed entity) from a liability to the company incurred as an officer or auditor of the company.
- (2) A company or a related body corporate must not indemnify a person (whether by agreement or by making a payment and whether directly or through an interposed entity) against any of the following liabilities incurred as an officer or auditor of the company:
 - (a) a liability owed to the company or a related body corporate;

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- (b) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H;
- (c) a liability that is owed to someone other than the company or a related body corporate and did not arise out of conduct in good faith.

This subsection does not apply to a liability for legal costs.

- (3) A company or related body corporate must not indemnify a person (whether by agreement or by making a payment and whether directly or through an interposed entity) against legal costs incurred in defending an action for a liability incurred as an officer or auditor of the company if the costs are incurred:
 - (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subsection (2); or
 - (b) in defending or resisting criminal proceedings in which the person is found guilty; or
 - (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (d) in connection with proceedings for relief to the person under this Act in which the Court denies the relief.

Paragraph (c) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

- (4) For the purposes of subsection (3), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

Section 116 of the Articles of Association of News Corporation provides as follows:

- (1) To the extent permitted by law and without limiting the powers of the Company, the Company must indemnify each person who is, or has been, a director, principal executive officer or secretary of the Company against any liability which results directly or indirectly from facts or circumstances relating to the person serving or having served in that capacity: (a) incurred on or after 15 April 1994 to any person (other than the Company or a related body corporate), whether or not arising from a prior contingent liability, and which does not arise out of conduct involving a lack of good faith or conduct known to the person to be wrongful; or (b) for costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favor of the person or in which the person is acquitted, or in connection with any application in relation to such proceedings in which the court grants relief to the person under the Law.
- (2) The Company need not indemnify a person as provided for in paragraph (1) in respect of a liability to the extent that the person is entitled to an indemnity in respect of that liability under a contract of insurance.
- (3) To the extent permitted by law and without limiting the powers of the Company, the Board of Directors may authorize the Company to, and the Company may, enter into any: (a) documentary indemnity in favor of; or (b) insurance policy for the benefit of, a person who is, or has been, a director, principal executive officer, secretary, auditor, employee or other officer of the Company, or of a subsidiary of the

Company.

- (4) The benefit of any indemnity previously given to any person in respect of liabilities incurred prior to 15 April 1994 is not affected by this Article.
- (5) The benefit of each indemnity given in paragraph (1) continues, even after its terms are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

The Exhibits required to be filed as part of this Registration Statement are listed in the attached index to Exhibits.

Item 9. Undertakings

(1) The undersigned Registrant hereby undertakes:

- (a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement;
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(i) and (a)(ii) do not apply if the registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (b) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
 - (c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (2) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities and Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

- (3) The undersigned Registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to whom the prospectus is sent or given, the latest annual report, to security holders that is incorporated by reference in the prospectus and furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3 under the Securities Exchange Act of 1934; and, where interim financial information required to be presented by Article 3 of Regulation S-X is not set forth in the prospectus, to deliver, or cause to be delivered to each person to whom the prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the prospectus to provide such interim financial information.
- (4) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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Chase Carey		
/s/ Peter Chernin	Executive Director	February 2, 2004

Peter Chernin		
/s/ Lachlan Murdoch	Executive Director	February 2, 2004

Lachlan Murdoch		
/s/ Arthur M. Siskind	Executive Director,	February 2, 2004

Arthur M. Siskind	Authorized Representative in the United States	
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<u>Signature</u>	<u>Title</u>	<u>Date</u>
/s/ Kenneth E. Cowley <hr/> Kenneth E. Cowley	Non-Executive Director	February 2, 2004
/s/ Andrew S.B. Knight <hr/> Andrew S.B. Knight	Non-Executive Director	February 2, 2004
/s/ Roderick I. Eddington <hr/> Roderick I. Eddington	Non-Executive Director	February 2, 2004
/s/ Graham J. Kraehe <hr/> Graham J. Kraehe	Non-Executive Director	February 2, 2004
/s/ Thomas J. Perkins <hr/> Thomas J. Perkins	Non-Executive Director	February 2, 2004
/s/ Stanley S. Shuman <hr/> Stanley S. Shuman	Non-Executive Director	February 2, 2004
/s/ Geoffrey C. Bible <hr/> Geoffrey C. Bible	Non-Executive Director	February 2, 2004

The Plan. Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plan) have duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in The City of New York, State of New York on the 2nd day of February, 2004.

NEWS AMERICA 401k SAVINGS PLAN

By: /s/ Theodore Exarhakos

Theodore Exarhakos

Vice President, Benefits, News America Incorporated

EXHIBIT INDEX

<u>Number</u>	<u>Description</u>
5	Opinion of Allens Arthur Robinson
23.1	Consent of Ernst & Young regarding The News Corporation Limited
23.2	Consent of Ernst & Young LLP regarding Fox Entertainment Group, Inc.
23.3	Consent of Reconta Ernst & Young S.p.A. regarding Stream S.p.A.
23.4	Consent of Deloitte & Touche LLP regarding British Sky Broadcasting Group plc
23.5	Consent of Ernst & Young LLP regarding Gemstar-TV Guide International, Inc.
24	Power of Attorney, (included in the Registration Statement under Signatures)
99	News America 401k Savings Plan