



Co-ordinating Committee for Media Reform

PROMOTING A DEMOCRATIC AND ACCOUNTABLE MEDIA

EXECUTIVE SUMMARY OF RECOMMENDATIONS FROM CCMR WORKING GROUPS ON ETHICS, PUBLIC INTEREST AND PLURALITY, AND FUNDING MODELS.

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INTRODUCTION

The Co-ordinating Committee for Media Reform is a newly-formed umbrella organisation of advocacy groups, academics and individuals campaigning for meaningful reform of the UK media. The CCMR was established to represent the interests of civil society in the light of the Leveson Inquiry and the Communications Review and to draw up policies designed to sustain the public interest and foster a more democratic media system.

This latest crisis has severely damaged the reputation of the news media and is the result both of the failure of British news publishing to implement its own rules as well as structural flaws associated with the regulation and ownership of the UK media. We argue that, as with many other areas of endeavour where risk-taking is endemic, regulatory frameworks may be required that enable and foster a greater sense of public responsibility while, at the same time, ensuring that no action is taken that cuts across the essential freedom of journalists to investigate wrong-doing.

The more complex challenge facing society now is to set some clear and realisable standards for the institutions and individuals that investigate, report and make sense of the world for the rest of us. By articulating such standards, and the principles upon which they are based, we can hope not only to prevent repetition of some of the more unacceptable practices that have been brought to light recently, but also to work towards a commonly meaningful language through which journalists, politicians and the public can reflect upon, scrutinise and assess the relationship between the media and the public interest. This will involve proposals for a strengthened public interest test, for a more robust approach to media concentration in order to secure media pluralism and diversity, and for a range of alternative models—both in terms of organisational structure and revenue generation—that will help to sustain news in the public interest.

PROMOTING ETHICAL PRACTICE

A Statutory Right of Reply

1. Any person or organisation specifically mentioned who believes that they have been seriously misrepresented should have a right of reply. Print publications should provide a mistakes and clarifications section, where a right of reply can be summarised with a referral to the on-line version where it must be reproduced in full, without comment. This would normally be immediately below the offending article, as it appears online, at the top of the comments column.
2. In the case of a failure to offer a right of reply, where publications are members of the News Publishing Commission (see paras. 4-18 below) a complainant can take their case to the News Ombudsman for an adjudication, the News Tribunal or to a court.
3. The action of a publication in providing a right of reply or the judgement of the News Ombudsman would be taken into consideration in mitigation as is currently the case under section 12.4 of the Human Rights Act.

The News Publishing Commission

4. A News Publishing Commission would be formed to replace the PCC. The commission's composition and duties are described below. They would incorporate much of the existing good practice of the PCC as well as having additional responsibilities.
5. *Membership of the Commission:* all publications are eligible for membership of and representation by, the Commission. All publications registered with the Commission (on or off line) would be eligible for VAT exemption. Publications that are not members of the Publishing Commission would not be eligible for VAT exemption. Any organisation withdrawing from the Commission would lose their VAT exemption. Organisations with a turnover of less than £50,000 (ie not VAT registered) would be eligible for free associate membership of the Commission. They would be able to make use of the Ombudsman's services and their members would be eligible to stand for tribunal panels and as members of the commission board.
6. *Composition of the Board:* the Commission board will be composed of members of the public, ordinary working journalists and editors who must be nominated by their trade body, union, or by relevant civil society organisations. This composition would work along similar lines to that successfully established by the Irish Press Council.
7. *The role of the Commission* would be to promote press freedom and to oversee and update a code of conduct and ensure that it is implemented. The Commission would have a number of other duties that are described below.

8. *Code of Ethical Practice:* the Commission would draw up a Code of Practice which would be based on the current PCC editors' code. The code would include a conscience clause allowing journalists to refuse to do work that is in breach of the code.
9. *Publication of ethical codes:* The Commission would mandate all publications to display the Code of Ethical Practice online, alongside information on right of reply, via a simple and visible button at the bottom of every article (alongside the Twitter and Facebook icons). An appropriate URL should also be included on the leader page of the print version of a publication and alongside the Corrections column.
10. *News Ombudsman:* The Commission board would appoint an independent Ombudsman who can operate as a first port of call for members of the public about right of reply or breaches of the code. The Ombudsman would have the power to demand an instant right of reply at the top of the Comment section of the relevant website within a specified time frame (hours rather than days). The right of reply would be of a specified length and contain a Commission logo to make it clear that a complaint had been made. The object would be to rectify any egregious abuse of power by news media as fast as possible in the hope that, in most cases, that would be the end of the matter. The secondary hope would be that news organisations rapidly institute their own 'right of reply unit' to avoid such a sanction.
11. *News Tribunals:* Operating on the same basis as employment tribunals, they would adjudicate on cases that are not resolved by the Ombudsman. The Tribunals would be constituted from a panel representing the media and a panel representing the public and would be chaired by a legally qualified person.
12. *Prior notification:* Under the PCC, where a news organisation is about to publish information which they know to be in breach of the privacy of an individual, they are encouraged to alert the Commission. If it is judged not to be in the public interest, the Commission may issue a 'desist' notice to that effect. If the publication were to go ahead under those circumstances, then the breach of such a notice would be taken into consideration in any future privacy action. The new Commission would operate a similar policy.
13. *Investigations on behalf of groups:* In the case of an article that clearly breaches the code of ethics, but does not impugn a particular named person, the Board would be empowered to investigate and, where appropriate, insist on a right of reply.
14. *Libel:* The use of the Ombudsman and the right of reply mechanism should be taken into account in libel cases as PCC adjudications are currently taken into consideration in privacy cases under the Human Rights Act. Where it is clear that the publication involved has made serious and immediate attempts to correct erroneous or unfair statements this should be used in mitigation in any future libel action. While there would be no attempt to prevent further legal action being taken, there should be a presumption that the courts would only be used if other avenues have failed. This

should provide a useful *quid pro quo* for the news media who would stand to gain a great deal in freedom of expression in return for offering a fairer say to those who have been damaged.

15. *Privacy*: Breaches of privacy law should be subject to larger fines but a defence of 'prior advice' and 'public interest' should be clearly drafted and recognised, to protect press freedom.
16. A *whistle blowers code* should be established and the commission would be empowered to intercede on behalf of any journalist who feels pressurised into breaking the code.
17. A *harassment help-line* for victims of press intrusion is one of the current examples of good practice which would be incorporated into the new organisation.
18. *Funding*: Publications (on or off line) registered with the Commission would pay a levy based on their turnover. All registered news organisations would be able to apply for VAT exemption. Additional statutory funding would be required in recognition of the public service performed by the Commission.

Enhancing Transparency

19. Journalists, once employed by other organisations, must not retain office space nor receive payments or other inducements from their previous news employer.
20. Public servants should be barred from receiving payment from journalists for any information related to their work unless they are themselves the author of the work and are credited for it.
21. Meetings between politicians of all ranks, CEOs, police officers, etc., on the one hand, and editors and media owners on the other (but **not** journalists), should be recorded and made publicly available on the websites of both media organisations and public institutions, including political parties, police constabularies, public companies and so on to ensure that all contacts between politicians, senior officials and representatives of media organisations are above board and in the public domain. The News Publishing Commission that we are recommending as a replacement for the Press Complaints Commission should recommend standards on transparency at all levels and to include the following information:
 - 1) The date and place of the meeting
 - 2) The circumstances behind the meeting being arranged (i.e. at whose initiative)
 - 3) The attendees
 - 4) The subjects discussed
 - 5) Any decisions taken

- 6) Any other information that would assist the process of establishing public transparency and accountability.
22. The News Publishing Commission would provide expert help on technical innovations to improve transparency and would consult and recommend on new standards of transparency using meta-data.

PROTECTING THE PUBLIC INTEREST

23. Strong cross-ownership rules and clear upper ceilings on the share across media markets are needed. Any supplier with a 15 per cent share in a designated media market should be subject to a public interest test in respect of any merger or acquisition in the same or another media market. A public interest test should be applied to existing market conditions as well as to any prospective change arising from merger or acquisition. The test should assess the holding against clear criteria concerning plurality of information, diversity of cultural expression, contribution to public good (democratic, social and cultural). Ownership concentration and cross-ownership above the 15 per cent threshold may be permitted subject to conditions. However, the maximum permitted holding in any of the following designated markets should be 30% (national news; regional news on all platforms and in each of the following platforms - radio, television, newspapers, online).
24. The power to initiate a public interest test should be assigned to Ofcom in line with Recommendation **Rec(2000)23** of the Council of Europe. Ofcom should have concurrent powers to initiate the test rather than control resting exclusively with the Secretary of State because there may be, as the BSkyB bid so clearly revealed, a conflict of interest. Operating under new legislation Ofcom will be best placed to assess public interest considerations alongside competition issues. Ofcom can ensure the process is less susceptible to political interference while remaining properly subject to parliamentary and judicial oversight.
25. The BSkyB exception should be remedied so that the News Corp's stake in BSkyB is reduced from 39 per cent to 15 per cent.
26. Market concentrations above the upper ceilings (15 per cent) would only be allowed where firms can demonstrate that they meet certain precise requirements and comply with conditions imposed by Ofcom. The revised public interest test process would determine whether the merger or share was permissible or not. But it would also extend the power to impose remedies other than simple approval/disapproval that refer to '*behavioural*' conditions on the conduct, performance, and governance of suppliers of media services. Such behavioural conditions would include measures concerned with protecting editorial standards and independence, the treatment of workers, and terms of supply to third parties. Requirements could also include interventions in ownership structures, for instance requiring that public trusts or co-operative ventures be established when firms would otherwise exceed market-share or cross-ownership thresholds. In addition to existing ones, public interest criteria should include:

- 1) protection of the editorial independence of media workers
 - 2) investment in newsgathering
 - 3) the effect on the range and diversity of cultural expression.
27. In order to improve transparency, the public should have access to basic information on the ownership and management of media companies. Regulation should secure disclosure of information regarding stakeholders, corporate governance, statements of editorial policies, and interests in other media. How far this can go without endangering commercial confidence would need to be worked out, but movement towards greater financial transparency is clearly overdue.
28. Reflecting on the handling of the News Corp takeover of BSkyB, it is not enough just to consult when deals are virtually done; applying public interest to media ownership considerations requires public involvement and oversight at all times. Media ownership regulation needs effective and continuous public consultation built-in so that public interest issues can be addressed by all those affected, with Ofcom and other regulators held to account by the parliaments or assemblies concerned.

FUNDING THE NEWS WE NEED

29. In the light of the instability of existing business models, policymakers need to examine a range of alternative models—both in terms of organisational structure and revenue generation—designed to sustain news in the public interest.
30. Extend VAT exemptions to cover digital sales but only on condition that the recipients make a specific commitment to support any new regulatory body and public interest news ventures.
31. Insist that public support is provided only to institutions which can prove that they are accountable to the public that helps sustain them.
32. Investigate ways in which to make sure that news aggregators pay their way in the distribution of original news content including suitable compensation for freelancers.
33. Introduce levies on turnover or profits of communications companies to help sustain new and existing public-service oriented news projects.
34. The proposed regulator and relevant bodies concerned with the media need to recognise that there is a benefit in having a diversity of ownership models operating across media concerns. This should include co-operative models in which media users are also, through their membership, the media owners thereby creating a long-term alignment of interests and encouraging the scope for co-production of content on a mutual basis.

35. Amend charity law so that local newspapers may be operated as charitable organisations.
36. Introduce tax incentives for community groups and co-operative bodies to fund takeovers and investment and to facilitate transfers.
37. Increase the Community Radio Fund to a level that has significant impact as a lever for other investment and as a driver of quality hyperlocal news and informational content.
38. Introduce matched funding of local authority spending on communications and advertising to support local news hubs.
39. Increase citizens' participation in the commissioning and production of news in order to ensure that 'the public interest' is no longer defined in private.
40. Subsidise entry level jobs for journalists at a local level with a specific brief to cover local government and local democracy.