

PROMOTING A DEMOCRATIC AND ACCOUNTABLE MEDIA

Coordinating Committee for Media Reform

Introduction

In 2006, the [World Values Survey](#) found that well over 80 per cent of those polled in the UK indicated that they had little confidence in the press (World Values Survey, n.d.) while an [Ipsos/MRBI survey](#) in 2010 found that a mere 22 per cent of people said that they generally trusted journalists to tell the truth (Ipsos/MRBI 2010), rather a problem in a profession which has long aspired to 'speak truth to power'. In July 2011, reporters working for the *News of the World*, were found to have hacked into the mobile phone of a murdered teenager and evidence soon emerged of complicity between senior media executives, top police officers and leading government officials. Since then, it has been revealed that there may have nearly 6000 victims of phone hacking accompanied by the systematic use of covert surveillance, blackmail, the 'blagging' of information and regular invasions of privacy.

The Co-ordinating Committee for Media Reform was formed in response to this as an umbrella organisation of advocacy groups, academics and individuals campaigning for meaningful reform of the UK media. In a debate largely dominated by vested interests, the aim of Media Reform is to engage with the discussions occurring in Parliament and beyond and to draw up policies designed to sustain the public interest and foster a more democratic media system.

In a world in which there is an ever smaller number of increasingly dominant, global media institutions, we believe that their power has out-grown the regulatory infrastructure that ought to balance their rights with the rights of the individuals they report on. The phone hacking debacle is merely the latest manifestation of a significant imbalance and the time has come for the power between the media and the people to be re-evaluated.

Some editors have suggested that the problems are all related to one single maverick company. While it may turn out to be true that illegal phone hacking was not widespread across the British press, there is no doubt that, as became absolutely clear during the Leveson Inquiry, other unethical practices are rife and that the current regulatory structure has not proved sufficiently robust to tackle this kind of behaviour. According to researchers at Goldsmiths:

Self-regulation outsources ethical practice either to individual users who have little power to influence media content (except through their 'market power') or, overwhelmingly, to institutions who, because of competition and economic uncertainty, show little willingness to provide the space and resources to journalists to act ethically. (Phillips, Couldry and Freedman 2010: 67)

The phone hacking scandal and the ethical and regulatory crisis that followed are the result both of the failure of British news publishing to implement its own rules and of 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.

Any recommendations that come out of the need to be aimed at tackling corporate power and not restricting the ability of journalists to do precisely this. But it is wrong to equate what *Index on Censorship's* John Kampfner (2011) describes as a 'raucous' media in this country with one that is adequately serving its citizens. Journalists, who are under extreme commercial pressure to attract 'hits' rather than finding important stories, may be raucous (Fenton 2010, Lee-Wright, Phillips and Witschge 2011) but if that is at the expense of adequate research and verification they will never be trusted. Journalism that is not trusted cannot adequately contribute to a democratic debate.

The more complex challenge facing society now is to set 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 right to reply, a strengthened public interest test as part of 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.

Self Regulation

Ethics are not derived from laws; laws should arise from ethics. It is a shared sense of equity and justice, rooted in something deeper than fear or mere obedience that enables a group or community to set ethical standards which its members freely agree to abide by.

The problem we face is that organisations that have differing interests and very different ways of operating do not necessarily have a shared ethical sense to which they can all refer. Journalism is sharply divided between, on the one hand, those editors and journalists who have the freedom of action and conscience to operate ethically and, on the other, those who operate within a highly structured and competitive environment in which they are under heavy pressure to deliver stories by any means possible and often without even the protection of a trade union.

Whereas the former require protection from pressures that might prevent them from investigating abuses of power, the latter require firmer rules to prevent them from using their power (and desperation to grab market share) to traduce innocent people. Those individuals working for highly competitive news organisations also need protection—of their right to exercise their conscience.

The first journalists' code of ethics in the UK was established in 1884 precisely in order to differentiate responsible journalists from those working on the 'Yellow Press'. The National

Union of Journalists introduced a code in 1936 in opposition to plans for a register from which 'unethical journalists' might be struck off (Gopsill 2007).

The current 'Editors Code', policed by the Press Complaints Commission, had no input from the NUJ (though it is clearly heavily influenced by the NUJ code) and it cannot therefore be said to represent the interests or concerns of ordinary working journalists. It was drafted by a team of editors, brought together by those publishers who fund the PCC. Yet it is still very often flouted by its members and no longer even represents all the newspapers since the withdrawal of the Express group in January 2011.

We suggest that a new body to regulate the press is required, the News Publishing Commission, which can represent the interests of ordinary working journalists as well as editors and members of the public.

Statutory Regulation and Press Freedom

Whenever the idea of statutory backing to press reform is considered, the argument from editors is always that it will have a chilling effect and prevent journalists from investigating wrongdoing. In reality we already have laws governing much of what journalists do. Our libel laws are so strict that people from other countries visit our law courts in order to get compensation for wrongs perpetrated in other jurisdictions. We also have laws governing the reporting of the legal process and we have a range of laws covering race hatred, bribery, electronic eavesdropping and so on.

However proprietors and editors shy away from a simple, enforceable system that would give quick, cheap access to redress from members of the public who feel that they have been misrepresented, even though it might actually lift (or ameliorate) the threat of court action from those genuinely exposing wrongdoing.

We take the need for press freedom every bit as seriously as the editors. This is why we would like to see the concept of 'the public interest' clearly defined and enshrined in law. There will always be a 'grey area' in journalism in which editors encourage journalists to 'dig a little deeper'. That will always involve intrusion into places where those who wish to cover up wrongdoing would rather we didn't go.

Both the NUJ Code of Conduct and the Editors' Code allow the use of surreptitious means, if there is no alternative, to dig out stories in the public interest. *The Guardian's* investigations editor, for instance, has admitted he used material from phone-taps in the paper's expose of bribery and corruption at BAE Systems (Leigh 2006). Leigh did so because he believed he was working 'in the public interest'.

However an understanding of the 'public interest' must include a sense of public service. The problem for journalists is that owners (often public companies) are more concerned with serving their shareholders than with serving the public. They transmit this view to the editors they appoint (Marr 2004: 235), who, in turn, increasingly, enforce a top-down editorial line that journalists are expected to obey (Phillips, Couldry and Freedman 2010: 57). In this respect, Rupert Murdoch's definition of public service is instructive: 'Anybody

who provides a service which the public wants, at a price it can afford, is providing a public service' (Murdoch 1989).

A clearly defined 'public interest' defence in law is vital to any attempt at reform because it helps us to deal with the central contradiction of journalism—the fact that ethical journalists require defence for rule breaking if they are to do their job, whereas unethical journalists attempt to use a 'public interest defence' to protect themselves against criticism.

The public interest is a concept that is well understood by both the public and journalists (Morrison and Svennevig 2002) The Human Rights Act already embodies the concept as a reasonable defence for intrusion and if there is to be any extension of the law into the realm of journalism then that concept needs to be clarified. The word 'public' in this instance embodies the notion of a whole society. For something to be in the 'public interest' it must affect the way in which we live together as a social group (Phillips, Couldry, and Freedman 2010: 52). It should be information that will help us to live better together, or that will prevent us from being harmed. With a clear public interest defense in place it should be possible to ensure that codes of ethical conduct are upheld and that those who choose willfully to ignore them will face some form of legal censure.

Democracy and the right of reply

The public interest defence assumes that stories are being pursued for serious reasons but there is a whole mass of material written every day that is not serious and has never been intended to be serious. There is no intention here to suppress the exuberance of the British press. Many people read news for the fun of finding out what celebrities are up to or for moral tales derived from other lives. Storytelling is as much a part of journalism as reporting. Journalists, however, need to keep in mind that the stories they tell concern real people with real lives. We feel that the subjects of press intrusion also have rights and also need protection.

When information is inaccurate, unfair, or just 'made up', real people are affected and they should have an absolute right to tell their own side of the story and to correct misleading statements. And we should not underestimate the size of this problem or the distress it causes. The PCC's statistics show that in 2009, 87.5 per cent of the complaints it received concerned accuracy and opportunity to reply, and only 21.4 per cent were about privacy (PCC 2009).

As MediaWise has pointed out, a statutory right of reply need be no threat to the commercial future nor to the democratic rights of publications. It argues that a right to reply has been 'commended by the Council of Europe and offered in other perfectly healthy democracies (France, Germany, Belgium, Norway, Sweden, Greece, Austria and Switzerland)' (MediaWise 2010: 4).

There have been a number of attempts to establish a right of reply in this country. All of them have been vehemently opposed by editors who think that offering such a right would

spoil the careful balance of their publications, take up too much space and introduce badly written and boring 'legal-ese' into their carefully planned publications.

The arguments were more reasonable before the advent of the internet, where the addition of a reply slot, immediately below an offending article, need not change the layout or look of the publication. With the addition of a mistakes and clarifications column in every newspaper and magazine—pointing out what items have been corrected and where they can be viewed in full—it should be possible for corrections to be made very fast, with minimal fuss and without damaging the look and feel of the publication. The advantage of using the web version of a publication for the full-length correction is that it can be done within hours of publication and be immediately available to those reading the offending article. At present it can take weeks or months to negotiate a right of reply and then it will read entirely out of context.

There can be no more useful corrective to journalistic malpractice than the knowledge that any person who is unfairly traduced has the right to reply immediately below the offending article. It is to be hoped that by introducing such a statutory right, publications would very quickly take on board the need to offer a hotline for would-be complainants who could reply without needing to bring the law into play. However, in order to ensure that this right is backed up with the possibility of a sanction, complainants should be able to take their complaints further in the event that all interim attempts at redress are refused.

Ownership and control

Diversity of news provision is more likely to come from a plurality of types of news outlets, platforms and funding models as well as a diversity of news owners. There have always been anxieties over the ownership of the media because of its agenda-setting role. Media owners have, over time, been shown to influence the way their organisations present news and in turn have some bearing on public debate and political opinion. Owners can have an effect on news output through various means including, at times, direct intervention. More frequently, however, it is likely to be via indirect means: through the appointment of like minded editors, emphasising particular business approaches, or by prioritising certain types of journalism. Owners can also influence the journalistic ethos of a news organisation and this can filter through to the processes of news production. This may derive from a certain vision of a particular owner or an editor in chief, from a particular family ownership tradition or from structural and organisational principles which impose a particular form of editorial direction. All of these can influence the types of journalism that are valued and promoted and what kinds of stories are followed.

Despite the ownership regulation that we currently have, a small group of owners in the national and regional press have a large market share, thus a limited number of people and approaches potentially dominate the media agenda and can influence public debate and political opinion.

Market share of UK national daily newspapers (%) (1997-2009)

Title/Company	1997	2001	2002	2008	2009
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News International	34.4	31.8	32.2	34.8	33.8
Trinity Mirror	23.9	21.0	20.2	15.6	16.2
Northern & Shell (formerly United Newspapers)	14.3	12.5	13.8	14.9	13.5
Daily Mail & General Trust	13.6	18.7	18.5	21.2	19.9
Telegraph Group	7.7	7.7	7.3	7.4	7.3
Pearson	1.3	3.8	3.5	4.0	4.1
Guardian Media Group	2.7	3.1	3.0	3.0	3.3
Independent Print Ltd	2.1	1.5	1.4	1.8	1.9

Source: Audit Bureau of Circulations

How well does contemporary British journalism serve the public interest (as discussed above)? Journalistic approaches to the news tend to revolve around two perspectives. The first represents the political world as a game in which the attainment and retention of power is the principal goal. This account is dominated by reports of 'winners' and 'losers', strategies designed even to 'sell' unpalatable policies to an unwitting electorate and accounts of an inner political world often laced with Machiavellian manipulation and deception. Faced with such a political world, citizens come to feel like spectators, observing the skills of an opaque sport, or cynics, withdrawing in frustration from a system of political communication that rarely takes them seriously. The second journalistic perspective is to see the democratic polity as a civic forum in which issues and policy proposals are discussed on their merits. This approach is characterised by a canvassing and sifting of competing arguments; an acknowledgement that mature democracy entails trade-offs between different preferences and values; and an historical sense that stories and events have long-term pre-histories and consequences that add up to more than a stream of isolated episodes. In this context, a clear relationship is envisaged between people as news consumers and people as reflective, monitoring, arguing, voting, active citizens.

In the real world of contemporary democracy, political communication entails a mixture of these two orientations, with politics depicted through the frames of both the competitive game and the civic forum. But the presentation and analysis of news is currently showing signs of radical imbalance, with game-oriented journalism rising and civic-oriented public-interest journalism in decline. While it cannot be denied that high-quality journalism based upon serious investigation and astute analysis can still find its way into print and broadcast news; that even some of the most populist newspapers manage to stimulate important public debates; and that a significant range of voices and perspectives can now be accessed online by those with the time to search for them, the news landscape as a whole is increasingly devoid of civically relevant content.

This serious problem for democracy is exacerbated by three pressures in the current environment. Firstly, newspaper circulation and readership levels are at an all time low and key advertising revenue has reduced sharply. The tremendous growth in the number of free

newspapers, emergence of 24 hour television news and the popularisation of online and mobile platforms have presented the newspaper industry with some real challenges. Maintaining profit margins and shareholder returns is increasingly dependent upon the use of fewer journalists doing more work in less time to fill more spaces than ever (Phillips 2010). This results frequently in greater use of unattributed rewrites of press agency or public relations material and cut-and-paste practices that are now commonly referred to as 'churnalism', a practice that is antithetical to the kind of public-interest values upon which the democratic public sphere depends.

Secondly, the media system is increasingly dominated by a fierce competition for public attention. Irresponsible editors push journalists to almost any lengths to break a story (Phillips, Couldry, and Freedman 2010), even when the methods adopted are ethically repugnant or, as we have seen, criminal. Political communication is increasingly shaped by this intense competition, reducing news holes for politics and placing a premium upon arresting stories rather than the cultivation of civic knowledge. One consequence of this is the creation of a particularly bouncy news agenda: what is 'the story' one week (sometimes, one day) is superseded by a different one the next week, leaving citizens with an impression of politics as an overwhelming succession of mishaps, unmanageable events, incompetent authorities and suspicious circumstances.

Thirdly, the purchase which parties and leaders once had upon the media as channels for the promotion of ideas and policies has declined. Whereas in the relatively recent past, political communication strategists had a limited range of press, television and radio bases to cover, they are now involved in multi-dimensional impression management. This leads to an inevitable loosening of their control over the political agenda, forcing politicians into a predominantly responsive mode or an attempted news-management one. To cover the broad, dynamic and often unpredictable media environment in which they now operate, political actors are compelled to adopt elaborate cross-media strategies, which may amount to little more than keeping up with the incessant flow of relevant information and hoping to spot embarrassing media content before it damages them. To help them cope with these incessant pressures, politicians have come to rely upon journalists-turned-spin doctors who advise them to adapt to the logic of the media ecology, regardless of its civic defects.

There is therefore a need to assess concentrations of media ownership and cross-media ownership to ensure that the public media on which we rely provide pluralism of voice and opinion, sufficiently diverse sources of news and information, and diversity of cultural expression. We therefore propose a revision of the UK public interest test in order to ensure that concentrations of ownership and the behaviour of those providing public media services do not operate against the public interest in terms of media plurality. The test could be applied whenever proposed media mergers or market concentration reaches a particular threshold, such as 15 per cent share of supply in a relevant market. In such cases, a stronger public interest test than we have at present could be applied, one which would assess media ownership against a range of criteria set out in law, including, plurality of ownership and supply, cultural diversity, corporate behaviour, and content issues.

Public intervention is not the enemy of independent journalism

Commercial media organisations and industry associations representing them occasionally claim that public support for the media undermines the viability of market-based models by constraining private enterprise and crowding out commercial players. Comparative research by the Reuters Institute suggests this need not be the case and that, for example, targeted subsidies for minority newspapers in Finland, discounted rates for postal delivery in Italy, paying the salaries of 60 young journalists in the Netherlands and subsidised provision of newspapers to young people in France have all helped ensure 'the press increase its reach, helped smaller publications survive, and helped bigger ones increase both their profits and their potential to do public good' (Nielsen and Linnebank 2011: 9).

When it comes to public support constraining private enterprise, it is worth keeping in mind that media organisations commonly seen as market-based, like private for-profit newspapers, have historically and in virtually all democracies been at the receiving end of considerable amounts of indirect public subsidies through extensive tax exemptions and other forms of regulatory relief. This suggests public support does not preclude private media, but can in fact underpin them and incentivize them to innovate in both their business practices and journalistic enterprises and encourage them to emphasize their public role as parts of democratic politics. Public policy can, in the media sector as elsewhere in society, work with commercial enterprises and need not exist at their expense.

Furthermore, public support need not privilege particular viewpoints nor marginalise others. As the authors of the recent Reuters [report](#) argue, public support for the media that operates through a series of mechanisms including subsidies, tax exemptions and promotion of public service has the 'clear advantage of being able to be instituted in a viewpoint-neutral fashion that does not give politicians or government bureaucrats ways of discriminating against particular publishers' (Nielsen and Linnebank 2011: 24).

In terms of the claim that public support may crowd out commercial players, it is important to note that even very strong license fee funded public broadcasters such as those found in Germany, the Scandinavian countries, and elsewhere in Northern Europe have, commercial misgivings aside, clearly been able to co-exist with sizable advertising and pay-TV commercial television businesses and ensured a more diverse and durable media environment than a more exclusively commercial model such as the one seen in the United States. Some industry executives see the BBC as the main obstacle to financial sustainability in online news, including James Murdoch who, in his 2009 [MacTaggart lecture](#), claimed that 'dumping free, state-sponsored news on the market makes it incredibly difficult for journalism to flourish on the internet' (Murdoch 2009). However, the inability of American general interest news organizations, both print- and broadcasting-based, to break even despite the absence of strong public media competitors suggests that the BBC and other publicly-funded organisations are not what stands in the way of online profitability.

The revenue attached to existing forms of subsidy is considerable. Total indirect support for US newspapers and magazines via a range of tax breaks and reduced postal rates is at least \$1.2 billion a year while in the UK over half a billion pounds (£594m) is provided in public support in terms of VAT exemptions for newspapers alone (Nielsen and Linnebank 2011: 8). Indirect support is far more popular than direct subsidies but nevertheless the latter are

still significant in countries like France and Italy making up 10 per cent and 13 per cent respectively of total public support (Nielsen and Linnebank 2011: 18). The problem is, of course, that the value of indirect subsidies, such as those based on non-payment of VAT on sales, is declining in direct proportion to the drop in circulation and print revenues. Yet, if they were extended to digital sales, this could amount to a considerable advantage for news organisations facing a volatile time. Surely the current situation is absurd—because VAT exemptions are only provided for print products, it actually costs more to subscribe to the digital-only version of the *Wolverhampton Express & Star* than the much more expensively produced and distributed print product.

The notion of economic incentives, or even subsidies for newsgathering may seem radical and problematic to some, but it is the case that broadcasting policy in the UK has always been based on a system of subsidies since its inception and that there remain strong reasons, based on market failure and social welfare, to continue them. The principle source of public subsidy outside the BBC has been the use of spectrum licensing as an indirect subsidy scheme. The main terrestrial ‘Public Service’ television broadcasters do not pay market prices for spectrum and the economic benefit of advertising revenues that result is used to fund news and other public service genres. Whilst it is the case that subsidies of news may entail problems of broadcaster independence it is arguably the case that the current system is already subject to such pressures.

The subsidies that currently go to large media organisations, in the shape of tax breaks and VAT exemptions, could be used along with new sources of funding, including levies on ISPs, broadcasters, mobile operators and hardware companies, to divert sums of money into funding publicly accountable media designed to increase diversity of opinion in the printed media, broadcasting and the internet. Indeed, we propose that if large news organisations are to continue receiving indirect subsidies, this *must* be conditional on their practical support for either new or existing forms of public interest news.

Any use of public money, however, must also be transparent and open to effective challenge. Interventions have to ensure that there are proper ways of accounting for public money and, above all, that the end product of public support is to enhance diversity of expression in the country. This must also be applied to the composition of any new bodies that allocate funds for public interest journalism which must include individuals with different views and from different backgrounds. Neither markets nor bureaucratic control have delivered and sustained the journalism we need. It is therefore time to try more democratic forms of organisation—including community, cooperative and charitable structures as well as the ‘news hubs’ advocated by the Media Trust (2010)— and to demand that major communications interests make a significant contribution to a diverse and accountable news landscape.

Furthermore, in areas of underprovision we recommend a direct subsidy to local print or digital news organisations. The subsidy would cover the salary of one journalist who must be dedicated to coverage of local politics: both in the town hall and the community. The jobs should be paid for at the entry level with the intention of providing job creation opportunities for young journalists as well as improving democratic accountability and

debate at local level. Any organisation that can provide evidence of attracting a reasonable audience in the locality should be able to apply for this funding.

Conclusion

A media system dominated by a few, powerful voices and a news media increasingly run to secure financial reward or political influence has failed us when we needed it most: to alert us to the endemic insecurity of the financial system to warn us about the privatisation of the universities and the NHS and indeed, with a few honourable **exceptions**, to acknowledge the complicity at the highest levels between politicians, police and media executives. A system that monitors and challenges unaccountable formations of media power, encourages significant new news initiatives, fosters more public involvement and holds unacceptable journalistic practices to account is the least we deserve.

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About the CCMR

The Co-ordinating Committee for Media Reform (www.mediareform.org.uk) is an 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 both the Leveson Inquiry and the Communications Review, a government-initiated consultation in advance of a future Communications Bill. In a debate dominated by vested interests, Media Reform aims to draw up policies designed to sustain the public interest and foster a more democratic media system. This chapter has been edited by Natalie Fenton, Des Freedman and Angela Phillips from content provided by a range of individuals within the CCMR.

