Press regulation – the debate

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Following the discovery of widespread "phone-hacking" by journalists at *The News of the World* and other British newspapers, the Prime Minister, David Cameron, established in July 2011 a multi-part inquiry into the culture, practices and ethics of the press. Lord Justice Leveson was appointed as Chairman of the Inquiry. The first part (or "module"), which concluded its public hearings on 9 February 2012, concentrated on the relationship between the press and the public. Much of the material quoted in this Library Note comes from the evidence presented to this module (the first of four), but the Note will be updated periodically to take account of evidence presented at later modules.

It is widely accepted that the present system of voluntary self-regulation, as administered by the Press Complaints Commission (PCC), is in need of reform. The PCC deals with complaints about the editorial content of newspapers and magazines and the conduct of journalists. Editors are expected to co-operate swiftly with the Press Complaints Commission in the resolution of complaints. If a complaint cannot be resolved, then the PCC will adjudicate under its Code of Practice and can enforce a range of sanctions.

In February 2012 the PCC announced plans to reform itself. The proposal is that the new regulator should have two arms: one that deals with complaints and mediation and one that audits and, where necessary, enforces standards and compliance with the Editors' Code.

The same month saw publication of the Lords Select Committee report, *The Future of Investigative Journalism*. The report suggested that receipts from fines for breaches of regulatory codes should be allocated to a special fund reserved for the financing of investigative journalism or training. It also recommended that the Government consider further the legality of any proposals to limit the receipt of zero-rated VAT only to those newspapers which are members of the PCC (or any successor body)

In March 2012, the parliamentary Joint Committee on Privacy and Injunctions reported. The Committee, which had been covering some of the same ground as the Leveson Inquiry, called for an enhanced press regulator with jurisdiction over all major news publishers and

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the power to impose fines.

The Government is currently planning a reform of libel law; a Joint Committee reported on the draft *Defamation Bill* in October 2011 and the substantive *Defamation Bill* was given its Commons second reading on 12 June 2012. The associated consultation paper noted that "there has been mounting concern over the past few years that our defamation laws are not striking the right balance, but rather having a chilling effect on freedom of speech". It also acknowledged worries that the threat of libel proceedings might be used to impede responsible investigative journalism.

In the plentiful evidence submitted to Leveson and in discussions elsewhere in the public arena, several key themes have emerged, among them:

- Should there be a statutory "backstop" for press regulation, and would such a backstop inhibit free speech?
- What rights should individuals have to receive prior notification of press stories hostile to them or to have their replies published?
- Should there be an arbitration system as an alternative to costly libel actions?
- Should Ofcom's remit extend to the press?
- Should membership of a regulatory body be mandatory for newspapers?
- Should online news sources be brought into a regulatory system?
- What lessons can be learnt from the regulation of other professions, such as medicine and the law?

A companion Note, *Press regulation: international comparisons*, compares the regulatory systems in a variety of foreign countries.

Contents

1 Introduction

This briefing paper presents key ideas from the debate about the future of press regulation in the UK. It draws principally on evidence presented to the Leveson Inquiry on the culture, practice and ethics of the press, but also makes reference to debate elsewhere in the public arena and the recent recommendations of parliamentary committees.

Three areas are covered:

- New alternatives proposed for the Press Complaints Commission
- Ideas for mandatory requirements to be placed upon newspapers
- Proposals for an arbitration system for defamation that would avoid costly court cases

A companion paper considers how these matters are managed in a number of foreign countries.

2 Alternatives to the PCC

2.1 The PCC at present

The Press Complaints Commission (PCC) is an independent, non-statutory body which administers the system of self-regulation for the press. It does so primarily by dealing with complaints about the editorial content of newspapers and magazines (and their websites, including editorial audio-visual material) and the conduct of journalists. It can also assist individuals by representing their interests to editors in advance of an article about them being published.

The PCC is funded by the newspaper and magazine industry but operates independently of it. Newspapers and magazines pay an annual levy to the Press Standards Board of Finance, which in turn ensures secure financial support for the PCC. Membership of the PCC is voluntary; not all national newspapers choose to belong to it (for example, the Northern and Shell group titles such as the *Daily Express* and *Daily Star* are not currently members).

In addition, newspapers and those who work for them are subject to the full range of civil and criminal law. Newspapers can be sued for defamation (libel)[1] and journalists can be prosecuted for unlawful interception of communications.

The PCC is charged with enforcing a "Code of Practice", which was framed by the newspaper and periodical industry and was ratified (most recently) by the PCC in December 2011. It is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of publications. They are expected to ensure that it is observed rigorously by all editorial staff and external contributors, including non-journalists, in printed and online versions of publications.

Editors are expected to co-operate swiftly with the Press Complaints Commission in the resolution of complaints. If a complaint cannot be resolved, then the PCC will adjudicate under the Code of Practice. Any publication judged to have breached the Code must publish the adjudication in full and with due prominence agreed by the Commission's Director, including headline reference to the PCC.

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[1] In English law a distinction is made between defamation in permanent form (libel) and that not in permanent form (slander).

The PCC can enforce a range of sanctions:

- negotiation of an agreed remedy (apology, published correction, amendment of records, removal of article);
- publication of a critical adjudication, which may be followed by public criticism of a title by the Chairman of the PCC;
- a letter of admonishment from the Chairman to the editor;
- follow-up from the PCC to ensure that changes are made to avoid repeat errors and to establish what steps (which may include disciplinary action, where appropriate) have been taken against those responsible for serious breaches of the Code;
- formal referral of an editor to their publisher for action.

2.2 Establishment of the Leveson Inquiry

Following the discovery of widespread "phone-hacking" by journalists at *The News of the World* and other British newspapers, the Prime Minister, David Cameron, established an inquiry under the chairmanship of Lord Justice Leveson.[2] Under its Terms of Reference (which are available online), the Inquiry is investigating the role of the press and police in the scandal as well as wider issues concerning the culture, practices and ethics of the press.

The Inquiry's work is divided into four "modules":

- Module 1: The relationship between the press and the public and looks at phone-hacking and other potentially illegal behaviour. Formal evidence hearings began on 14 November 2012 and concluded on 9 February 2012.[3]
- Module 2: The relationships between the press and police and the extent to which that has operated in the public interest. Evidence hearings began on 27 February 2012.
- Module 3: The relationship between press and politicians. Evidence hearings began on 10 May 2012 and will finish at the end of June.
- Module 4: Recommendations for a more effective policy and regulation that supports the integrity and freedom of the press while encouraging the highest ethical standards. Evidence hearings will begin in early July 2012 and Lord Leveson expects to finish the formal part of the Inquiry by the end of July.

2.3 The need for reform

There is a widespread view that the *status quo* is no longer an option. Announcing the establishment of the Leveson Inquiry, the Prime Minister made clear that he expected to see a new regulator emerge from the remnants of the old:

> Let's be honest. The Press Complaints Commission has failed. In this case, the hacking case, frankly it was pretty much absent. Therefore we have to conclude that it's ineffective and lacking in rigour. There is a strong case for saying it's institutionally

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2 HC Deb 13 July 2011 c311

3 There were generally two evidence sessions per day, morning and afternoon. In this paper these are referenced in footnotes as "L" followed by the date, time of day and page number of the online transcript in pdf format. Evidence-givers also supplied written "Witness Statements", to which reference is sometimes made.

> conflicted because competing newspapers judge each other. As a result it lacks public confidence. I believe we need a new system entirely. It will be for the inquiry to recommend what the system should look like. But my starting presumption is that it should be truly independent, independent from the press, so the public will know that newspapers will never again be solely responsible for policing themselves. But vitally, independent of government, so the public will know that politicians are not trying to control or muzzle a press that must be free to hold politicians to account.[4]

The Deputy Prime Minister argued along similar lines in a speech the same month:

> (…) There is now an inescapable need for an overhaul of the regulatory system too. The PCC has failed as an effective watchdog.
>
> It is a complaints body at best, and a limited one at that, able only to respond to complaints made by the individuals directly affected by the reports in question. So, for example, anyone who was shocked in 2007 by the sight of Kate Middleton being hounded by photographers and film crews couldn't complain. In that situation, until she herself complains, the PCC won't investigate. That is absolutely ludicrous – as if the public have no say whatsoever over the conduct of journalists.
>
> Nor is the PCC independent. It is run by the newspapers, for the newspapers, who act as their own judge and jury. No wonder it has no teeth - that's exactly how the industry wants it. It doesn't provide real redress. A person can have their public reputation left in tatters after ruinous accusations splashed across a front page and all the PCC gets them is a short apology hidden somewhere at the back of the paper. And the PCC doesn't even cover the whole industry.
>
> Major news outlets can opt out. And that is precisely what has happened with the Daily Express, the Sunday Express and the Daily Star.
>
> No one now believes that the status quo can continue. Much of the debate has been about whether or not we should replace it with a reformed system of self-regulation or else a new system of statutory regulation. But, in my view, that misses the key point: what we need is independent regulation, insulated from vested interests within the media, and free from Government interference too.
>
> There are a number of very sensible proposals out there already, not least the need for the regulator to have proper sanctions at their disposal, including financial penalties, against editors, journalists and proprietors who breach the Code of Conduct.[5]

Ed Miliband, Leader of the Opposition, expressed similar views:

> The Press Complaints Commission has totally failed. It failed to get to the bottom of the allegations about what happened at News International in 2009. Its chair admits she was lied to but could do nothing about it. It was established to be a watchdog. But it has been exposed as a toothless poodle. It is time to put it out of its misery. The PCC has not worked. We need a new watchdog. There needs to be fundamental change.[6]

2.4 Precedents

There have been many proposals over the years for reform or replacement of the PCC. Julian Petley, Professor of Screen Media and Journalism at Brunel University, recalls some

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4 "PM signals end of Press Complaints Commission", *Independent*, 8 July 2011

5 Nick Clegg, "Liberal way forward for the press: free, accountable, plural", speech to the Institute for Government, London, 14 July 2011, text on Cabinet Office website

6 Quoted in *BBC News*, "Phone hacking: Cameron and Miliband demand new watchdog", 8 July 2011

of them in a recent article.[7] Professor Petley starts from the point that "what is required now is a system of independent regulation that is independent of both government and the newspaper industry alike." He is particularly impressed by the precedent of Clive Soley's Private Member's Bill,[8] which was introduced (though not enacted) in the 1992 Parliament:

> The Freedom and Responsibility of the Press bill proposed a series of measures which attempted the difficult but necessary balancing act of promoting both press freedom and improved press standards. (...) The bill set out to establish an Independent Press Authority which, like the PCC, would draw up a code of standards for journalists and investigate alleged breaches of it. Also like the PCC, it would attempt to conciliate between complainants and newspapers. But where it would differ from the PCC would be that its code would not be drawn up by currently serving editors, and alleged breaches would be considered by experienced former senior journalists and by specialists in media regulation and ethics. Even more importantly, though, the Authority would be able to insist, where appropriate, not simply on the correction of a story but on a right of reply, which would be guaranteed by statute. Furthermore, failure to comply with the Authority's judgements or requests would entail financial sanctions, and these too would be backed by the force of law. This is not state censorship – although of course it was caricatured as such by a bitterly hostile press – but simply giving the independent regulator the teeth which the PCC so manifestly lacks.
>
> However, the Authority's work would by no means be confined simply to disciplining the press, as it would also commission and carry out research into those factors which prevent newspapers from carrying out their proper public interest functions, be they oppressive laws on defamation and official secrecy, the unnecessary use of 'super injunctions', overweening proprietor power, public authorities' unwillingness to comply with the Freedom of Information Act, concentration and oligopoly in the newspaper and magazine distribution sector, and so on.

Prior to the phone-hacking scandal, debate was more about reforming the PCC than replacing it. For example, the Culture, Media and Sport Committee discussed the PCC in its 2010 report on press standards, privacy and libel. The report suggested that the PCC should have the power to fine its members where it believes that a departure from the Code of Practice is serious enough to warrant a financial penalty. For the most serious of breaches, the Committee recommended a power to suspend the printing of the offending publication for one issue. The report also suggested that the PCC should be able to impose financial penalties on publications found breaking the rules. Other recommendations were that the PCC be renamed the Press Complaints and Standards Commission to reflect its role as a regulator and not just as a complaints handling service, and that a deputy director for standards should be appointed.[9]

In January 2010, the Media Standards Trust published recommendations for reforming the PCC, in the form of a submission to the PCC's review of governance.[10] Some of the key recommendations were that the PCC should:

- Become a membership organization and, as part of the terms of membership, set out clear rules and remedies

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7 "Press Regulation? – Now There's an Idea", *New Left Project*, 24 August 2011

8 Second reading debate at HC Deb 29 January 1993 vol 217 cc1298-370

9 Culture, Media and Sport Committee, *Press standards, privacy and libel*, HC 362-I, 24 February 2010, p8; cf "Press Complaints Commission 'needs more powers'", *BBC News*, 24 February 2010

10 *Can independent self-regulation keep standards high and preserve press freedom?*

- Be obliged to investigate breaches of the code where this is evidence of public concern – without requiring a complaint
- Be able to accept complaints from any source (except where they run contrary to the interests of an individual in privacy and intrusion cases)
- Put a financial value on each adjudication which would be met by the newspaper publishing an apology to the equivalent advertising value
- Comply with the principles of the *Freedom of Information Act*, particularly in terms of transparency of funding and decision-making processes

2.5 Four models for reform

A useful survey of the options appeared in *Political Quarterly* last autumn. Martin Moore, director of the Media Standards Trust ("an independent registered charity that fosters high standards in news on behalf of the public") identifies four models for the reform of UK press regulation. These are not meant to be mutually exclusive; a solution might lie in combining elements from several models, he suggests. The ideas he presents in summary form correspond to those aired frequently (albeit less systematically) in the course of the Leveson Inquiry:[11]

> **1. Reform the existing PCC**
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> This would be the preferred route of many within the press, particularly those at the popular end. It would probably involve giving the existing organisation greater investigative powers, increasing the representation of lay members on the commission and decreasing the number of editors, and providing some sort of sanction against newspapers (none currently existing). This would be probably be enhanced by some revisions to its remit and additional funding. (...)
>
> **2. Create an independent regulator**
>
> (...) In this model news organisations would probably be required to sign up to a self-regulatory system that adhered to some basic criteria. There may be more than one self-regulatory system, but each one would have to adhere to the same baseline. (...)
>
> **3. Extend a watered down Ofcom to cover all major media organisations**
>
> (...) this would, for the press, mean a significant extension of regulation. It would mean that any commercial news outlet with an audience over a certain threshold could fall within the revised Ofcom remit. As such they would be required to adhere to a code or risk some sanction, such as a fine. This would satisfy those who believe a media regulator needs teeth if it is to be effective. (...)
>
> **4. Withdraw all media regulation, but reform, extend, reduce and clarify existing media law**

[11] Martin Moore, "Reform of press self-regulation", *The Political Quarterly* 82(4), October-December 2011, 546-8. For an online summary of the article see the author's blog posting on the Media Standards Trust website, "Reform of press self-regulation: a spectrum of possible models", 29 September 2011. In the blog Moore canvasses three further options -- "Abolish the PCC, without setting up a replacement", "Create a professional body for journalists" and "Create a new statutory regulator for all media" – again, in each case, weighing up the benefits against the drawbacks.

> This may seem like the radical option but may be better suited to the emerging digital environment. In this option there would be no media regulator – except for those organisations that benefited from public funding.
>
> Instead, media law would be reformed, extended, reduced and clarified such that news organisations would be incentivized to set up their own, devolved complaints systems to reduce costly legal action. (...)

For each model Moore cites what he sees as the benefits and problems.

2.6 Lord Leveson's thoughts

The Chairman of the Inquiry himself suggested that a new three-part regulator could replace the PCC. Lord Leveson said that he could envisage a system that had three limbs: "the complaint and mediation service, presently what everybody says the PCC does so well, a regulatory mechanism, which I don't think the PCC now claims to have done, and an arbitral mechanism". He suggested that such a system could provide "all the avenues for those who are concerned about the press to raise them in a comparatively straightforward, quick, comparatively cheap way". In his view such a system should be independent of the state, but legal changes might be needed to appoint those to run it and to ensure that it was not circumvented by those rich enough to bring legal action. "I would be very surprised if Government regulation even entered my mind," he said. He suggested that the new body, unlike the PCC, would not have serving editors making key decisions. He said that employing "very senior retired journalists" might be preferable to having current editors standing in judgment on their competitors. The solution, in his eyes, would need more than "a little tinkering".[12]

2.7 Lord Hunt's proposals

At the end of January 2012, Lord Hunt, current chairman of the PCC, unveiled proposals for a "totally new" newspaper regulator which he hopes will eradicate "bad journalism" and practices that have brought "shame" on the industry. He told the Inquiry that he was, however, flatly opposed to statutory regulation of newspapers, arguing that it would "open a Pandora's box" which would give the opportunity to politicians to try to curb the freedom of the press. The new regulatory body proposed by Hunt would have real powers to investigate allegations such as phone hacking, illegal computer hacking or general press intrusion by reporters or paparazzi. The new body would be far more robust than the PCC and be independent of influence by present editors, according to Hunt, with a three-pronged structure involving units providing a swift complaints resolution service, a standards arm and an arbitration operation which would assess damages:[13]

> We do urgently need a totally new body with substantial increased powers to audit, enforce compliance with the code [of practice], to require access to documents, to summon witnesses when necessary and also to impose fines, all backed by commercial contract.

Lord Hunt's proposals are described in more detail in his Witness Statement.

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[12] L 10 January 2012 afternoon, pp25, 28, 69, 93, 98; cf "New 'quick and easy' justice for people wronged by the press", Times, 11 January 2012

[13] L 31 January 2012 afternoon, pp65-70; cf "PCC chairman unveils plans for new watchdog at Leveson inquiry", *Guardian*, 31 January 2012

2.8 The PCC's plans to reform itself

Stephen Abell, current director of the PCC, told Leveson that a reformed regulator should "deal with complaints in a fast, economical way" but also have "a systemic role to look at issues of broad standards or internal systems that could carry with it a financial penalty". Had a system like this been in place a decade ago, the issue of phone hacking at the *News of the World* might have been handled better, in his view, as this was now seen as a "systemic" failure of governance at the paper.[14]

In February 2012 the Press Complaints Commission unanimously agreed in principle to the proposal that it would now move into a "transitional phase, transferring its assets, liabilities and staff to a new regulatory body." (Further information about the transition can be found in the minutes of the Commission meeting for February 2012.) There was some surprise that the decision to scrap the existing body was taken before Lord Leveson had completed his Inquiry. However, Lord Hunt told Radio 4's Today programme that Lord Leveson supported the move. He went on: "I decided early on that the problem really was that the PCC was being criticised for not exercising powers it never had in the first place, so I recommended we start again with a new body with a press regulator with teeth".[15] (A recurrent theme in the Leveson hearings was whether the PCC as currently constituted is a "regulator", a "mediator" or both.) Lord Hunt has since presented a draft proposal for the future structure of press self-regulation, which was published on the PCC website on 2 April 2012. These are the key elements:

> (…) The proposal is that the new regulator should have two arms: one that deals with complaints and mediation and one that audits and, where necessary, enforces standards and compliance with the Editors' Code. Greater emphasis must be placed on internal self-regulation, with a named individual carrying personal responsibility for compliance at each publisher. This individual will be responsible for providing a simple but thoroughgoing audit of compliance on an annual basis. The system should be underpinned through a system of commercial contracts.
>
> **Structural Change**
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> Administrative oversight within the new regulatory body will be vested in a small Management Board or Board of Trustees, which will deal [with] all administrative aspects of the new system. The Board would have a lay majority, but it is proposed that there would also be senior involvement for the industry. The Independent Chairman would oversee both the standards and complaints arms of the new body.
>
> **The Complaints and Mediation Arm**
>
> This would maintain the mediation and arbitration services that the existing PCC provides. Its principal sanction will remain a critical adjudication. The complaints and mediation arm will encourage newspapers to resolve most complaints directly with the complainant. Adjudications would be undertaken by a slimmed down adjudicatory panel with a lay majority. The new body will not be able to award compensation.
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> A new Independent Assessor will be able to consider the substance of an adjudication and not only the processes by which it was arrived at; and could refer adjudications back to the panel, to be reviewed again, as and when this is deemed necessary.

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[14] L 30 January 2012 afternoon, pp101, 81-2; cf "PCC chief tells Leveson newspapers should be fined for breaching code", *Guardian*, 30 January 2012

[15] "Lord Hunt defends decision to scrap PCC", *Independent*, 9 March 2012

The Standards/Compliance Arm

The standards arm would be activated when there was evidence of a serious or systemic breakdown in standards. There will be a panel of experts upon which the standards body can call to undertake an investigation. They would be paid as used.

If a publisher is found not to have complied with the standards of internal self-regulation expected, then it would have to pay for the work of the investigating panel on a 'polluter pays' basis and could be made to pay a proportionate fine. The fine would operate through the funding system.

Strengthening self-regulation

A named individual will become responsible for overseeing standards at each publisher. There will be an annual audit, through which each publisher will be required to show how each title is ensuring the Code is being followed and standards being maintained. In the majority of publications appropriate systems are already in place, so this should not be overly burdensome for the vast majority of publishers.

Commercial Contracts

The new system will be legally underpinned though a system of enforceable commercial contracts. Each publisher would sign a contract with the regulator, which would be enforceable through the civil law. This would bind publications into the system, equipping the new regulator with powers of enforcement, effectively compelling cooperation with the regulator, by enabling it to sue for any contractual breaches. This is another power that may – indeed should – never have to be used. The contracts might include the following commitments:

• To fund the regulator according to an agreed formula

• Undertaking to abide by the Code and relevant laws

• Responding positively to individual complaints that have been handled by the complaints arm

• Support for clearly defined compliance and standards mechanisms which could be audited by the regulator

• Accepting proportionate financial sanctions via the funding formula should serious standards breaches be found. (…)

2.9 The Greenslade model

The media commentator Roy Greenslade used his column in *The Guardian* to outline a more elaborate version of this model. He proposed that Parliament create, under statute if necessary, an arm's-length framework for regulation. That framework would consist of a body, itself appointed through the offices of the Appointments Commission, to oversee the formation of a new regulator and its twin complaints-handling office:

> For the purposes of this argument, let's call it the Press Regulation Board (PRB). Its powers will extend to appointing the key members of the regulator and, most importantly, the power to compel publishers to fund the regulator and obey its decisions. It will also have the power to compel the payment of fines should the ombudsman (see below) find it necessary to levy them. But the PRB will have no power of involvement in the decisions of the regulator and it will not therefore inhibit press freedom. Its remit will extend to appointing the most senior staff, monitoring all

other appointments, ensuring that the regulator is financed and certifying that all members of the industry take part.

As for the new regulator itself:

> This will have two linked arms. One, let's call it the Office of the Press Standards Ombudsman (PSO), will be the real regulator. I'll come to that in a moment. The other, let's call it the Press Standards Commission (PSC), will echo the PCC's work by handling complaints. Both the ombudsman and the chair of the PSC will be appointed by the Press Regulation Board. Neither of them will have any formal links to the newspaper and magazine industries. The ombudsman will have two advisers, one legal and the other chosen - by the PRB - from with the newspaper industry (or, possibly, a retired veteran). The ombudsman will be served by the secretariat of the PSC. The PSC will be composed of up to 15 members, four of whom will be selected from the newspaper and magazine industries in order to give practical advice to the 11 "public" or lay members. The PSC, where practicable and fair, will set out to resolve complainants by acting as advocate for the complainant and as conciliator. It will do so by reference to the editors' code. If the resolution process breaks down, the PSC will have the power to hold oral hearings attended by a complainant and the representatives of a publication. If there is no agreement at that point, the commission will adjudicate one way or the other.[16]

2.10 The Joint Committee report of 2012

In March 2012, the Joint Committee on Privacy and Injunctions reported. The Committee, composed of Members of both Houses, had been covering some of the same ground as the Leveson Inquiry, and many of the witnesses were common to both inquiries. Chapter 5 of the Joint Committee's report, "Better regulation of news publications", reached the following conclusions:

> The most important step towards improving protection of privacy is to provide for enhanced regulation of the media. We conclude that the Press Complaints Commission lacked the power, sanctions or independence necessary to be truly effective. The new regulator should be demonstrably independent of the industry and of government. It should be cost-free to complainants and should have access to a wider range of sanctions, including the power to fine and more power to require apologies to be published. Sanctions should be developed to ensure that all major news publishers, including digital publishers, come under its jurisdiction. The reformed regulator should develop an alternative dispute resolution process, to provide quicker, cheaper and easier resolution of privacy issues. A standing commission comprising members of both Houses of Parliament should be established to scrutinise industry-led reforms and to report on them to Parliament.[17]

2.11 The Culture Secretary's views

In his appearance before the Joint Committee on Privacy and Injunctions, the Culture Secretary, Jeremy Hunt, gave some insight into the kind of regulatory framework for the media which the Government might feel able to support in future. "Statutory underpinning" may be required to bolster the authority of a remodelled PCC, he suggested. Mr Hunt stressed that it should never be a question of any government directly regulating the press or

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16 "How to reform press regulation - with backing from the state", *Guardian*, 2 February 2012

17 Joint Committee on Privacy and Injunctions, HL 273/HC 1443 2010-12, 27 March 2012, p6

what it chooses to publish. “We would like to continue with a light-touch approach but it has to command the confidence of the public after a very bad period,” he said.[18]

Making a comparison with the role of the disciplinary committee of the General Medical Council, he observed that “there is a difference between statutory regulation of content—which nobody wants and, for all sorts of reasons, is a path Parliament would strongly resist going down, rightly—and giving statutory underpinning to a body that is run independently at arm’s length.” Mr Hunt suggested that one possible penalty for press organisations that refused to join the new regulatory body might be to deny them legal status as newspaper companies, thereby forcing them to charge VAT on their products. “At an extreme you could expel an organisation from an industry-led body,” he said. “There are lots of different varieties of statutory underpinning. At the heart of this are the incentives to comply with the code [of practice].” At the same hearing, Mr Hunt expressed reluctance to extend the remit of a future press regulator to include bloggers.[19]

2.12 A threat to press freedom?

In his appearance before Leveson, Ian Hislop, Editor of *Private Eye*, strongly rejected statutory regulation, pointing out that most of the “heinous crimes” that had come to the Inquiry’s attention were already illegal: “If the state regulates the press, then the press no longer regulates the state, and that is an unfortunate state of affairs.”[20]

Sir Christopher Meyer, a former PCC chairman, warned that state involvement in press regulation was a “slippery slope”. He argued that in the future a “less permissive, less liberal state” may try to take advantage of existing legislation to do things that “might be offensive to freedom of expression”. He continued:

> I'm not saying this should be a wholly unregulated press, free to roar around at will. That is not my point. Actually, today, the press is quite closely hemmed in by both statute and by the code of practice. It is a situation which basically, I think, is as good as you're going to get. What I would regret to see emerging from this Inquiry is a system of regulation which is more oppressive than need be because of the phone-hacking scandal, which, as I say in my witness statement, I think has got very little to do with press regulation.[21]

Jonathan Caplan QC, representing Associated Newspapers, owners of the *Daily Mail*, cautioned against making changes to the current self-regulatory regime “on the basis of historic transgressions which no longer occur”.[22]

Over the course of months the Leveson Inquiry heard a number of favourable references to a “statutory backstop”.[23] However, several editors of national papers were opposed to this idea. James Harding, Editor of *The Times*, said: “The more I thought about that the more deeply I was opposed to that because either that backstop would have been meaningless, ineffectual, or what you have is actual state regulation.” Lord Leveson responded that he was only considering legislation to create a framework that would enable the work of an independent

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18 Oral evidence to the Joint Committee on Privacy and Injunctions, 19 January 2012, pp678, 681

19 Oral evidence to the Joint Committee on Privacy and Injunctions, 19 January 2012, pp678, 682, 683; cf “Press regulation ‘needs state support’”, *Guardian*, 16 January 2012; “Newspapers may be forced to join regulator”, *Independent*, 17 January 2012

20 L 17 January 2012 morning, pp9, 20

21 L 31 January 2012 morning, pp10, 12-13

22 L 15 November 2011 morning, p36

23 For example, from Paul Dacre, editor of the *Daily Mail* (see section 2.15 below)

regulator. Mr Harding said that he was concerned that if a "Leveson Act" was introduced, politicians could find it easy to "ratchet it up a little" with an amendment to stop journalists from criticising them, and that would have a "chilling effect on press freedom".[24] John Witherow, Editor of *The Sunday Times*, shared this view and drew a comparison with events at the BBC:

> I would have very serious doubts about some sort of statutory body that's been set up by Parliament for some of the reasons he [Mr Harding] said, but also, I think -- and I do think that in future politicians would be tempted to intervene. If you just think back on the BBC and the dodgy dossier, the huge furore that burst out over that and the resignation of the Director General. I think it was because Number 10 thought they had some stake and some control in the BBC, and if you had, in future, a row -- and the press is far more partisan and polemical than the BBC can be -- I think they would be sorely tempted in a similar sort of row to take some action because they already had a beachhead, in a sense, and a stepping stone towards amending it.[25]

2.13 VAT exemption and advertising

Newspapers are currently exempt from VAT. An idea expressed at the Society of Editors annual conference in November 2011 was that newspapers that decline to be part of a new system of self-regulation might lose that exemption, thus adding to their operating costs. Richard Desmond, owner of the *Daily Express* and *Daily Star*, has withdrawn his titles from the PCC, meaning that the regulator is currently unable to claim that it covers the whole industry. According to a press report, the PCC believes that the threat of removing VAT could be a way of persuading newspapers such as his to join a successor body without forcing them to become a member. The industry is concerned that compulsory membership of a new regulatory body would undermine press freedom by effectively imposing the state licensing of newspapers. George Brock, Professor of Journalism at City University, London, told the conference that it would be difficult and time-consuming to change the legislation on VAT. He suggested that it would be more effective to offer incentives to those who agreed to join a new regulator, such as giving members the right to defend themselves in legal cases by arguing that they were acting in the public interest.[26] Harriet Harman, Shadow Culture Secretary, has expressed scepticism about this proposal:

> To have a differential VAT rate, depending on whether you are part of a voluntary regulation system, would require legislation. All proposals have their upsides and downsides. Any adjudication system has to be more immediate.[27]

In their recent report on the future of investigative journalism, the Lords Communications Committee aired their suspicion that limiting zero-rating to those newspapers which are members of the PCC might be illegal under European Community law, commenting that "VAT is subject to the principle of fiscal neutrality which precludes treating similar goods or supplies of services differently for VAT purposes." Nevertheless, the Committee recommended that the Government should consider further the legality of any such proposals.[28]

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24 L 17 January 2012 morning, pp101-3; cf "State regulation would destroy free press, editors tell Leveson inquiry", *Times*, 18 January 2012

25 L 17 January 2012 afternoon, p43

26 "Newspapers opting out of self-regulation could lose VAT perk, says PCC", *Times*, 15 November 2011

27 Quoted in "Harriet Harman declares she is going to be a champion of press freedom", *Guardian*, 24 January 2012

28 HL Communications Committee, *The future of investigative journalism*, HL 256 2010-12, 16 February 2012, para 177, p47

Will Lewis, former Editor of the *Daily Telegraph*, told the Inquiry that advertising revenue, which is so important to newspapers and currently comes under the scrutiny of ABC[29] and NRS,[30] might instead come under the aegis of a reformed PCC: "then any newspaper group outside of the son of PCC would be unable to sell its advertising wares based on these crucial currencies that are so important to how newspapers sell advertising."[31]

2.14 Extension of remit to cover online and freelancers

Several editors appearing before the Leveson Inquiry endorsed the idea that, for a reformed regulator to be effective, it must cover all major news organisations, in print and online. Lionel Barber, Editor of the *Financial Times*, argued that online "media aggregators" such as the *Huffington Post* should be encouraged to join the new regulatory regime.[32] Richard Wallace, editor of the *Daily Mirror*, said he believed that there is a "willingness" from online news providers to sign up to a regulatory framework because it would give them "cachet":

> In the world of the Internet, there is just a lot of noise, and what the consumers are seeking and business is seeking is some kind of order, and I think that legitimate bloggers, legitimate Internet news providers would welcome the opportunity to join such a body, to be kite-marked or branded in some kind of way, because it would have a direct effect on their businesses.[33]

Mark Thomson, a lawyer representing the actress Sienna Miller who had been the victim of paparazzi intrusion, argued that freelance photographers should also be covered. "Any new proper regulator has to deal with not just the publishers, but the independent agencies, photographic agencies and freelancers," he said.[34]

2.15 A press ombudsman

At one of the seminars preceding the formal opening of the Inquiry, Paul Dacre, editor of the *Daily Mail*, surprised those present by showing more enthusiasm for state intervention than was apparent from his editorials. He called for new legislation compelling newspapers to participate in self-regulation and for the appointment of an Ombudsman with the power to impose fines. "[W]hile I abhor statutory controls," Mr Dacre said, "there's one area where Parliament can help the press. Some way must be found to compel all newspaper owners to fund and participate in self-regulation". He continued:

> An ombudsman, possibly a retired judge or civil servant, and possibly advised by two retired editors from both ends of the newspaper spectrum could have the power to investigate, possibly with specialists co-opted on to his panel, potential press scandals. The ombudsman could also have the power to summon journalists and editors to give evidence, to name offenders, and if necessary, in the case of the most extreme malfeasance, to impose fines.[35]

2.16 A role for Ofcom?

Ofcom is currently the statutory regulator of broadcasting and telecommunications. In his appearance at the Leveson Inquiry, Ian Hargreaves, formerly editor of the *Independent*, now Professor of Digital Economy at Cardiff University, suggested that Ofcom could play a part in

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29 Audit Bureau of Circulations
30 National Readership Survey
31 L 10 January 2011 afternoon, p68
32 L 10 January 2011 morning, p41
33 L 16 January 2012 morning, pp31-2
34 L 24 November 2011 morning, p47
35 L 12 October 2011, pp22-4

regulating the print media if the PCC were replaced by an "intelligently constructed" Press Council. He said that he favoured a light touch regulatory role for Ofcom, which would prove a "backstop statutory power", or an "invigilating" role, to force newspapers to adhere to a code of practice. But he added that he did not think Ofcom should regulate the press directly.[36]

Professor Julian Petley, in the article quoted earlier, also sees a role for Ofcom:

> How would an Independent Press Authority or an ombudsman be financed? The PCC is funded through a levy on newspapers and magazines which is administered by the Press Standards Board of Finance (PressBoF). However, as this is made up solely of industry figures, it is very far from being independent. Furthermore, Richard Desmond simply ceasing to pay the levy and thus unilaterally exempting the Express and Star from the PCC code all too clearly demonstrates just how weak and voluntarist the current system actually is. For any independent system of regulation to be effective, the levy would have to be compulsory, adequate to fund the tasks in hand, and administered by a body entirely independent of the press. If the newspaper and magazine owners refused to pay up, then the money would simply have to come from the public purse. In either case, in these days of ever-greater media convergence, the obvious candidate for administering the funding is Ofcom.[37]

In his witness statement, Steven Barnett, Professor of Communications at the University of Westminster, suggested that "television offers valuable lessons in terms of commitment to and implementation of a set of principles". In his view, Ofcom provides a "backstop" ensuring that effective sanctions are imposed on broadcasters when standards are breached. He emphasised that he was not calling for statutory regulation of the press, the imposition of impartiality rules on the press, or for licensing of newspapers:

> What is essential, however, is that any self-regulatory system incorporates the kinds of investigatory powers, punitive sanctions and protection for the public that have produced a television journalism culture which takes its professional codes of conduct seriously. This will require self-regulation to be supported by a backstop, independent body with the democratic legitimacy of Parliament.[38]

The Joint Committee on Privacy and Injunctions viewed statutory regulation as a last resort:

> 188. (…) Should the industry fail to establish an independent regulator which commands public confidence, the Government should seriously consider establishing some form of statutory oversight. This could involve giving Ofcom or another body overall statutory responsibility for press regulation, the day-to-day running of which it could then devolve to a self-regulatory body, in a similar manner to the arrangements for regulating broadcast advertising.[39]

In a speech to the Oxford Media Convention in January, Ed Richards, CEO of Ofcom, pointed to areas of commonality between Ofcom's Broadcasting Code, the BBC's Editorial Guidelines and the PCC Code as evidence that a set of core principles could be established between regulators. However, he continued by saying: "For the avoidance of doubt, we do

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36 L 8 December 2011 afternoon, pp50-1; cf "Leveson inquiry: Ian Hargreaves backs Richard Desmond over PCC exit", *Guardian*, 8 December 2011

37 "Press Regulation? – Now There's an Idea", *New Left Project*, 24 August 2011

38 Prof Steven Barnett, Witness statement, Dec 2011, p6

39 Joint Committee on Privacy and Injunctions, HL 273/HC 1443 2010-12, 27 March 2012, p43

not think that Ofcom should regulate the press. The broadcast licensing approach to regulation is not the right one for the press, in its physical or digital form."[40]

2.17 Inspiration from Ireland and Australia

Leveson was told by another witness that the Irish Press Council (IPC) could provide a model for British newspaper regulation. Dr Daithí Mac Síthigh, of the University of East Anglia, said that the IPC was "recognised by statute but not set up by statute". This meant that the body was sufficiently independent but it had a legally defined mandate regarding processes. He noted that UK newspapers which publish in Ireland have all joined the Irish Council, even those which oppose statutory regulation in the UK:

> I think that's an important point, that when the opportunity was presented to those publications, and this was part of a decade-long debate about the reform of libel law in Ireland, it didn't come out of nowhere, and the press was generally comfortable with this co-regulatory solution as an alternative to statutory regulation.[41]

On 28 February 2012 an Independent Inquiry for the Australian Department of Broadband, Communications and the Digital Economy (DBCDE) published its findings. This six-month inquiry, led by a former Justice of the Federal Court of Australia and a respected academic, was in part prompted by events in the UK and the pre-eminence of Rupert Murdoch's News Corp in his native country. The report recommended a complete overhaul of news media regulation and the concentration of regulatory authority in a single body with responsibility for print, broadcast and online news. The model has been described as "enforced self-regulation". A media commentator offers this summary of what is proposed in Australia:

> An independent statutory body – the News Media Council (NMC) – would be established, free from government influence through an independent appointments procedure, but funded via government. An independent committee, perhaps of senior lawyers and academics, would appoint a full-time independent Chair and 20 part-time members (50% lay appointments, 50% female). Industry candidates would not include managers, directors and shareholders of media organisations.
>
> Funding – ostensibly to ensure independence from the industry – would be obtained from government via a transparent process. The emphasis is on ensuring adequate funding after the shortfalls of the APC.
>
> The principal function of the NMC would be "to promote the highest ethical and professional standards of journalism" through: the preparation and review of standards, via setting both non-binding aspirational principles and detailed codes of practice; investigation and resolution of alleged contraventions of standards through complaints or on its own motion; the production at regular intervals of reports on the state of the Australian news media; educating the news media about the contents of standards; and educating the public about the standards and about the existence and role of the NMC.
>
> The authority of the NMC is to be conferred by statute, and its jurisdiction is therefore bound by a legal definition of what constitutes the 'news media', such that no eligible body can opt-out of the system. The Inquiry adopts that of the New Zealand Law Commission's recent report, subject to a 'minimum threshold' below which no

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[40] Ed Richards, Speech to the Oxford Media Convention, 25 January 2012

[41] L 8 December 2011 afternoon, pp 54-6. See section 5 below for more on the Irish model, which is also discussed in Annabel Brody, "Pressing times ahead: the evolution of press councils in an age of media convergence", *Communications Law*, 16(3), 106-113.

regulatory obligations apply. This would be determined by size of potential readership, or by number of annual hits in the case of online outlets.

The complaints function is designed for speed of resolution, and so complainants should be obliged to waive any possible future action they might have; the Council would preferably not deal with cases in which litigation is pending or where courts may ultimately be involved. Complaints will initially be dealt with via mediation; failing that, a complaints panel would make a subsequent decision.

Remedial powers following complaints and own-motion investigations would be:

- To require publication of a correction
- To require withdrawal of a particular article from continued publication (via the internet or otherwise)
- To require a media outlet to publish a reply by a complainant or other relevant person
- To require publication of the NMC's decision or determination
- To direct when and where publications should appear (Para 11.74).

The NMC will have no powers to impose fines or award compensation. Following a successful decision/correction a form of privilege should ensure protection from further legal proceedings for both the NMC and the publication. In the event of non-compliance with a decision, the NMC or the complainant would be able to obtain a court order compelling compliance.[42]

2.18 Composition of the new body

In her appearance before the Leveson Inquiry, the writer Joan Smith called for "a kind of successor body to the PCC which isn't dominated by editors, which has more representation from outside."[43]

The board of the PCC is made up of 17 members: ten lay members and seven editors. Complaints to the PCC are adjudicated using its Code of Practice. The Code is written and revised by the Editors' Code Committee which is made up of editors of national, regional and local newspapers sitting alongside the Chairman and Director of the PCC. Unlike the PCC itself, the Code Committee has no lay members except the Chairman and Director of the PCC. In their 2010 report, the Commons Culture, Media and Sport Committee recommended that the membership of the PCC should be rebalanced to give the lay members a two-thirds majority, making it absolutely clear that the PCC is not overly influenced by the press, that there should be lay members of the Code Committee and that one of those lay members should be the Code Committee's Chairman.[44]

2.19 The ASA and other analogies

Speaking before the Leveson Inquiry got underway, the Prime Minister suggested that the Advertising Standards Authority (ASA) might be a possible model for the press:

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42 Gordon Ramsay, "'Enforced self-regulation': what can the Leveson Inquiry learn from Australia?", Media Standards Trust blog, 5 March 2012

43 L 21 November 2011 morning, p46

44 Culture, Media and Sport Committee, Press standards, privacy and libel, HC 362-I, 24 February 2010, paras 499-500, 542

> There are ways of setting up a regulatory system that is effectively independent, that is non-statutory, that does not have the Government's fingertips all over it, as it were, and that can do a good and trusted job, as we see in the case of advertising standards.[45]

The advertising regulator is independent of Government, but because it draws its powers from a legal agreement with a statutory regulator (Ofcom, in the case of commercial broadcast advertising), it has "sharper teeth" than the PCC. This is particularly obvious in broadcast advertising where it is in a "co-regulatory partnership" with Ofcom, but even in non-broadcast advertising its code goes further than the PCC code, for example by including a requirement to be "socially responsible". An article on *The Economist* website considers the applicability of the ASA model to the press and summarises the sanctions available under the Committee of Advertising Practice code. The article comments:

> Crudely, when the ASA is policing non-broadcast ads, it is a self-regulator, backed by the industry and relying on industry peer pressure for most of its clout. In a small minority of cases where its rulings are ignored or flouted, it can call on what the ASA calls its "legal backstop", meaning it can refer miscreants to the Office of Fair Trading for punishment (i.e. fines).[46]

In proposing a self-regulatory system with a statutory backstop, Prof Steven Barnett suggested that an analogous model might be the Solicitors' Regulation Authority, a self-regulatory body which has the power to impose unlimited fines and is backed in law by an independent Legal Services Board.[47]

In an article published on the *Financial Times* website before Leveson started work, John Lloyd proposed the creation of a "Journalism Society", which would operate in a similar way to the Law Society, the representative body for solicitors in England and Wales:

> A 'Journalism Society's' stakeholders would include representatives of the government; the educational establishment; civil society (for instance relevant non-government organisations and policy institutes); industry and finance; and the news media. All of these would be committed, under its charter, to pluralist, independent, opinionated news media, working within the law.[48]

Such a body could set and patrol ethical standards, monitor training and qualifications and act as a forum within which journalists could map out the nature and future of their craft at a time of rapid change. The question that arises is what sanctions such a body would have. The Law Society is able, in the last resort, to suspend a lawyer's right to practice. Could a Journalism Society "suspend" journalists?

3 Mandatory requirements

3.1 Fines

Lord Black of Brentwood, chairman of the Press Board of Finance, which raises a levy against newspapers to fund the PCC, indicated to Leveson that he had changed his views on penalties. Formerly he had been opposed to the idea of the PCC issuing fines against newspapers, but the phone hacking scandal had caused him to change his views.[50] Tony

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45 HC Deb 13 July 2011 c318

46 "What, exactly, is 'independent' press regulation?" *Bagehot's Notebook*, 14 July 2011

47 Prof Steven Barnett, Witness statement, Dec 2011, p9

48 John Lloyd, "Murdoch broke Britain's press. This is how we fix it", *Financial Times* blog, 8 July 2011

50 L 1 February 2012 morning, p20; cf "Press self–regulation 'to change radically'", *Daily Telegraph*, 2 February 2012

Gallagher (*Daily Telegraph*) objected to the notion of fining newspapers, preferring to see "suspension of people",[51] but the idea found support from Lionel Barber, Editor of the *Financial Times*, and Murdoch MacLennan, chief executive of the Telegraph Media Group.[52]

Colette Bowe, chair of Ofcom, the broadcasting regulator, told the Inquiry that its statutory power to impose fines was very useful in maintaining the respect of broadcasters and other communications businesses:

> …[T]he financial penalty is something that will probably gain the undivided attention of those who are responsible for the management of the business, as distinct from those who are responsible for the editorial side of the business, and that is another issue to bear in mind in thinking about how one constructs the appropriate sanction.[53]

Stephen Abell, current director of the PCC, told the Inquiry that, in his view, newspapers should be fined if they are found to be in "systemic" breach of the standards set out in the industry's code of practice.[54]

This view is in contrast to that of Sir Christopher Meyer, a former PCC chairman, who contended that the power to fine, whilst "superficially attractive", was a "snare and delusion":

> The PCC's unique selling point is that it is free and fast. The BBC Trust is, by contrast, ponderous and slow. If fines were introduced into the equation (and how could this happen, save by statute?), it is inevitable that the whole system would break down. There would be endless arguments about the tariff. Lawyers would be introduced into what is currently a lawyer-free zone. Newspapers would challenge fines in principle as an unacceptable abridgement of freedom of speech and are more than likely to win, in either the English courts or at Strasbourg.[55]

In his appearance before the Inquiry, Kelvin MacKenzie, former editor of the *Sun*, alleged that the PCC "were lied to by News International. And that was quite wrong and they should pay a commercial penalty for doing that". In his opinion, "the threat of financial penalty will have a straightforward effect on newspapers. No editor, no managing director, no proprietor would dream of lying under those circumstances."[56]

The new regulator described by Lord Hunt at the end of January would, he told the Inquiry, have the power to investigate allegations of wrongdoing by newspapers and to impose fines and award compensation to victims of the press, with newspapers signing binding contracts to adhere to its rulings for five years at a time.[57]

Lord Grade, who was giving evidence to Leveson on the same day, said that he too was opposed to statutory regulation of the press. As a former chairman of the BBC Governors who was made a commissioner at the PCC last year, he said the public want "speedy redress" which would not be available through the kind of statutory regulation in place for UK

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51 L 10 January 2012 afternoon, p99

52 L 10 January 2012 morning, p47; L 10 January 2012 afternoon, p22; cf "New 'quick and easy' justice for people wronged by the press", *Times*, 11 January 2012

53 L 1 February 2012 afternoon, pp21-22

54 L 30 January 2012 afternoon, p101; cf "PCC chief tells Leveson newspapers should be fined for breaching code", *Guardian*, 30 January 2012

55 Witness statement to the Leveson Inquiry by Sir Christopher Meyer, 14 September 2011, p11

56 L 9 January 2012 morning, p36

57 L 31 January 2012 afternoon, p81, 101; cf "Leveson inquiry: PCC 'needs power to fine newspapers'", *Guardian*, 1 February 2012

broadcasting.[58] He was in favour of fines that were a "visible, tangible, painful means of a sanction" against errant newspapers, but said that this "stick" should be accompanied by a "carrot" such as reduced risk of damages for libel.[59]

In his proposals for a two-part solution (self-regulation plus statutory backstop), Prof Steven Barnett suggests a number of sanctions that it might be sensible to allow for. These include the right to prompt corrections with equal prominence; the power to impose punitive fines where breaches are deliberate and/or reckless; the appointment of an independent ombudsman; and severe financial penalties (for example, addition of VAT) for those publications which refused to participate in the new system.[60]

In their recent report on the future of investigative journalism, the Lords Communications Committee suggested that receipts from fines for breaches of regulatory codes should be allocated to a special fund reserved for the financing of investigative journalism or training.[61]

3.2 Investigative powers

Tony Gallagher, Editor of the *Daily Telegraph*, told Leveson that any new regulator would need investigative powers, including the ability to respond to complaints by going in to newsrooms, interviewing staff and forcing newspapers to hand over emails and other evidence.[62]

Richard Wallace, of Trinity Mirror Group, questioned by counsel for the Inquiry, agreed that the "lack of extensive investigative powers" was a "drawback" to the present system:

> **Q:** Do you think that, moving forwards, whatever shape future regulation takes, there should be investigative powers for the regulator?
>
> **A:** I think it should be able to call editors or individuals from organisations to account for their actions.
>
> **Q:** What about documents?
>
> **A:** It depends -- it would have to depend on what circumstances. I think that I've said earlier, in another forum, that the idea of having an audit trail one very single story that is published is probably not practical. However, if there is a story where there is a clear debate over public interest, then any standards panel should be able to say, "What were the exchanges here?" and: "We're going to need to see that documentation."[63]

3.3 "Licensing" and disciplining of journalists

During the Society of Editors' annual conference in November 2011, Chris Blackhurst, Editor of the *Independent*, suggested that the PCC "should have the ability to effectively bar journalists from working". Speaking outside the conference, he said that he would have liked to refer the case of Johann Hari, the *Independent* journalist who plagiarised quotations, to

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58 L 31 January 2012 afternoon, p35
59 L 31 January 2012 afternoon, pp41-2
60 Prof Steven Barnett, Witness statement, Dec 2011, p8
61 HL Communications Committee, *The future of investigative journalism*, HL 256 2010-12, 16 February 2012, para 219, p56
62 L 10 January 2012 afternoon, p97
63 L 16 January 2012 morning, pp30-1

the PCC for a decision on whether he was fit to remain employed at the paper, but there was no mechanism for doing that.[64]

Paul Dacre, editor of the *Daily Mail*, used his evidence to the Leveson Inquiry to float the idea of a press card system for those signed up to a new regulatory system. He proposed improving the "haphazard" press card system by transforming it into an "essential kitemark for ethical, proper journalism". He argued that press briefings, sporting events and other conferences in public office should be open only to those with such a card, and suggested that reporters guilty of "gross malfeasance" have their cards withdrawn. "It is in the interests of both sides, news providers and news obtainers; why should they not have the right to believe they are dealing with accredited journalists?" he asked, arguing that the cards would be used proof of reporters being "responsible journalists". This would be underpinned by a "civil contract" for every journalist working for an accredited news organisation, effectively requiring them to adhere to the rules of a new regulatory body.[65]

Gerry McCann, father of missing toddler Madeleine McCann, suggested that his own profession of medicine could provide a model for disciplining journalists:

> GERRY McCANN: (…) I have seen no individual journalist or editor brought to account over the stories, be it within Express Newspapers Group or Associated or any of the other groups and I think if there are repeated offenders, then they should lose their privilege of practising as a journalist.
>
> LORD JUSTICE LEVESON: Quite difficult, that. I understand exactly why you're saying that, but just let me share with you the difficulty, that what journalists do is exercise the right of free speech, and whereas you as doctors require licence to practise medicine, and if you are taken to the GMC then the GMC have all sorts of sanctions available, it's quite difficult in relation to the exercise of free speech. That's not to say that there shouldn't be penalties (…)[66]

Desmond Browne QC considers that reforms within the legal profession could provide the model for a way forward:

> The Bar fought successfully to avoid direct regulation (…) We now have as part of the statutory framework, self-regulation by the Bar Standards Board, an integral but independent part of the Bar Council with what has turned out to be a very strong lay input. Why not adopt the same approach to the press?[67]

In September 2011 Ivan Lewis, then Shadow Culture Secretary, suggested in a speech to the Labour Party conference that journalists should be licensed: "And as with other professions, the industry should consider whether people guilty of gross malpractice should be struck off." According to one press report, "his call prompted accusations that Labour was planning to 'muzzle' journalists and was nodding towards state regulation". The *Guardian* quoted the response of one of Ed Miliband's aides to this proposal:

> Ed has always made it clear throughout that we believe in self-regulation, something that David Cameron has not made clear. I think Ivan made it clear he is behind self-

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64 "Newspapers opting out of self-regulation could lose VAT perk, says PCC", *Times*, 15 November 2011

65 L 6 February 2012 afternoon, pp28-31

66 L 23 November 2011 afternoon, p71

67 Desmond Browne, "The PCC: time for last rites?", *Counsel Magazine*, September 2011, pp33-5

> regulation. Ivan may have floated an idea, but I do not think we have decided to back any particular idea.[68]

Harriet Harman, Mr Lewis's successor as Shadow Culture Secretary, is not enthusiastic about licensing:

> I balk at the notion of press regulation. There should be redress for complaints. I don't think there should be prior restraint, or general ruling on ethics. I also certainly don't think we need a register of approved journalists. Doctors and journalists are not analogous.[69]

Before beginning his formal Inquiry, Lord Justice Leveson invited editors and selected journalists to attend three seminars to help inform the Inquiry on the inner workings of the media. At one of these Alan Rusbridger, Editor of the *Guardian*, argued that that for the past 400 years a free press had been the enemy of totalitarian governments and remained "as crucial to democracy as a clean water supply or a fire service". He went on:

> When people talk about licensing journalists or newspapers the instinct should be to refer them to history. Read about how licensing of the press in Britain was abolished in 1695… Remember how the freedoms won here became a model for much of the rest of the world, and be conscious how the world still watches us to see how we protect those freedoms.

Mr Rusbridger pointed out that the true extent of the phone-hacking scandal, which prompted the Inquiry, was uncovered not by politicians or police officers but by journalists.[70]

3.4 Publishing corrections and apologies

The PCC's current Code of Practice states that an apology should be printed with "due prominence". The *Editors' Codebook*, the companion manual to the PCC Code of Practice, explains that while the PCC does not interpret "due prominence" to mean "equal prominence" it expects that "the positioning of apologies or corrections should generally reflect the seriousness of the error – and that would include front page apologies where appropriate." In its 2010 report, the Culture, Media and Sport Committee recommended a tightening of these procedures:

> 573. The printing of corrections and apologies should be consistent and needs to reflect the prominence of the first reference to the original article. Corrections and apologies should be printed on either an earlier, or the same, page as that first reference, although they need not be the same size. Newspapers should notify the PCC in advance of the proposed location and size of a correction or apology; if the PCC indicates that the requirement for 'due prominence' has not been fulfilled and the paper takes no remedial action, then this non-compliance should be noted as part of the published text of the correction or apology. We recommend that this should be written into clause one of the PCC Code.[71]

The comedian Steve Coogan complained to Leveson that "due prominence" was often not prominent enough. The *Sunday Times* apologised after it had printed a photograph, taken by

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68 "Call for journalists guilty of gross misconduct to be 'struck off'", *Guardian*, 27 September 2011

69 Quoted in "Harriet Harman declares she is going to be a champion of press freedom", *Guardian*, 24 January 2012

70 L 6 October 2011 morning, pp134-6; cf "Leveson Inquiry: British press freedom is a model for the world, editor tells inquiry", *Daily Telegraph*, 7 October 2011

71 Culture, Media and Sport Committee, *Press standards, privacy and libel*, HC 362-I, 24 February 2010, p129

a picture agency, of his children without his permission. “It was a one-inch item on page two or three and I had to tell my friends where to find it,” he said.[72]

Appearing before Leveson, Lionel Barber, Editor of the *Financial Times*, said his personal view was that the PCC code “needs to be enforced before it’s substantially amended and in the case of phone hacking it clearly wasn’t enforced.” But he added that the newspaper industry needed a new regulatory body with new powers – not only to impose fines for serious breaches of the code but also with the ability to investigate alleged breaches, and to force newspapers to publish prominent corrections and apologies. He saw the latter as an effective deterrent: “You don't want to devote a large portion of your newspaper to explaining why you got something wrong. (…) Don’t underestimate the significance of that.”[73]

Likewise, Sir Christopher Meyer argued that, rather than granting the PCC a power to fine, it should have more say over the prominence of published adjudications, corrections and apologies. At present this is a matter of negotiation between the Commission and editors. He advocated giving the Commission the power to instruct editors on where to place these remedies.[74]

In his appearance before the Joint Committee on Privacy and Injunctions, Evgeny Lebedev, proprietor of the *Independent* and the London *Evening Standard*, went further. He said that a new press complaints body should have the power not only to fine newspapers but also, in certain circumstances, to force papers to take out advertisements in rival publications to apologise.[75]

In his speech to the Labour Party conference last year, Ivan Lewis called for “a new system of independent regulation including proper, like for like redress, which means that mistakes and falsehoods on the front page receive apologies and retraction on the front page.”[76]

3.5 Prior notification

Max Mosley used his appearance before the Leveson Inquiry to reaffirm his case for newspapers adopting a prior-notification policy to warn people before publishing stories exposing their private lives. “Once information is made public, it can never ever be made private again,” he said. “Therefore the only effective remedy is to stop it becoming public.” He accepted the press’s claim that in “99 cases out of 100” they did approach someone for comment before running a story about them, but asserted that the minority of cases were of a type where “the newspaper knows that if you did find out, you’d get an injunction.” To enforce such arrangements he envisaged an “alternative mechanism”, “some form of tribunal, some form of enhanced regulatory body” which would be free of charge to the applicant.[77] Mr Mosley had already taken his argument for imposing a legal duty of prior notification to the European Court of Human Rights. However, the Court ruled in May 2011 that such a system would have a “chilling effect” on the press.[78]

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72 Witness statement by Steve Coogan to the Leveson Inquiry, 9 November 2011, para 8

73 L 10 January 2012 morning, pp8, 47

74 Witness statement to the Leveson Inquiry by Sir Christopher Meyer, 14 September 2011, p11

75 Oral evidence to the Joint Committee on Privacy and Injunctions, 19 January 2012, p458

76 “Call for journalists guilty of gross misconduct to be ‘struck off’”, *Guardian*, 27 September 2011

77 L 24 November 2011 afternoon, pp8-9, 11-12

78 “Max Mosley loses European privacy case”, *Guardian*, 10 May 2011; Steve Foster, “Balancing privacy with freedom of speech: press censorship, the European Convention on Human Rights and the decision in *Mosley v United Kingdom*”, *Communications Law* 16(3), 2011, 100-105

The author JK Rowling agreed that "prior notification would prevent a significant amount of damage, particularly where defamatory articles are concerned." She felt that the PCC was "a wrist-slapping exercise at best" and called for "a body that has teeth, that can impose sanctions."[79]

The Joint Committee on Privacy and Injunctions found that there was widespread support for prior notification becoming a requirement for editors intending to run a story which compromises an individual's private life. As with other civil actions, the primary remedy once an individual's privacy has been breached is damages. It was suggested (in evidence from Carter-Ruck Solicitors) that a failure to pre-notify could be considered to be a factor which might justify an award of aggravated damages when they are subsequently assessed by a court. The Committee did not favour making pre-notification a statutory requirement. However, it did recommend that any future media regulator's code of practice include a requirement that journalists should notify the subject of articles that may constitute an intrusion into privacy prior to publication, unless there are compelling reasons not to.[80]

The PCC explains that it already exercises a role in prior restraint, albeit a voluntary one:

> The former political editor of the News of the World, recently stated that up to 7 out of 10 stories were not pursued to print because of the Code and the PCC.(…) The PCC intervenes pre-publication several times a week, in a way that does not compromise freedom of expression. If an individual comes to us with concerns about something that is to be published, we represent them to an editor and advocate on their behalf. Editors retain the right to publish, but do so knowing the extent of the concerns and the possibility of the Code being breached. What this means in practice is that intrusive material does not then appear. We do this hundreds of times a year. We are also contacted by editors and lawyers (for tabloids and broadsheets alike) for advice before publication. If we suggest that the information might be held intrusive, it is not published.[81]

3.6 Right of reply

Although there have been some attempts to introduce a general "right of reply" to English law, they have never succeeded. The most recent example was Peter Bradley's *Right of Reply and Press Standards Bill* in 2005. Clause 2 of the PCC Code of Practice states that "a fair opportunity to reply to inaccuracies must be given when reasonably called for", but this is a self-imposed moral duty, not a statutory obligation. A number of European civil law countries offer some form of legally enforceable reply right, among them Austria, France, Germany, Hungary, Italy, Netherlands, Norway, Spain and Switzerland.[82] However, the common law countries (USA, UK, Australia, Canada, New Zealand) have so far resisted introducing an explicit right of reply. A legal commentator speculates that "the existing common law belief that the only effective remedy for defamatory statements is the award of damages could be one particular reason". Another is the suspicion that such a right might exert a "chilling" effect on public discourse.[83]

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79 L 24 November 2011 afternoon, p100

80 Joint Committee on Privacy and Injunctions, HL 273/HC 1443 2010-12, 27 March 2012, paras 123, 127

81 Response by Jonathan Collett, Director of Communications, PCC, to Prof Julian Petley's article on the New Left website

82 See below for more on these jurisdictions

83 Andras Koltay, "The right of reply: a comparative approach", *Iustum Aequum Salutare* III 2007/4, 203-213 (p211)

Right of reply was aired by the Leveson Inquiry in an evidence session with Mark Thompson, Director-General of the BBC.[84] However, the issue with broadcasters is different, since both the Ofcom Broadcasting Code and the BBC Producers' Guidelines identify a specific right of reply, backed (in Ofcom's case) by powers to sanction. The topic was also raised by Camilla Wright, editor of the celebrity gossip website Popbitch, who said in her witness statement: "The Popbitch newsletter is written very much as a two way exchange and allows for corrections and relevant information to be added from subscribers and those who feature in stories. If we think that it is justified we would be unlikely to refuse a right of reply."[85]

4 An arbitration system for libel

An arbitrator is an independent person who makes a final and binding decision about a dispute. As Hugh Tomlinson QC has observed, "there is no problem with a regulatory body including an arbitration system. This could decide privacy and libel cases. The arbitrators could have the power to award compensation or require the publication of corrections. Organisations that were subject to the new regulator could be required to take part in such a scheme."[86]

The Inquiry Chairman himself envisaged an "arbitral mechanism" as part of his three-part regulator (referred to above). This mechanism would not be "statutory in the sense that it is defined by statute, but statutory in the sense that that provides the compulsory background to appointment of independent people to do these things".[87] Lord Leveson developed his point:

> (…) You may have heard that a couple of times -- more than a couple of times -- during the course of these hearings I've floated the concept of some sort of arbitral system for speedy resolution of privacy claims, potentially small libel claims, not necessarily the largest, because the cost is prohibitive. There was a time when it was prohibitive to claimants because there wasn't legal aid available for it is and therefore the powerful position was held by the press. Now, because of CFAs [conditional fee agreements], it's turned the other ways, and that pendulum is moving. I understand that. But if you want an arbitral system, which I actually think has value, then it's going to be quite difficult to do that without some sort of framework that requires everybody at least to exhaust that possibility. Because I think most claims needn't be settled where the damages are dwarfed by the enormous costs that are incurred, but the consequence of doing that and adding on to your commission or council, whatever it's called, some sort of mechanism may mean that you need a structure which you can't simply do consensually, because you want to bind in everybody who's going to be affected.[88]

At the same day's sessions, Tony Gallagher, Editor of the *Daily Telegraph* told the judge that he was attracted by the idea of an arbitration service because newspapers often could not afford to defend themselves in court:

> We face claimants who have fantastic funding and seemingly inexhaustible limits of patience to pursue us, even when they're flat wrong… very often we fail to fight cases

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84 L 23 January 2012 morning, p31
85 Witness statement by Camilla Wright to the Leveson Inquiry, 16 January 2012, para 36
86 "Lord Justice Leveson could look to Alastair Brett's plan for press regulation", *Guardian*, 15 January 2012
87 L 10 January 2012 afternoon, p93
88 L 10 January 2012 morning, pp58-9

> simply because the expense of so doing is so onerous that it's easier to pay our own expenses, carry a brief clarification and then move on.[89]

Mr Gallagher also thought that, if the system were low cost, it would be an incentive for internet news providers, who are currently outside the system, to join it.[90]

Lionel Barber, Editor of the *Financial Times*, hoped that the new body would be able to offer an arbitration process "or some form of resolution where parties do not immediately resort to the court, forcing news organisations to employ highly expensive barristers".[91] His concern was that such a body would not solve issues involving libel, because wealthy people would circumvent it.

The writer Joan Smith took a similar view: "I think that there ought to be a much faster right of reply. I think [the PCC] should also take in mediation in other situations like, you know, where libel might be involved and so on. I think it needs to be a much more complex and capable body."[92]

Alan Rusbridger, editor of the *Guardian*, told the Leveson Inquiry:

> I think if this adjudication bit could be built into the role [of a new system] and acknowledged by law in libel — let's come back to privacy later — and that there were significant advantages in costs and in the speed and ease of settling these disputes, that would be a significant imperative for any publisher to come in.[93]

Mr Rusbridger had already developed this idea in his Orwell Lecture in November 2011. He envisaged a new "Press Standards and Mediation Commission" (PSMC), a "one-stop shop disputes resolution service so that people never had to go to law to resolve their differences with newspapers." It would provide "quick, responsive and cheap" solutions to libel disputes:

> How might it work? The PSMC would employ a small permanent staff to deal with libel questions, and would have a panel of qualified and neutral mediators.
>
> The mediator could decide on meaning. S/he could rule on questions such as whether the piece was fair and accurate; whether it was an opinion or an allegation of fact; whether it was in the public interest; whether the subject of the article had a reasonable chance to respond and whether his/her response was included – ie the mediator, where appropriate, could go through the sorts of questions that crop up under a so-called Reynolds defence.
>
> The mediator could rule on prominence and wording of any correction and apology and settle any issues of compensation. Most of the issues could be settled on paper. There would be no fees recoverable on either side, beyond the reasonable expenses of a claimant. A record of the discussions would be kept by the mediator.
>
> What's in it for claimants? It makes libel infinitely cheaper and simpler. What's in it for the press: the same. The quicker, cheaper resolution of the vast majority of defamation cases.
>
> Of course, the mediation might fail. But, before any court action could be started, the trial judge would read the mediator's report of the attempts to settle. If a newspaper

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89 L 10 January 2012 afternoon pp88-9
90 10 January 2012 afternoon, p97
91 L 10 January 2012 morning, p59
92 L 21 January 2012 morning, p46
93 L 17 January 2012 afternoon, p108

> could be shown to have made reasonable and honest attempts to deal with the issue, that could be reflected in a cap on costs and/or damages. You could further and say that a reasonable offer of a correction and apology should be a complete defence to libel, subject only to the payment of damages.[94]

The Government is currently planning a reform of libel law; a Joint Committee reported on the draft *Defamation Bill* in October 2011 and legislation was announced in the Queen's Speech in May 2012.[95] Mr Rusbridger suggested that Lord Leveson could usefully "dovetail" his proposals with those emerging from these wider discussions.

When Lord Hunt outlined his ideas for a new regulator at the end of January, Leveson challenged Hunt on the workings of the arbitration mechanism and questioned whether his proposed body would have the legal powers to compel the wealthy to go down the route of arbitration when they could afford to use the courts with expensive libel or privacy claims. Hunt replied that he hoped these powers would become available under a future *Defamation Act*, analogous to the ones already in force in the Republic of Ireland (RoI):

> Section 26 [of the RoI's Defamation Act 2009] says -- actually lays a statutory test on the extent to which the publisher of the periodical adhered to standards equivalent to the standards laid down in effect by the Irish Press Council. So when such a case reached the courts, in considering it, the judiciary would want to be assured that the individual concerned had utilised the services of the complaints and mediation service.[96]

Lord Leveson identified a problem with arbitration. Everyone has a right – both under the common law and under article 6 of the European convention on human rights – to "access to court". This involves a right to have disputes resolved by an "independent and impartial tribunal". Of course it is possible to agree to resolve a dispute in another way, such as arbitration, but there must be agreement. The "right to court" cannot be taken away by compulsion.

Two ways out of this problem have been suggested. The first is to create a "libel tribunal". This would have to have all the basic characteristics of a court – independence, impartiality and fair procedures such as cross-examination and proper access to documents. There would be no "access to court" objection to everyone who wanted to bring a libel or privacy claim against the media being required to use such a tribunal, just as anyone bringing an unfair dismissal claim must use an employment tribunal. This is, for all practical purposes, a court and the libel tribunal would have to proceed along similar lines. But the disadvantages are obvious. It would be expensive to set up and run, and would risk becoming over-legalistic.

The alternative is a scheme that all would-be complainants would be required to use, which involves only interim determination. Such a scheme, modelled on the construction industry adjudication scheme, has been championed by Alastair Brett, a former legal manager of Times Newspapers.[97] Those bringing claims against regulated organisations would have to submit them to adjudication by independent experts. Court proceedings would be temporarily "stayed". Adjudicators would make swift decisions on compensation and corrections. Under

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94 From text of lecture given at University College, London: Alan Rusbridger, "Hacking away at the truth", *Guardian*, 10 November 2011

95 *The Draft Defamation Bill*, Commons Library Standard Note 5926

96 L 31 January 2012 afternoon, p103; cf Irish Statute Book

97 Alistair Brett, "Early resolution offers a lifeline for journalists", *Guardian*, 20 June 2011

the Brett proposal, this process would be paid for by the newspapers and unsuccessful claimants would not have to pay costs. The adjudicator's decision would not be final. If either party did not like the result they could still go to court – although construction industry experience suggests that most adjudicators' decisions are accepted.[98]

This is similar to the proposal drafted by Hugh Tomlinson QC in a paper for public discussion.[99] It outlines how a new adjudication/arbitration body, modelled on the construction industry, could provide speedy and fair redress for ordinary people who cannot afford – and do not want – to go to court, while at the same time shielding publishers from the potentially ruinous costs of defamation or privacy proceedings. In such a system as the one drawn up by Mr Tomlinson, a professional adjudicator could hear the arguments from both sides at short notice, and deal with them quickly and inexpensively. He or she could then award damages, direct the publication to apologise, dictate other sanctions, or find in favour of the publisher. The complainant or the newspaper would not then be precluded from taking the case on to the high court – such a preclusion would compromise their Article 6 rights (to a fair hearing) – but the court would take the adjudication into account when reviewing the case. In other words, it could become very costly for either side to keep pursuing it once the adjudicator has made a decision.[100]

The Joint Committee on Privacy and Injunctions favoured the idea that a new regulator could incorporate a means of alternative dispute resolution. However, given the inquiry's remit, the context was how to prevent invasion of privacy before it happened, rather than how to resolve claims of libel after publication:

> 204. An arbitration body, comprised of independent assessors, could receive representations from the media party looking to publish a story, and from the party claiming their privacy would be infringed by publication. The body would weigh and analyse the claims, before giving a ruling as to whether publication should go ahead. The process would be conducted in private, and would be less formal than court processes. (…)
>
> 206. It might be possible for a formally established arbitration body (for example as part of the reformed media regulator) to be recognised as part of the legal process. Failure to seek resolution through arbitration prior to litigation might be taken into account by the court in awarding damages or costs.
>
> 207. There might however be some practical difficulties with a new arbitration body. Newspapers are usually in a race against rivals to publish stories. They may find it very difficult to wait until the arbitration is over because of the risk of a leak.
>
> 208. There are other issues to address in establishing any new arbitration body that has jurisdiction pre-publication. These include the question of whether the decisions of the body will be binding and, if so, how that could be done without ousting the jurisdiction of the courts. Editors may understandably be reluctant to allow another body to decide on what can appear in their publications. It would be necessary for them to have confidence in the body.[101]

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98 "Lord Justice Leveson could look to Alastair Brett's plan for press regulation", *Guardian*, 15 January 2012

99 Media Regulation Roundtable, *A proposal for future regulation of the media: a Media Standards Authority*, 13 February 2012

100 This summary of Tomlinson follows Martin Moore, "Proposal for press adjudicator", Media Standards Trust blog, 24 February 2012

101 Joint Committee on Privacy and Injunctions, HL 273/HC 1443 2010-12, 27 March 2012, p46

5 Update – June 2012

This section contains references to a selection of recent press articles on the issues raised in this Note. The whole Note will be updated when Lord Leveson has concluded his evidence-taking.

"Ofcom: press self-regulation could work", *Guardian*, 18 April 2012

"Are British newspapers a menace to democracy?", *The Economist*, 26 April 2012

"Pressing the case - Sir Stephen Sedley's proposals for statutory media regulation", *Legalweek.com*, 2 May 2012

"New press regulator must have power to fine newspapers, says Hunt", *Guardian (Blog)* 9 May 2012

"Give new press watchdog power to fine newspapers, says Press Complaints Commission head Lord Hunt", *Daily Telegraph*, 9 May 2012

"Leveson Inquiry: Regulation of Stephen Fry's tweets mooted", *Independent*, 9 May 2012

"Clarke warns Leveson over-regulation will kill press", *Press Gazette*, 10 May 2012

"Lord Wakeham: PCC should be 'stage one' in any legal action" *Journalism.co.uk*, 15 May 2012

"Jack Straw: Self-regulation defies principles of justice", *Journalism.co.uk*, 16 May 2012

"Internet news explosion has changed the rules of press regulation, Mandelson tells Leveson inquiry", *Mail online*, 22 May 2012

"Lord Justice Leveson: statute might be needed to back press regulation", *Guardian*, 23 May 2012

"Public wants stricter press regulation and tighter limits on ownership", *Guardian (Blog)*, 24 May 2012

"Leveson: press regulator would have to be independent of industry", *Guardian*, 28 May 2012

"Theresa May: statutory press regulation could 'encroach on freedom'", *Guardian*, 29 May 2012

"Leveson gives clearest hint yet on press regulation plans", *Press Gazette*, 29 May 2012

"Gove clashes with Leveson over press regulation", *Guardian*, 29 May 2012

"May promises new guidance for police and media", *Press Gazette*, 29 May 2012

"Tories reveal their opposition to press regulation by law", *Independent*, 30 May 2012

"Government might not accept Leveson ideas, hints minister [Michael Gove]", *Times*, 30 May 2012

More than three quarters of public want strict regulation of the press [polling commissioned by IPPR], Wired-gov.net, 4 June 2012

"Daily Mail's claim about Leveson 'blueprint' is just typical spin", *Guardian*, 11 June 2012

"Press regulation 'with real teeth' needed, says David Cameron", *Guardian*, 14 June 2012

"Press Complaints Commission chair risks Leveson clash with reform plans", *Guardian*, 17 June 2012

"Leveson threatened to quit after public attack by Gove", *Independent*, 17 June 2012

"Journalists not covered by PCC could lose right to press cards", *Guardian*, 18 June 2012

"Leveson team questions timing of phone call leak", *Times*, 20 June 2012