

WITNESS STATEMENT FROM

LORD BLACK OF BRENTWOOD,

CHAIRMAN OF THE PRESS STANDARDS BOARD
OF FINANCE LIMITED

WITNESS STATEMENT

LORD BLACK OF BRENTWOOD,
Chairman, Press Standards Board of Finance

1. I make this statement in my capacity as Chairman of the Press Standards Board of Finance Limited in response to a notice from the Inquiry dated 8th August 2011.
2. My career has revolved around the media and politics. After a graduate traineeship at Barclays de Zoete Wedd, I joined the Conservative Research Department in 1986. I left the Department in 1989 when I was appointed Special Adviser to the Secretary of State for Energy (John Wakeham), a post I held until the General Election of 1992.
3. I left Government at that point and spent four years in public relations and lobbying, working firstly for Westminster Strategy and then for Lowe Bell Good Relations.
4. In 1996 Lord Wakeham appointed me Director of the Press Complaints Commission, where he had become Chairman in 1995. I remained there until 2003, serving under both Lord Wakeham and then Sir Christopher Meyer.
5. At the end of 2003, I was asked by Michael Howard, who had recently become Leader of the Conservative Party, to become his Press Secretary and Director of Communications for the Conservative Party, and I joined him in January 2004. I left the position after the General Election of 2005 in September of that year, and joined the Telegraph Media Group as Director of Corporate Affairs. I became Executive Director in 2009.

6. In May 2010 I was awarded a life Peerage.

7. I was appointed Chairman of the Commonwealth Press Union Trust by its founding Trustees in March 2009. The aim of the Trust is to preserve and enhance press freedom throughout the Commonwealth.¹

8. I have held a number of other industry positions relating to press and advertising freedom. In 2005 I was appointed to the Board of the Advertising Standards Board of Finance (ASBOF) as a representative of the Newspaper Publishers Association (NPA). ASBOF is responsible for raising the levy that funds the work of the Advertising Standards Authority (ASA).²

9. I joined the Board of the Press Standards Board of Finance (PressBof) in 2007, also as a representative of the NPA. I was elected its Chairman in September 2009, following the resignation of Tim Bowdler.

10. PressBof was formed on 8th October 1990, and the limited company Press Standards Board of Finance Limited incorporated on 1st November 1990, as one of a number of steps taken by the newspaper and magazine publishing industry to meet the challenge of the report into press standards by Sir David Calcutt. The circumstances leading to the creation of PressBof, following the dissolution of the Press Council, are well and accurately chronicled in a book by Professor Richard Shannon, *"A Press Free and Responsible"*. Rather than seek to summarise those issues here, I attach relevant extracts from the book as Appendix A.³

¹ Details about the Trust are available on its website - www.cpu.org.uk.

² www.asbof.co.uk

³ See mainly pages 32, 37 and 38

11. PressBof's structure - and indeed that of the rest of the new self regulatory system - was largely modeled on the successful system of advertising self regulation, and in particular of ASBOF, the body that funds the ASA. That voluntary system involved an industry funding mechanism, an industry Code Committee (the Committee of Advertising Practice), and an independent adjudicatory body with a significant, but minority, industry involvement.

12. Following that model, the establishment of PressBof went alongside the creation of an independent Press Complaints Commission (PCC) and the editors' Code of Practice Committee. The main aim of PressBof - which remains true today - was to ensure that sufficient funds were available for the maintenance of the industry's self regulatory system, and to provide a vital link between the industry and the independent Commission.

13. PressBof is a company limited by guarantee. Its founding members were: the Newspaper Publishers Association or NPA (the trade body for the national press); the Newspaper Society or NS (the regional press); the Periodical Publishers Association or PPA (magazine and periodical publishers); the Scottish Daily Newspaper Society and Scottish Newspaper Publishers Association); and the Association of Free Newspapers.

14. In the 21 years since the formation of PressBof, the Association of Free Newspapers has ceased to exist and the Scottish Daily Newspaper Society and Scottish Newspaper Publishers Association have merged to become the Scottish Newspaper Society or SNS. The PPA has also changed its name to the Professional Publishers Association.

15. Membership of the Board under Article 5 of the Articles of Association is drawn from these bodies. The number of members representing each of them – and the existing Board members – is currently:

- NPA – 3 members (Paul Dacre, Clive Milner and myself)
- NS – 3 members (Paul Vickers, Robin Burgess and David Newell)
- PPA – 2 members (Nicholas Coleridge and Barry McIlheney)
- SNS – 2 members (John Fry and Jim Raeburn).

16. Board members are appointed by their trade association and in turn appoint the Chairman. There have been four Chairmen of PressBof since 1990: Sir Harry Roche (1990-2004); Philip Graf CBE (2004-2005); Tim Bowdler CBE (2005-2009); and myself since 2009.

17. The powers and purposes of PressBof are set out in the Memorandum and Articles of Association, a copy of which I attach as Appendix B. The Memorandum lists the following as the main aims:

- to collect from newspapers and magazines a levy or subscription to provide funds for the “purpose of financing any self regulatory control system for press standards in the United Kingdom and to promote and develop the same”;
- to assist in the formation, financing and development of the Press Complaints Commission “or of any other similar self-regulatory system”;
- to appoint the Chairman of the Commission; and
- “to support the maintenance and preservation of press standards.”

18. I attach as Appendix C to this statement a full set of PressBof’s Annual Reports since 1990, which chronicle in some detail the manner in which PressBof

has operated and the challenges it has faced. But I thought it might useful to summarise the key achievements under the four headings listed above to show how PressBof has sought to discharge its functions within the regulatory system.

(A) Collection of funds

19. PressBof's principal raison d'être is the collection of funds to support the work of the PCC. Since 1990 this has been done by way of a voluntary levy on newspapers and magazine publishers. This levy is calculated according to the market share of the various publishers. A statement setting out the exact manner in which the levy is calculated is set out in a note from Jim Raeburn, Secretary and Treasurer of PressBof, which is Appendix D to this document.

20. PressBof has been highly successful at raising the funding necessary to support the system of self regulation since its establishment. In the period from 1st November 1990 to 31st March 2011 (the end of our last complete financial year), PressBof has raised a total of £32,668,721. Of this payments to the PCC have totaled £30,379,054, while the rest represents the costs of collection and the maintenance of a PressBof office and secretarial support for the Editors' Code Committee (just 7% of total income).

21. Levy collection - as in advertising self regulation - is voluntary, but compliance has always been extremely high. It is difficult to give accurate figures relating to the regional press because of a plethora of very small publishers. But compliance among the major regional publishers has remained consistently strong over two decades.

22. Across the national press, all the major publishers have paid their levy with, in more recent times, one exception. Northern and Shell - the company

owned by Richard Desmond which publishes the Express titles, as well as The Daily Star and The Star on Sunday, and OK! Magazine - has pulled out of the system twice. The first time was for a short period between 2008-2009, when it was apparently in dispute with the then PCC Chairman Sir Christopher Meyer over issues relating to coverage of Madeleine McCann. The company came back into the system in 2009, but pulled out again from 1st January 2011. Since then the PCC has stopped dealing with complaints about Northern and Shell titles.

23. PressBof recognises that this is a weakness in the system, and part of the price we pay for maintaining voluntary membership. We have done everything we can to bring Northern and Shell back into the system, and continue to do so.

24. Despite the absence of Northern and Shell from the system, PressBof has continued to fund the PCC in full against agreed budgets by utilizing reserves. This is a symbol of the industry's clear and wholehearted commitment to self regulation.

(B) Formation, financing and development of the PCC

25. I set out above PressBof's role in the formation of the PCC. In moving so quickly to set up funding mechanisms and the structures for the PCC, the industry showed how seriously it takes its responsibilities and how adamantly it is opposed to statutory controls which are anathema to a free society.

26. Following the failure of the Press Council to command widespread industry support and funding, one of the key tasks for PressBof has been to ensure that it is widely representative of the industry and that in turn the different parts of the industry play their full role within the PCC and the editors' Code Committee.

27. This has been achieved by ensuring both wide representation from among publishers on the PressBof Board but also by ensuring that editors nominated to sit on the Commission by their trade associations are drawn from a wide range of backgrounds and publications.

28. Beyond that, PressBof has an important role within the self regulatory system in seeking industry support for changes to the PCC's role and remit, which must be ratified by PressBof before they come into effect. The attached Annual Reports (Appendix C) set out the various ways in which PressBof has been involved with the development of the PCC, but I would highlight:

- the extension of the PCC's remit in 1997 to cover on-line versions of newspaper and magazine websites;
- the "permanent evolution" reforms of the PCC in 2003 which included the introduction of public appointments procedures for membership of the Commission, the strengthening of the lay majority on the PCC, the appointment of a Charter Commissioner to hear procedural appeals and of a Charter Compliance Panel, and the introduction of public consultation into annual reviews of the editors' Code;
- the establishment in 1999 at the instigation of the PCC of the Alliance of Independent Press Councils of Europe to increase co-operation and understanding among European Press Councils (all of which, with the exception of Portugal, are self regulatory);
- the extension of the PCC's remit in 2007 to cover editorial audio-visual content on newspaper and magazine websites; and
- a thorough, comprehensive independent review of the PCC's governance, which reported in 2010. PressBof co-operated fully with that review and accepted its main recommendations.

29. Because of the industry's support for effective self regulation and the work of the Commission, PressBof has been able to deliver unanimous support for these changes – and to deliver them swiftly, in a way which would never be possible in any form of statutory system.

(C) Appointment of the PCC Chairman

30. As the PCC's independent Governance Review rightly pointed out, "it is a feature of the self regulatory system that an industry appointee heads the organisation"⁴, and that is why PressBof has always had the power to appoint the Commission's Chairman.

31. There have been four Chairmen appointed by PressBof since 1990, and one Acting Chairman. These are:

- Lord MacGregor of Durriss (1991-4);
- Lord Wakeham (1995-2001);
- Professor Robert Pinker (2001-3 as Acting Chairman following Lord Wakeham's resignation during the Enron investigation);
- Sir Christopher Meyer (2003-9); and
- Baroness Buscombe (2009-11).

32. Baroness Buscombe resigned in July 2011 and PressBof is currently undertaking a process to appoint her successor as soon as is practical. It is hoped that process will be completed in early October 2011.

⁴ Para 66, p.12

33. The appointment of a Chairman is critical to the success of the organisation, and it has developed over the years. Both Lord MacGregor and Lord Wakeham were appointed without a public appointments procedure or competitive process, which was not then widely used elsewhere in the public sector. In 2003, recruitment consultants led a process to find a successor to Lord Wakeham which resulted in the appointment of Sir Christopher Meyer.

34. Following Sir Christopher's "permanent evolution" reforms of the PCC which I mentioned above, PressBof decided that for future appointments, we would follow the requirements of a public appointments procedure.

35. In 2008 PressBof sought a successor to Sir Christopher. An advertisement was placed in the national press followed by interview of a short list of candidates.

36. In 2010, the PCC's independent Governance Review made a number of recommendations relating to the appointment of a Chairman which are set out in Appendix E. PressBof accepted these recommendations. Accordingly, in the current search for a successor to Baroness Buscombe, we:

- have publicly advertised the position;
- have appointed an Independent Assessor, Andrew Ramsay (formerly Head of Press and Broadcasting at the DCMS) to ensure the process is transparent and accountable;
- are consulting each of the lay Commissioners to gauge their views about the needs of the PCC and the likely skills and attributes of the Chairman, as well as receiving suggestions about possible candidates. This is particularly important as a Chairman needs to command the support of the Board he chairs; and

- will ensure that candidates are interviewed rigorously against the clear requirements set out in the candidate brief.

(D) Support the maintenance and preservation of press standards

37. PressBof's central role in the maintenance, preservation and indeed enhancement of press standards has been through the promulgation of the editors' Code. Fundamental to a system of press self regulation is that while an independent Commission deals with complaints, the rules against which it judges those complaints are written by the editors themselves. The lack of such a professional Code was one of the key reasons for the failure of the Press Council; and its existence since 1991 has been pivotal in raising standards of reporting across the board.

38. The drafting and updating of the Code has always been the responsibility of the editors' Code Committee, which is a sub Committee of PressBof. Membership of the Committee is drawn from across the press, with members nominated from their trade associations, but the members appoint their Chairmen. Since 1991, there have been four Chairmen of the Code Committee:

- Patsy Chapman (1990-1993);
- (the late) Sir David English (1993-1998);
- Les Hinton (1998-2008);
- Paul Dacre (2008-).

39. The original Code was drafted in the autumn of 1990 by a distinguished group of editors⁵, and was based in part on the outline Code contained in the Calcutt Report. The original text of the Code is set out in Appendix F.

40. The Code has always covered a number of central areas:

- accuracy and opportunity to reply to inaccuracy;
- individual privacy;
- methods of newsgathering, including rules on harassment, use of subterfuge and so on;
- the protection of vulnerable groups of people (children, hospital patients, victims of sexual assault and those at risk of discrimination);
- provisions on the public interest and confidentiality of sources.

41. It is important to underline that the Code was never meant just to replicate the law (nor indeed was the PCC intended to be a law enforcement body seeking to undertake a role which should rightly be left to the police). Rather it is a set of ethical standards which in many ways go *beyond* the law.

42. But crucially the Code is kept under constant review and has developed a great deal over time to take account of changes in technology or legislation, public concerns and attitudes, the experience of the PCC in adjudicating complaints and more recently suggestions from the public arising from an annual review of the Code. The key changes are set out in PressBof's Annual Reports (Appendix C), but I would highlight the following:

⁵ See Professor Shannon's book, pp 41-42

- the first cross industry protocol to stop the jigsaw identification of children involved in sex offences, which has proved exceptionally successful in dealing with what used to be a significant problem (1994);
- clear rules governing the circumstances under which payments to witnesses in criminal trials might be made to prevent interference with the course of justice (1996);
- a wholesale revision of the privacy aspects of the Code following the death of Diana, Princess of Wales, to respond to public concern about privacy intrusion and paparazzi photographs. This set of changes incorporated the terms of the European Convention of Human Rights on respect for individual privacy into the Code, specifically banned persistent pursuit, introduced new rules on intrusion into grief and shock and on the treatment of children at school, and tightened up the public interest defence. These changes were accomplished and ratified by PressBof in less than three months from the death of the Princess (1997);
- the provision of Best Practice Guidance on financial journalism to give effect to the EU's Market Abuse Directive but within a self regulatory framework (2001);
- the introduction of an annual "audit" of the Code, and the production of a journalists' handbook explaining how the PCC interprets the Code in practice, along with information about its Guidance Notes (2003)⁶;
- an expansion of the rules on discrimination to include gender, and new provisions on the reporting of suicide (2005); and
- clarification of the rules on subterfuge to make clear that it included hacking into computers to obtain information and that such rules applied not only to journalists but also to informants or agents such as private detectives (2007).

⁶ All of these are now on-line at www.editorscode.org.uk

43. A set of minutes - which are maintained by Ian Beales, Secretary of the Code Committee and former Editor of the Western Daily Press - from the Code Committee covering the period from 2004 until the present is attached as Appendix G. Further minutes seem unlikely to be relevant to the Inquiry but we would be happy to make them available if they are needed.

44. In summary it is in those key areas - funding, the appointment of a Chairman, the review and updating of the PCC's remit and powers, and the provision of the Code of Practice - that PressBof has sought to play its role in the maintenance and enhancement of press standards in the UK.

45. But crucially, we have always been clear that the administration of the system and the handling and adjudicating of complaints within this architecture are matters for the Commission, with its majority of lay members. In these areas PressBof has never sought to interfere with, or direct, the work of the PCC, and never will.

46. PressBof's role in the phone hacking and blagging scandals has therefore been limited. In some areas - such as the issue of funding, there has been no impact. In other areas, we have sought to keep a close eye on developments, aware that first and foremost, this was an issue not for the self regulatory system but for the police and the application of the criminal law. That the PCC has been criticized because the law was broken in this area is something I think profoundly unfair.

47. However, there are a number of initiatives that we have - within the constraints of the law, a police investigation and the inviolable independence of the PCC - been able to undertake.

- In the wake of the publication by the Information Commissioner of *What Price Privacy?*, PressBof co-ordinated through the trade associations an unprecedented cross industry education and information campaign aimed at bringing home to every journalist the importance of observing the vital legislation on data protection. A copy of this note, distributed in 2008, is attached as Appendix H.
- In 2007, as I set out above, the Code Committee reviewed and updated the rules on subterfuge specifically to include computer hacking, and included in that private investigators.
- The industry through PressBof worked with the PCC to implement the recommendations contained in its 2007 report on phone hacking in the wake of the conviction of Clive Goodman and Glenn Mulcaire.
- At PressBof Board meetings, we regularly receive reports from PCC Chairmen which have included discussions about phone hacking and the actions the PCC has been taken in this area. A set of relevant PressBof minutes from 2006 to present - with staffing, HR and commercially sensitive material which does not pertain to the Inquiry redacted - is included as Appendix I.

Conclusion

48. I hope this statement has set out as succinctly as possible the role of PressBof and the manner in which the Board has sought to discharge its duties. In all the key areas it is, I believe, a considerable success story.

49. In our main task - funding - we have an excellent track record of ensuring very high levels of industry compliance with the levy and of properly funding the PCC within agreed budgets.

50. The Code of Practice has been hugely important in changing newspaper behaviour, inculcating high ethical standards in the vast majority of newsrooms, providing important protections for the public in areas such as the treatment of children and hospital patients, engendering a culture of "correction" across the industry where mistakes are rectified swiftly and prominently, and giving a lead to the broadcast media in tackling pan-industry issues such as harassment and jigsaw identification of children in sex cases. Those are very real achievements that should not be overlooked as the result of criminal activity on one newspaper.

51. PressBof has delivered industry support not just for changes to the Code but crucially to the PCC's remit, most notably in the digital area. These changes have happened swiftly and in a common-sense fashion in a way which would simply not be possible in a statutory system. Indeed, I strongly believe that any form of statutory control - or "independent regulation" - would be impossible to implement in an age when the press is no longer domestic, but global.

52. And above all PressBof is deeply proud of the work of the independent PCC. As a moment's reflection beyond the issue of phone hacking, important and serious though that is, will show, it has a remarkable track record in dealing with complaints from the public swiftly, effectively and without cost, working with the industry to tackle key areas of newspaper ethics and providing training and education to journalists in a way which has embedded the Code deep into the culture of the vast majority of British newspapers and magazines at national and local level.

53. But the system is not perfect, as I readily recognise: few systems of self regulation ever are, particularly where they operate in such a high profile and controversial area as the press. I would highlight two.

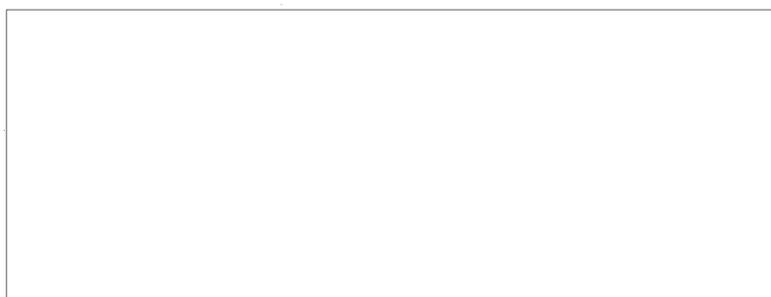
54. First, there is the issue - underlined by the withdrawal of Northern and Shell from our system - of industry compliance. We operate a voluntary system, which is a characteristic of most systems of self regulation. It is difficult in such circumstances to deal effectively with a rogue publisher, which wants to pick and choose when it is in or out of the system. It is an issue with which we continue to grapple and we hope to find constructive solutions as part of the renewal of the self regulatory system.

55. Second, I have always recognised that in a free society the print media will inevitably and consistently be controversial. Newspapers and magazines don't exist for a quiet life. They are scrutineers of those in power or positions of influence and they cause trouble. They become unpopular. And in a system of self regulation, that means that the PCC - or any equivalent of it - will suffer collateral damage.

56. This is particularly true at times of real controversy - for instance, after the death of Diana, Princess of Wales or in the wake of the recent phone hacking scandal. The problem of a unitary system of self regulation is that the vast majority of the PCC's work of complaints handling, which produces very high degrees of satisfaction among complainants, becomes contaminated by events beyond its control or outside of its remit. The PCC could never have done anything to prevent or detect phone hacking - indeed even the police failed to do so - but it has been caught up in the backlash as a result.

57. That is one of the reasons why PressBof and all those in the industry know that the system of self regulation now needs to be renewed and regenerated. It is too early to say how that might happen, but they are issues on which we will be working in the months ahead.

58. I would be very happy to provide any further information that might be useful or relevant to the Inquiry.



LORD BLACK OF BRENTWOOD

16th September 2011