

I am the Editor of The Independent and Group Editorial Director of the newspapers published by Independent Print Ltd (IPL) and Evening Standard Ltd (ESL), namely: The Independent, The Independent on Sunday, *i* and The London Evening Standard. I am also a member of both the IPL/ESL boards of directors. I make this submission on behalf of all the editors in our group.

To what extent were you personally involved in drawing up this proposal for a new system of self-regulation based on contractual obligations, as now set out by Lord Black?

I have set out my views on the future of press regulation in various forums and I believe they are well-known to Lord Black and to other senior figures in the newspaper industry. I took part in early consultations on the question of a contracts-based system (which were lead initially by Lord Hunt at the PCC). I have, with colleagues at IPL and ESL, commented on various working drafts that have been drawn on in Lord Black's current proposal. I have not spoken directly with Lord Black about the system he sets out in his submission.

To what extent would you personally, in your capacity as editor, expect to be involved in the final decision as to whether your publication signed up to the contractual obligations envisaged by this system?

I would expect to be fully involved in the final decision about whether our titles sign up to Lord Black's model. I would anticipate that the other editors in our group would be involved in internal discussions. Ultimately, the decision would be one for the IPL/ESL boards, of which I am a member, and for our proprietor and chairman, Evgeny Lebedev.

In so far as you are able to do so, please indicate whether your publication is at present fully ready and committed to enter into these contractual obligations. If it is not at present fully ready and committed, please explain why, and detail any changes that would need to be made to that proposal, any further development to the proposal required, or any preparatory steps that would need to be taken at your publication, in order to put it in the position of being fully ready and committed to enter into these obligations. If there are no circumstances in which it would be prepared to enter into obligations of this nature, please explain why not.

I and the other editors in our group are broadly supportive of the proposals put forward by Lord Black. In particular, we agree in principle with the idea that a new system of regulation should be established on the basis of a contractual relationship between the regulator and the regulated. We also agree that the new regulator should have the power to initiate investigations into claims of systemic standards breaches by newspapers; and should be able to fine in appropriate circumstances.

However, there are three key issues on which we feel some further detail is necessary before we are fully ready and committed to enter into the new system:

- a) We understand entirely the concern that Lord Black has laid out about the danger of a system akin to licensing, whereby a newspaper was not permitted or able to operate at all unless it had committed to an agreed system of regulation. Nonetheless, we retain some unease that the new system as presently detailed may still not do enough to ensure that all major publishers participate. It is an important measure of trust for a newspaper to be able to tell its readers that it is subject to external scrutiny by a regulator. On the other hand, if a regulator only regulates a certain portion of its industry its ability to attain genuine credibility in the eyes of the public may be compromised. Consequently, being a member of the system would no longer be the marker of trust that it ought to be.

From the point of view of the public, obtaining redress against newspapers should be as simple as possible -- having one regulator encompassing at least all the major publishers is important to avoid public confusion. (It is for the same reason that I regard the proposals of the Media Standard Trust as fundamentally flawed because I do not believe the public wish to see a system in which some newspapers are subject to regulation and others are not.)

We welcome, therefore, the continuing efforts that are being made in thinking about how to incentivise membership of the new system. Lord Black refers in his submission to the provision of press cards, the use of agency copy through PA, a "kite-mark" for member publications and support by advertisers as areas in which specific incentives are being explored. Before we fully commit to the new system we believe that further work must be done in the area of incentives so that all publishers know with certainty what the impact of joining -- or not joining -- the new system will be. This should importantly cover other areas, including that membership of the new body and participation in its dispute resolution system should provide a costs advantage in any ensuing libel or primary litigation. There are a number of ideas about how to achieve this (set out in some of the submission you have received), which we will need further time to consider.

Having said this, if all major publishers feel already that they can commit to the new system without this additional detail, we would naturally be content to fully commit ourselves as well. Our concern is simply that without the complete support of at least the major publishers, the new system may not have sufficient credibility in the eyes of the public and will be hamstrung from the outset.

- b) We agree that in cases where there has been a systemic failure in relation to standards or compliance the regulator should have the power to fine. We have some anxiety, however, about the fact that the proposal has sought to set a maximum figure without giving any indication of what amounts might actually be levied in particular instances. We appreciate of course that this is hard to do until the new system gets under way, which makes it all the more surprising that a headline maximum has already been set.

Moreover, the current proposals put any publication which turns over more than £100million annually at a theoretical advantage. We do not see why this should be so and we would be keen for some further thought to be given to this point.

- c) Under the current proposal, the basic annual costs of the new system are envisaged as being £2.25million, which is not a vast increase on the current annual budget of the Press Complaints Commission. Given that the new model is quite considerably more complex, we would welcome some further detail on whether this figure is realistic. We would also welcome more precise information on how the suggested funding mechanism is intended to operate.

In addition, in the system that Lord Black has set out, there remains a very central role for Pressbof (recast as the IFB). In the PCC system this was entirely necessary because Pressbof's primary role was collecting the annual levies owed by each subscribing title. Yet in a system based on commercial contracts, we anticipate that the payment of membership fees will, after the start-up period has been completed, be substantially more straightforward (largely because enforcement action can be taken on non-payment). Consequently, we wonder whether the IFB could in fact be dissolved once the new regulator has become operational. This would reduce some of the complexity of the new body and alleviate some of the public's perception that there is an unaccountable industry organisation holding the strings of the system.

If the IFB were to be so dissolved, nominations of industry members to each part of the system could be made by the relevant trade associations and ratified by the independent appointments process to be determined by the Trust Board, all on the basis of a pre-agreed formula (in order that all sections of the industry were fairly represented).

Collection of annual membership fees, predetermined by the long-term contracts, could be done by an executive committee of the Board.

If the IFB were to be dissolved it would make sense nevertheless for the industry to establish, if possible, a steering group which could – where possible – act as a voice on all campaigning matters where there was a commonality of interest, as well as providing a forum for intra industry debate about all sorts of matters. It has been one of the failings of our industry that such a group has never really existed, although the NPA and the Society of Editors have both sought to take on the role to varying degrees. If such a steering group was established it could act as the industry voice in any necessary discussions with the new regulator, for instance on matters relating to its annual budget.

What specific differences would membership of a system of the kind set out by Lord Black, underpinned by contractual obligations, make to the culture, practices and ethics of your publication?

All of our titles are committed to the highest ethical standards. We abide by the Editors' Code of Practice currently overseen by the PCC as well as meeting the obligations imposed by law. We have an in-house Code of Conduct too. All staff – including freelance contributors – are contractually bound to adhere to all these relevant regulations. Failure to do so can, therefore, be a disciplinary matter. We also run in-house training sessions on a regular basis to ensure that our journalists remain up to date with key rulings by the PCC and the courts.

Consequently, we do not consider that the culture, practice and ethics of our journalism would be significantly altered by membership of the kind of system proposed by Lord Black. There would, of course, be an impact on the way we report on standards and compliance to the regulator by virtue of the proposed process of annual certification, which we regard as a positive step. We already keep

clear records of all complaints received by our titles (whether they come via the PCC, directly from readers or from lawyers) and the additional reporting to the regulator would not pose practical difficulties.

Is there any other comment you wish to make on the proposal put forward by Lord Black, or on the proposals put forward by others, that are now published on the Inquiry website.

As I have already noted, we broadly support the proposals of Lord Black. We believe they are the most complete and credible set of proposals currently on the table. While we would like some additional detail on certain points, we support in principle the key tenets of the scheme he has laid out in his submission to you.

With regard to the other proposals and submissions which have been put to you, there are a few matters I would highlight:

- a) Lord Wakeham in his submission highlights the importance of speed in any new body. This is an area in which the PCC has been relatively successful, at least in its day-to-day complaints handling. Lord Black's current proposals appear to allow newspapers more time to respond to complaints via the new regulator than they are permitted under existing PCC rules. We are anxious that the new system should take on board Lord Wakeham's concern that speed – especially in relation to resolving complaints – must always be of the essence.
- b) Some proposals seek to establish statutory 'backstops' (in a variety of forms), which would be engaged if a major publisher refused to play ball with the regulator. I have already set out our unease at any system which does not include all the major publishers. However, it does seem to me that in a system where non-membership is actively and severely punished, the logical conclusion will be that publishers who refuse to take part will ultimately be forced to close their titles, which is anathema to the principles of a free press which we all hold dear.

Moreover, the new system is hoped to include online-only news sites. If such a website refused to be part of a system in relation to which membership was compelled by statutory means, there seems little to prevent it simply relocating its operations abroad and yet maintaining its output and audience reach. In that scenario, it would presumably be outside the reach of UK legislation that sought to compel membership of a UK-based regulator.

The section in Ofcom's submission relating to the question of membership of a new system is a helpful summary of the anxiety we have about attempts to enforce compulsory participation.

- c) We do not agree with proposals – notably the NUJ's – which advocate that membership of a new regulator be determined by a panel appointed directly by the Minister for Culture Media and Sport. The new regulator must be completely independent of government. We also note that the NUJ proposal is also based on the principle that a newspaper is charged a

fee for every complaint made against it, without apparent examination of the complaint's merits. That is an untenable proposition.

- d) A number of the submissions seem intent on giving the impression that the existing system has almost nothing to commend it. That may reflect a lack of knowledge or understanding about how the PCC currently works. Our view, as previously expressed, is that the PCC's credibility has been damaged irreparably. It did not deal with the phone-hacking scandal as it ought to have done; and indeed could never have dealt with it in a way that would have been genuinely effective, given its funding and established scope. Nonetheless, it has achieved a considerable amount in its handling of complaints and that must not to be overlooked.
- e) Several submissions refer to the Irish model of press self-regulation. It is a model that on the face of it has some advantages yet it is, in its fundamentals, very similar to the existing system we have in the UK. It is important not to overstate differences between the PCC and systems of media self-regulation abroad.

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