Myths and facts about the recognition system

After the Leveson Inquiry, the Press Recognition Panel (PRP) was set up to oversee press regulation. We're entirely independent, including from publishers and from politicians. We're part of the new system designed to safeguard freedom of the press and protect the public. In keeping with this role, we've outlined some of the current misinformation about press regulation and provided the facts.

MYTH: Commencing section 40 would stifle press freedom and limit investigative journalism.

FACT: Section 40 supports investigative journalism. The law would protect publishers that are members of approved regulators, if they were to get sued. Claimants with a genuine legal case would be offered arbitration, and if they turned this down, the publisher wouldn't have to cover any court costs. If a claimant didn't have a genuine claim, the case would be thrown out. Section 40 protects the press, journalists, and the public.

MYTH: Under section 40, trivial and malicious claims would be brought against publishers, and claimants wouldn't have to pay any costs, even if they lose.

FACT: Only legitimate claims could be brought against a publisher. Courts would strike out frivolous and vexations claims.

If someone had a genuine legal claim:

1. If the publisher belonged to an approved regulator, the claimant could seek redress through arbitration. If the claimant chose to go through the courts instead, the claimant would have to pay both sides' court costs.

2. If the publisher didn't belong to an approved regulator, they'd be denying the public access to affordable justice. That publisher would pay all costs of court action against them because that would be the only way to ensure that the ordinary members of the public could afford a legal challenge against a publisher that chose not to join an approved regulator.

MYTH: Section 40 could bankrupt the local press because joining an approved regulator to avoid facing costly legal challenges would instead lead them to face lots of costly arbitration challenges.

FACT: Arbitration is designed to be cheaper than legal challenges in the court. The new system of regulation also includes specific protection for local and regional publishers to avoid causing them financial hardship – if the problem occurred. The PRP has a specific power to disapply the arbitration requirements for local and regional publishers.

MYTH: All that the public needs is access to low-cost arbitration; the rest of the Charter is not relevant.

FACT: If a regulator simply provided access to low-cost arbitration, it would not be enough to provide the public protection. For any arbitration process to be an effective alternative to the courts for ordinary people, it must be mandatory for the publishers concerned.

MYTH: The Charter and the PRP amount to state-control.

FACT: The Government and politicians have absolutely no say or involvement in how the PRP is run or in its decisions, and not even any ability to influence it. The Charter completely separates the Government, parliament, and politicians from press regulation.

The Charter can be only be amended by a two thirds majority of each of the House of Commons, the House of Lords and the Scottish Parliament, and with the unanimous agreement of the PRP Board.

The PRP has no say in how the press operates or how regulators are run. The PRP's only role is to assess regulators who chose to apply for recognition. The system of recognition and the PRP do not provide any means for the state, for Government or for politicians to prevent publishers exercising free speech.

MYTH: The new system of regulation doesn't cover digital and online publications.

FACT: The system applies to publications available online, in print, and both. Generally, if a publication can be sued for what they publish in England and Wales, the new system of regulation applies to them. This includes members of IMPRESS and IPSO, and to those who belong to neither.

MYTH: With section 40 commenced, publishers would face a sharp rise in arbitration cases.

FACT: Arbitration is an alternative to court action. As with the courts, there is a filter system, and claimants would need an arguable case before they could take a claim forward through arbitration.

Arbitration shouldn't be confused with a publisher's complaints system. Generally, complaints are related to a regulator's Standards Code, and are not the same as legal claims.

MYTH: Bringing section 40 into force would make publishers have to choose between paying all the legal costs of anyone who challenged them in court, or joining IMPRESS.

FACT: Publishers can set up their own regulator and apply for recognition. The Charter envisages multiple approved regulators.

Further information

The PRP's response to the Government's recent consultation on the Leveson Inquiry and its implementation is on the PRP's website, along with the PRP's 2016 annual report on the recognition system.

If you'd like more details, please get in touch. Email office@pressrecognitionpanel.org.uk.