

Dr David Wolfe QC
Chairman
Press Recognition Panel
Mappin House
4 Winsley Street
London W1W 8HF

22 August 2016

Dear Dr Wolfe,

- 1) Thank you for your letter of 19 August. As requested, please find each of your points addressed below to aid the Board's understanding.

- 2) **Membership**

In point (1) you asked: *“What precisely you rely on in the Charter as showing that a regulator, when formed, can only be considered to have been formed on behalf of publishers which are its members at the time of its formation”*. As set out at paragraph 9a in our original letter, Clause 1 of Schedule 4 of the Royal Charter states: *“‘Regulator’ means an independent body formed by or on behalf of relevant publishers for the purpose of conducting regulatory activities in relation to their publications”*. The phrase *“on behalf of”* means done for another person's benefit or support, or done as a representative of that person. The phrase *“by or on behalf of”* therefore means either done by relevant publishers, or done with their support. Our point was not that every relevant publisher must be a member of an applicant regulator, but that at the very least it must have the support of a significant portion of relevant publishers. Here, IMPRESS not only lacks this support, but faces great opposition from almost the entirety of the industry, and so does not have either the support or the prospect of ever gaining that support.

3. **Support of relevant publishers**

In point (2) you asked: *“what precisely you rely on in the Charter as showing that a regulator can only be considered such if it has the support of all relevant publishers”*. We did not say this. We maintain that when the Charter and the Leveson Report contain phrases such as *“by or on behalf of relevant publishers”*, it is not satisfied by the presence of one relevant publisher or even a small proportion of relevant publishers. It is more general than that. For example, a political candidate could not claim to have the female vote because three women supported them while the rest were explicitly opposed. To interpret references to *“relevant publishers”* as having such a low threshold changes the fundamental principles behind both the Leveson Report and the Royal Charter. Indeed, the Leveson Report made clear it did not expect very small publishers to join the body and implied that it was largely irrelevant whether they joined or not. A regulator supported only by a tiny minority of relevant publishers cannot constitute *‘self-regulation of the press’*.

- a. Schedule 2 of the Charter specifies that: *“...in making its decision on whether the Regulator meets those criteria [the Board of the Recognition Panel] shall consider the concepts of effectiveness, fairness and objectivity of standards, independence and transparency of enforcement and compliance, credible powers and remedies, reliable funding and effective accountability, as articulated in the Leveson Report, Part K, Chapter 7, Section 4 (“Voluntary independent self-regulation”). Section 4.11 of the report states: “It is important for the credibility of the system, as well as for the promotion of high standards of journalism and protection of individual rights, that the body should have the widest possible membership among news providers.” It said the new system “must involve all the major players in the industry, that is to say, all national newspaper publishers and their online activities, and as many regional and local newspaper publishers, and magazine publishers, as possible. This is not meant to be prescriptive at the very small end of the market: I would not necessarily expect very small publishers to join the body, though it should be open to them to do so on appropriate terms”.*

- b. The Leveson Report also states (Part K, Chapter 7, Section 3): *“A new system must be effective, and one of the key criteria of effectiveness is that it should include all major publishers of news (if not all publishers of newspapers and magazines).” Section 3.14 concludes: “I therefore recommend that a new system of regulation should not be considered sufficiently effective if it does not cover all significant news publishers...”*

4. Funding

In points (3) and (4) you contradict yourself. In (3) you say that we contend that a regulator should be funded *“entirely and only by its members”*, but in (4) you quote our letter as saying that a regulator’s funding must be *“from, or at least sanctioned by, a substantial proportion of the industry”*. The characterisation in (3) is wrong. Reiterating the point, Criterion 6 of the Royal Charter states that: *“[f]unding for the system should be settled in agreement between the industry and the Board”*. As explained above, this reference to *“the industry”* is not satisfied by the miniscule proportion of the industry in membership of IMPRESS. It is clear that there needs to be a reasonable proportion of relevant publishers in agreement to satisfy this requirement. Far from its funding being settled in agreement with the industry, IMPRESS’s funding source is effectively one individual: Max Mosley. This not only fails Criterion 6 but is also at odds with a fundamental feature of the Charter criteria: that a regulator should be independent. An applicant for regulation which is ultimately funded by a single individual falls at the first hurdle.

- a. In making its decision on whether a regulator meets the recognition criteria, the PRP is also obliged to consider the concepts of reliable funding as articulated in the Leveson Report. Part K, Chapter 7, Section 4.14 of the report makes clear *“that any industry established independent regulatory body must be funded by its members.”*

5. Code committee

In point (5), you ask *“what precisely you rely on in the Charter as requiring there to be serving editors on a Code Committee”*. We restate the point made in paragraph 9c of our original letter - that Criterion 7 states that *“...a Code Committee which may comprise both independent members of the Board and serving editors. Serving editors have an important part to play although not one that is decisive.”* This is very clear in dictating that serving



editors have not only a role to play, but an important role, on the Code Committee of any regulator that is to be recognised. It is difficult to see how the PRP is confused on this point. There is no room to interpret Criterion 7 as not requiring at least one serving editor to be on the Code Committee.

6. Overarching duty

Beyond these specific points, we would like to emphasise the overarching duty on the PRP. The Royal Charter specifies that, in making its decision on whether the Regulator meets the recognition criteria, the PRP: *"shall consider the concepts of effectiveness, fairness and objectivity of standards, independence and transparency of enforcement and compliance, credible powers and remedies, reliable funding and effective accountability, as articulated in the Leveson Report..."* This duty does not allow for dubious or illogical interpretations, especially if done with a motive to recognise a regulator that would not otherwise meet the requirements for recognition.

Yours sincerely,



Lynne Anderson
Deputy Chief Executive
News Media Association

