



BY EMAIL TO: applications@pressrecognitionpanel.org.uk

The Press Recognition Panel
107-111 Fleet Street
London
EC4A 2AB

16 May 2016

Dear Ms Uppal

SECOND PRP CALL FOR INFORMATION ABOUT IMPRESS'S APPLICATION FOR RECOGNITION

I have written to the Press Recognition panel on several occasions with my comments on issues that the Recognition Panel has sought views on from interested parties. I am now following up with some comments in response to the Panel's second call for information regarding IMPRESS's application for recognition.

The purpose of my submission (attached) is to comment on some of the criticisms expressed by the News Media Association in their submission on IMPRESS's application, rather than a direct comment on IMPRESS's application.

You may recall that I write from the perspective of someone who has been an adviser to several regulators and self-regulators over the past 20 years. I took a keen interest in the Leveson Inquiry and was an occasional commentator on its progress and afterwards.

In the interests of completeness, I should note here (as I did in my previous letters) that, as a result of my role as a commentator, I was asked to provide occasional advice and support to the IMPRESS Project during the course of 2014, which I was happy to do on a pro bono basis. I am not currently working with IMPRESS and they have not (yet) seen this response. I believe my comments meet the test of independence, in the sense that I would have commented no differently if I had had no prior involvement with IMPRESS, but if the Panel senses any bias in my comments, please adjust for that as appropriate.

Yours sincerely

Simon Carne

SIMON CARNE'S RESPONSE TO SECOND PRP CALL FOR INFORMATION ABOUT IMPRESS'S APPLICATION FOR RECOGNITION

Introduction and summary

The News Media Association (NMA) made a submission to the Press Recognitions Panel (PRP) on 4 March 2016, in response to the PRP's first call for comments on IMPRESS's application for recognition.

Amongst many comments made by the NMA in a lengthy submission were several points along the lines that IMPRESS's membership was not "representative" of the news media and/or that the membership did not include "all major publishers of news". For the reasons set out below, I consider these comments are, at the very least, not relevant to the matters which the PRP must consider and that, when tested, they turn out to be completely illogical.

I have not attempted to address the entirety of the NMA's submission. That is a matter for IMPRESS to do and I note that, amongst the papers submitted by IMPRESS leading up to the second call for information, is a "Response Paper" which provides their detailed comments on the NMA's submission.

The general proposition articulated by the NMA

In paragraph 82 of their submission, the NMA raises "the question of how effective a regulator IMPRESS could be when its membership is so limited." But size of membership is not one of the criteria set out in the Royal Charter and should be dismissed by the PRP as irrelevant.

In an attempt to make this question relevant to the PRP's consideration, the NMA cites the requirement for the PRP to consider the concepts of "effectiveness" and "credible powers and remedies" (which the NMA misquote as "credibility") as articulated in the Leveson Report, Part K, Chapter 7, Section 4.

The misquote is of some significance, because the Charter requires the PRP to consider whether IMPRESS's "powers and remedies" are credible, not the scale of its membership. It is a feature of the Royal Charter that the PRP may recognise multiple regulators: there is no minimum set by the Charter regarding the number of members that a regulator must have before it can be recognised and, as discussed below, the passages from the Leveson report cited by the NMA do not create such a minimum.

Specific passages from Leveson cited by the NMA

Paragraph 83

In paragraph 83 of its submission, the NMA quotes the following from the Leveson Report:

"A new **system** must be effective, and one of the key criteria of effectiveness is that it should include all major publishers of news ..." [emphasis added]

It is quite plain from this quote that Sir Brian Leveson was referring to the overall system of regulation which he proposed and not to an individual regulator. Given that the Royal Charter allows for the recognition of *multiple* regulators, it is not necessary for all major publishers to be a member of *each* recognised regulator unless it is being suggested by the NMA that the major publishers should be required to join *every* recognised regulator, which would plainly be a nonsense (if the NMA were to suggest it). The PRP should reject the NMA's submission on this point.

I do not doubt that, if IMPRESS were to be the only recognised regulator, with membership at or around its current level, the effectiveness criterion for the "system", as set out above, would not be met. But the same would be true if IMPRESS were *not* recognised by the PRP. The quoted passage is simply not a relevant criterion for the PRP's assessment of whether to recognise an individual regulator. The criterion is relevant only to a consideration of the overall system, which is not a matter for PRP at all – still less a matter to address when the PRP is considering its first application.

The effectiveness of the *system* is a matter for others with the appropriate powers. In that context, it is relevant that the PRP is required to report annually to Parliament and to the Scottish Parliament on matters relevant to the system.

Paragraph 84

In paragraph 84 of its submission, the NMA quotes the following from the Leveson Report:

"I therefore recommend that a new **system** of regulation should not be considered sufficiently effective if it does not cover all significant news publishers. The challenge, then, is to find a way of achieving that result." [emphasis added]

Once again, this is a quote relating to the overall system and is not relevant to a consideration of IMPRESS's application for recognition, for the same reasons as those set out in relation to paragraph 83.

Paragraph 85

In paragraph 85 of its submission, the NMA quotes the following from the Leveson Report:

"It is important for the credibility of the **system** ... that the **body** should have the widest possible membership among news providers. ... [I]t 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..." [emphasis added]

This extract starts by referring to the "system", but goes on to refer to the "body", with the latter term referring to the regulator. But this passage still doesn't amount to a relevant criterion or a logical reason to reject IMPRESS's application. The passage refers to the "credibility of the system" and to the membership of the body, not to the "credible powers and remedies" of the regulator. It does not, therefore, fall within any of the concepts which the PRP is required to consider under the Royal Charter.

[Note: I have quoted only part of the passage from paragraph 85 of the NMA's submission, but the words I have left out do not contain anything relevant.]

Procedural matter

The PRP has previously set out the manner in which it proposed to handle applications for recognition following an open consultation. The PRP's policy does not include a requirement for an applicant regulator to demonstrate that it has all major publishers amongst its members. Even if the PRP had the power to add such a requirement – which, for the reasons set out above, it doesn't – it would be wrong to do so at this late stage.

Simon Carne
16 May 2016