

1. In your opinion, has the new system for overseeing press regulation in the UK been a success or failure so far? Please explain your reasons.

Up to now the new system has not worked because, in practice, it does not (and will not without further government action) influence press regulation in any meaningful way. When faced with a significant number of publishers who are determined to avoid effective regulation, there will never be a system that deals with the many problems involving the press, as identified by Lord Leveson, until a structure is put in place that provides real incentives for them to participate in a meaningful scheme.

If Parliament does not act then the clear findings of Lord Leveson will be rendered meaningless and the press will be free to continue to operate outside the framework of any meaningful regulatory system.

In addition I fully support the views expressed by 'Hacked Off', including the following response to Question 1:

"So far, it has not worked. Whether or not IMPRESS is recognised, many relevant publishers have decided to stay outside the recognised system in order to try to continue the old failed system. Leveson – while offering one last voluntary chance to get their house in order - anticipated that this may happen and said that if it did, Parliament needed to act. The PRP should take the opportunity of its report to remind Parliament of Leveson's words on this matter.

He said:

"if some or all of the industry are not willing to participate in effective independent regulation, my own concluded view is to reject the notion that they should escape regulation altogether. I cannot, and will not, recommend another last chance saloon for the press. With some measure of regret, therefore, I am driven to conclude that the Government should be ready to consider the need for a statutory backstop regulator being established, to ensure, at the least, that the press are subject to regulation that would require the fullest compliance with the criminal and civil law, if not also to ensure consequences equivalent to those that would flow from an independent self-regulatory system."

2. For publishers, joining an approved regulator is voluntary. For regulators, applying for Charter recognition is voluntary. In your opinion, what factors or issues will affect regulators' and publishers' decisions when they consider these choices?

The answer to this question is already completely apparent from the findings of Lord Leveson (who anticipated problems of this sort) and the subsequent conduct of that part of the press that has been involved in the establishment of IPSO.

Key elements of the press (including those responsible for some of the worst conduct identified by Lord Leveson in his report) do not want meaningful independent regulation so they are doing their very best to avoid it. As a result publishers will only chose voluntarily to operate under regulators that they are able to control or influence - effectively a continuation of the previous failed system such as that seen under the Press Complaints Authority.

It follows that any regulator that these publishers choose to operate under -such as IPSO- *will never apply* for charter recognition as this would defeat the object of the publishers' conduct which is to *avoid* meaningful independent regulation. All the arguments raised by the press in support of IPSO have been raised by them in the past in support of the previously failed systems of voluntary regulation. The publishers that have joined IPSO are seeking to avoid meaningful changes in press regulation and it is for this reason that they will never (without sufficient incentives as identified by Lord Leveson) join an approved regulator.

It follows that I fully endorse the views expressed by 'Hacked Off', including the following response to Question 2:

Lord Leveson anticipated that this would be a problem and found a very clever and effective solution to it: the implementation of a system of incentives to encourage publishers to join an approved regulator. This is an excellent solution because assuming that compulsion is to be avoided, the provision of incentives is an alternative that strikes a fair balance between the competing interests of the publishers and those who have complaints or grievances against them.

Leveson considered this question and concluded that the voluntary version of the system would only have a chance to work if publishers were offered incentives for joining it. As such, he proposed a system of **“cost-shifting” and it is this measure which is** the main incentive for a publisher to join a recognised regulator - and for a regulator to seek recognition.

By attaining recognition and agreeing to offer low-cost arbitration, publishers are protected **in two ways**. **First, it reduces the effect of ‘chilling’ so it can publish stories** without the subject of the story threatening to bankrupt the journalist/publisher. Secondly, if a claimant rejects the arbitration and chooses to go to court, the publisher is protected from paying courts costs.

It would be a win-win situation: ordinary people would be guaranteed access to justice through low-cost arbitration and the publishers would be freed from chilling and potential court costs if a rich individual or company chooses to reject the route of arbitration, instead insisting on going to court. This measure should have been achieved by section 40 of the Crime and Courts Act 2013: a critical part of the Royal Charter system which Leveson recommended in outline terms. Parliament endorsed this measure too and intended it to apply. **It is a part of the “recognition system”**. But the Government is blocking it. I urge the PRP to recommend to Parliament and the Government that section 40 is **“commenced”** as soon as possible, as it is integral to the system of recognition & incentives system.

I hope that this submission is useful and that you will be able to take it into account in making your recommendations to Parliament.

Regards,

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