

Thank you for your kind invitation to participate on your consultation ahead of your report to parliament on the workings of the new system of press regulation. As you know, on reflection I thought it might be more helpful if I dropped you a short note setting out some views. If you would find it useful to meet to discuss in more detail, I am of course at your disposal.

The honest and unambiguous answer to the question you pose is that it has been a failure. This is nothing to do with your panel which has proceeded in a measured and commendably open way. It has been a failure because only one would-be regulator has applied for recognition. Worthy though IMPRESS is, it is a sad fact that it regulates nearly no one of significance. The only regulator which has significant support from the industry is IPSO, which has set its face against seeking recognition.

Parliament did not envisage such an outcome, because it believed that the incentives on publishers to sign up, notably the s50 provisions on damages, would be effective in causing them, however reluctantly, to do so. Whether this was a correct or an incorrect judgement is for the present irrelevant since the Secretary of State has made it clear that he is not minded to implement the section at the moment. The strongest incentive to sign-up is, at least for now, no longer live.

This could change. There could be a new Secretary of State following the Euroreferendum. He or she could take a different view which could in turn, if remain wins, be affected by the post-referendum government's view of how the press performed during the campaign. It is also possible that Parliament itself might revolt (as it did during the original post-Leverson discussions) against the executive and take steps to enforce its desire on damages. Absent that, however, IPSO will not sign up, either because its members genuinely believe that the Royal Charter based system threatens a free press or because they hope to get away with a regulator which does not meet the Leverson requirements embodied in your conditions for regulation, and which becomes, when the furore is over, ineffective.

There is a further issue as to the likely decisions of the three big fence-sitters: the FT, the Guardian and the Observer. The FT is pleading that it is not a British newspaper. Not much white smoke has emerged from the Guardian/Observer though the Guardian's new editor, Katherine Viner, has agreed to address my little group of interested peers on July 12th.

Parliament has preferred not to address these issues so far, perhaps because of the imminence of the referendum. It will have to do so in autumn, if only because your report on the state of recognition will be laid before us in September.

My purely personal view is that the outcome of all this, though necessarily uncertain, is going to be determined by IPSO. It will depend on how far it meets Leverson criteria. Or rather it will depend on how effectively it persuades the government and parliament that it has met Leverson criteria – it has been arguing right back to the days of David Hunt chair that it meets them already.

This claim cannot be sustained. It clearly falls short in a number of regards. However Sir Alan Moses, its chair, is determined to make it effective. The Pilling Review could provide an opportunity for a substantial move by IPSO (if its members agree) towards a structure which is more nearly Leveson-compliant. In that case, parliament might be persuaded to give the independent IPSO based system time and space to work – I suspect there would be a good deal of deployment of the well-rehearsed last chance saloon rhetoric. Parliamentarians might think that, if IPSO began to backslide, as all its predecessor self-regulators have done, then would be the time to take action. And though few in parliament share the IPSO view that the Royal Charter is a threat to a free press, some might be moved by the argument that, given the press's view on this, it is worth trying to avoid that dimension in regulation so no-one has any excuses for failing to adopt a compliant culture.

In this not altogether simple situation, your panel has an important role to play. It needs to say clearly to parliament that the system it envisaged is so far a failure. It needs to make clear those regards in which IPSO falls short of meeting the requirements of recognition. It needs to emphasise that it is possible to envisage an effective system of press regulation which does not involve the regulator and its members seeking registration through PRP; but that the present IPSO does not and cannot provide such a system.