

## GOVERNMENT RESPONSE TO THE HOUSE OF LORDS COMMUNICATIONS AND DIGITAL COMMITTEE'S REPORT ON THE FUTURE OF UK JOURNALISM.

### Introduction

1. The Government welcomes this report and is grateful for the Committee's comprehensive inquiry into the future of UK journalism. In considering the landscape one year on since the Government responded to the Cairncross Review, and in the context of the COVID-19 pandemic that has exacerbated many of the challenges explored in that Review, the Committee's report is a timely contribution to a vital debate.
2. The Government agrees with the Committee that while the forms journalism takes and the technologies by which it is produced have changed, its fundamental purpose and importance in a democratic society remain the same. As the Government set out in its formal response<sup>1</sup> to the Cairncross Review<sup>2</sup>, at the heart of any thriving democracy is a free and vibrant press. Its role in holding power to account and keeping the public informed of local, national and international issues is vital. Without robust, good quality newspaper coverage of affairs in their communities, there is a serious danger that citizens will become disengaged from the democratic process, to the detriment of a well functioning society. This point was highlighted in recent research commissioned by the Government which found voter turnout in local elections is higher in areas with greater local newspaper coverage.<sup>3</sup>
3. The government is committed to defending the invaluable role of a free media, including in new online safety measures. Alongside tackling harmful content, regulation will safeguard pluralism and ensure internet users can continue to engage in robust debate online. In order to protect media freedom, online harms legislation will include robust protections for journalistic content shared on in-scope services. The government will continue to engage with a wide range of stakeholders to develop proposals that protect the invaluable role of a free media and ensure that the UK is the safest place in the world to be online.
4. The Government also agrees that, as society continues to move online, the news publishing sector is facing significant challenges in transitioning to sustainable digital business models. COVID-19 has accelerated the need to meet these challenges, at a time when verifiable, trusted news is needed more than ever. It remains a priority

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<sup>1</sup> Government response to the Cairncross Review: a sustainable future for journalism, January 2020

<sup>2</sup> The Cairncross Review, A sustainable future for journalism, February 2019

<sup>3</sup> Plum Consulting, Research into recent dynamics of the press sector in the UK and globally (May 2020)

for this Government to explore all possible options in the interests of promoting and sustaining high-quality news journalism, through the continuing implementation of Cairncross recommendations and beyond.

5. The Government's response to the Committee's observations and recommendations is below. As recommendation 6 is addressed to industry, recommendation 13 to the BBC and recommendation 14 to the Charity Commission, this response focuses on the other recommendations addressed to the Government.

#### **A. The changing production and consumption of journalism**

##### **Recommendation 1 & 2:**

- **The Government should empower Ofcom to regulate online news content produced by UK public service broadcasters in the same way it regulates broadcast content. (Paragraph 70)**
- **Ofcom should be empowered to ensure that public service broadcasters monitor the accuracy and impartiality of their journalists' public social media posts and take appropriate action where necessary. (paragraph 71)**

##### Government response

6. Ofcom is the independent regulator for the UK's communications sectors. It has wide ranging powers to regulate TV and radio, including a specific duty to protect the public from harmful or offensive broadcast material. Ofcom is required under the Communications Act 2003 and the Broadcasting Act 1996 to draw up a code for television and radio covering standards in programmes. This Code contains clear rules to ensure that broadcast news is reported with due accuracy and impartiality.
7. The Government is supportive of a modern system of public service broadcasting that can remain relevant and can continue to meet the needs of UK audiences in the future. There is increasing consensus that the UK's public service broadcasting system needs to evolve if it is to transition successfully to the online era. This will require a collective effort from government, industry and Ofcom to deliver. That is why the Government is undertaking a review of public service broadcasting, and why we have brought together an advisory panel to provide independent expertise and advice on this important issue. The panel will support the Government in responding to Ofcom's forthcoming report into the future of public service broadcasting.
8. With regards to journalists' social media posts, we expect public service broadcasters and their journalists to adhere to the highest standards, while respecting their journalists' right to freedom of expression - noting too that public service broadcasters are operationally and editorially independent of government. Like the

Committee, the Government welcomes initiatives taken by individual broadcasters in this space such as the BBC's revised guidance for its employees on the use of social media. Public service broadcasting has a long and proud tradition in the UK delivering impartial and trusted news. It is vital that public confidence is maintained for fair and balanced reporting, and any damage to that would be deeply concerning.

9. The Government will be looking at all issues relevant to ensuring a modern, sustainable and successful public service broadcasting system. As part of this review, the Government will consider how regulation may need to adapt to take into account changing technology and audience habits and expectations. The Government will set out its detailed plans in this area in due course.

#### **Recommendations 3&4:**

**We recommend that a regulatory body, which could be Ofcom, the Digital Authority we proposed in our report 'Regulating in a Digital World', or another body, should coordinate work on media literacy across Government, media organisations, platforms, academia and charities. Given the crowded regulatory landscape this should not be a new body. This body should look to France's CLEMI for effective ways to coordinate media literacy. (Paragraph 88)**

**The Government's upcoming media literacy strategy should include coordination between the Department for Education, Ofsted and Ofcom on how to better integrate critical thinking and media literacy into the school curriculum. (Paragraph 89)**

#### Government response

10. As set out in the [Government response to the Cairncross Review](#), the Government agrees that media and digital literacy skills are essential to ensuring people can be fully informed about the world around them. Improving media and digital literacy has the potential to bring a wide range of benefits, including for the functioning of democracy, by giving users a better understanding of online content and enabling them to distinguish between facts and opinions online. It is also likely to have a positive impact for the sustainability of high-quality journalism by educating users on journalistic processes and their value.
11. With this in mind, we accepted the recommendation in the Cairncross Review that the Government develop a media literacy strategy alongside Ofcom, industry and stakeholders, a commitment already made in the [Online Harms White Paper](#). This will explore the media literacy landscape and ensure a coordinated and strategic approach to online media literacy education and awareness for children, young people and adults, and will be published in spring 2021. The strategy has been led by

DCMS, in close collaboration with departments across Government and public bodies, including the Department for Education, the Cabinet Office, and Ofcom, alongside stakeholders from the private sector and civil society.

12. DCMS is also taking broader action to promote coordination within the UK media literacy landscape. Following a separate commitment set out in the Online Harms White Paper, DCMS have been undertaking a comprehensive mapping exercise to identify what media literacy actions are already underway, including provisions targeted at schoolchildren. The research will also consider existing research on the levels of media literacy among users, evaluate the evidence base for media literacy interventions, and will inform the media literacy strategy.
13. As previously outlined in the [Government's response to the House of Lords Democracy and Digital Technologies' Committee Report on Digital Technology and the Resurrection of Trust](#), Ofsted is responsible for providing an independent assessment of the quality of education within specific institutions. The Government maintains therefore, that responsibility for the media literacy strategy does not lie with Ofsted, but instead should be an active collaboration between Government and Ofcom. Industry and government have a shared responsibility to empower all users to manage their online safety and Ofcom, the communications regulator, already has an existing duty to promote media literacy under the Communications Act 2003.
14. In addition, the recently published [Full Government Response to the Online Harms Consultation](#) confirmed the decision to appoint Ofcom as the Online Harms Regulator. The online harms regime will build upon and strengthen Ofcom's existing duty to promote media literacy. Under this renewed duty Ofcom will have additional responsibilities including oversight of industry activity and spend, and the power to require companies to report on their education and awareness activity. Ofcom will also be able to undertake a range of initiatives when it identifies an area in which media literacy needs to be improved. This might include communications campaigns, piloting targeted interventions and providing training to key services in the community (e.g. support workers, community leaders). DCMS is working with Ofcom on how they can deliver the new regulatory framework most effectively.
15. Finally, with regard to the recommendation to better integrate critical thinking and media literacy into the school curriculum, there are already many opportunities to improve digital literacy for school children, in subjects such as computing, English, history and citizenship. The computing curriculum, which was introduced in 2014, teaches children the fundamental knowledge and thinking skills that empower individuals to make well-informed choices about technology. It covers the principles of e-safety at all key stages, with progression in the content to reflect the different

and escalating risks that young people face. Citizenship education is part of the national curriculum at key stages 3 and 4 and pupils are taught about democracy, government and how laws are made and upheld.

16. Teaching should equip pupils to explore political and social issues, to debate, and to make reasoned arguments. Media literacy is a key part of this and the Association for Citizenship Teaching has produced a range of resources to support the teaching of this topic. The new curriculums for Relationships Education (for all primary pupils), Relationships and Sex Education (RSE, for all secondary pupils) and Health Education (for all pupils in primary and secondary state-funded schools) includes the topics of online and media and internet safety and harms. Training modules to support subject leads to train non-specialist teachers to deliver effective teaching about internet safety and harms and online and media are available on GOV.UK. In addition, the Department for Education published [non-statutory guidance in 2019](#) which supports schools to teach pupils how to stay safe online within new and existing school subjects.
17. DfE has also introduced new national standards for essential digital skills that set out the skills needed to operate effectively in life and work; 'Being safe and responsible online' is one of the 5 skill areas. The national standards are reflected in a new suite of essential digital skills qualifications up to level 1, which are designed to meet the diverse needs of adults with low or no digital skills and are funded through a new digital legal entitlement, brought into legislation in August 2020.

#### **Recommendation 5:**

**We recommend that the Government review legislation banning the use of recording devices in court and consider permanently implementing the relaxation of live streaming of certain court hearings. (Paragraph 109).**

#### Government response

18. The principle of open justice is a longstanding feature of our legal system. The public has a right to know what happens in our courts and tribunals, and public confidence in the justice system relies on transparency. However, these principles must be carefully balanced against other considerations, such as the welfare of those involved in proceedings, and what is in the best interests of justice more broadly.
19. Consequently, the unauthorised tape recording of proceedings is a contempt of court. It is also not permitted to photograph, film or sketch people in the court and tribunal precincts. More recently, the Coronavirus Act 2020 has ensured that those observing or participating in a court case through remote audio and video

technology are similarly forbidden from recording or broadcasting the proceedings themselves. The Act has ensured that justice has remained open and transparent, and that the media have been able to observe proceedings as more hearings have been conducted virtually. We do not currently have plans to alter this approach.

20. However, the Government and the Judiciary recognise the importance of court and tribunal reporting and we have taken several steps to ensure it can continue to take place as technology – and the media – changes and modernises:

- The media, at the courts discretion, may be permitted to record proceedings in court as an aide memoire.
- In 2018 HM Courts and Tribunals Service published [new guidance for staff](#) and established a national working group, alongside regional meetings, that brings media representatives together with court officials to discuss ways to promote media access to courts and tribunals. This guidance was refreshed and published in March 2020.
- New technology continues to be deployed across our courts and tribunals to allow people to participate and observe in hearings remotely. This is subject to judicial discretion.
- The Crown Court (Recording and Broadcasting) Order 2020 allows for TV cameras to film judges passing sentences only for murder, sexual offences, terrorism and other serious high-profile criminal cases in the Crown Court.
- The Supreme Court has filmed its proceedings since 2009 and the Court of Appeal first allowed recording in 2013.

21. We will continue to liaise with HMCTS to explore how the Government can support court reporters and court reporting.

## **B. Journalism as a career**

### **Recommendation 7:**

**We recommend that the Government should grant Ofcom’s request to extend its power to oblige broadcasters to report on the gender, race and disability of their staff to other characteristics. Socio-economic background should be one of the characteristics. We reiterate our recommendation in ‘Public Service Broadcasting: as Vital as Ever’ that, as 48 per cent of public service broadcasters’ programmes—including news and current affairs programmes—are made by independent production companies, Ofcom should have the same powers to report on crews making programmes for public service broadcasters whether they are in-house or independent. (Paragraph 145)**

### Government response

22. The media plays a vital role in British society and therefore has an important responsibility to reflect 21<sup>st</sup> Century Britain. The Government is committed to supporting the sector to ensure it is representative of the country in which we live and a place where people from all backgrounds can achieve.
23. The Equality Act provides a framework for reporting by public authorities. Different rules apply for private and voluntary sector organisations. In that light, the Government does not propose to amend the statutory framework, given the need to balance the burden of regulation on enterprise, including small and medium firms.

### **Recommendation 8:**

**We reiterate our call for urgent reform to allow the pooling of funds to create training agencies and to allow a portion of Levy funds to be spent on apprentices' wages or other expenses associated with employing them. The Government's failure to act has cost young people and the industry. If, despite its professed commitment to apprenticeships, the Government still will not reform the Levy, it should provide— in parallel—arm's-length funding for news organisations to take on apprentices, which they could pool to set up a training agency. Local news organisations should receive priority for any such funding. (Paragraph 174)**

### Government response

24. We recognise the challenges in offering apprenticeships faced by sectors where non-standard, and more flexible, working patterns are prevalent. As the Chancellor set out at Spending Review in November, during 2021-22 we will test approaches to supporting apprenticeships in these sectors. This will include consideration of the role that models such as Apprenticeship Training Agencies (ATAs) could play.
25. The creative sector is piloting an ATA in partnership with Screenskills which is being part funded by large employers in the sector who will be offering the employment opportunities. We continue to engage closely with the sector to monitor progress and the impact of the pilot and will carefully evaluate the findings to inform next steps.
26. Employers have told us that they want more flexibility over their levy funds, so as set out at Spending Review we will be making it easier for levy-payers to transfer unspent funds to other employers. From August 2021 we will introduce a new online matching service and the facility to pledge funds in bulk which should enable the sector to make better use of the levy, including through transfers to ATAs.

27. Apprenticeship funding, which is derived from income from the apprenticeship levy, can only be used to meet the costs of training and assessment. The levy was set at a level to fund employer demand for this high-quality training and assessment and the income raised by the levy enables apprenticeships in all employers, not just those that pay the levy. It is for employers to meet the costs of wages and other expenses.
28. In 2021-22 we will again be making £2.5 billion available to employers to invest in apprenticeships, enabling news organisations of all sizes to choose the apprenticeships training that is right for them. And in recognition of the challenges employers face as a result of COVID-19, we have introduced cash payments of up to £2,000 for employers taking on new apprentices between 1 August 2020 and 31 March 2021. These payments can be used to support wage costs or other set up costs associated with hiring new apprentices.
29. In August 2020 the Institute for Apprenticeships and Technical Education approved the Level 7 Senior Journalist standard which has been developed by employers, including the BBC, Sky News and the Telegraph, and the National Council for the Training of Journalists. In 2019/20 there were 110 and 440 starts on the Level 3 Junior Journalist and Level 3 Junior Context Producer apprenticeships, respectively. The development of the new standard provides the sector with an opportunity to encourage more young people into journalism via apprenticeships.

#### **Recommendation 9:**

**We welcome the Government’s proposals to strengthen the powers of the Small Business Commissioner and encourage the Government and the Commissioner to work with freelance journalists to ensure that these new powers address the difficulties they face relating to unfair payment practices, including late payment, payment on publication and ‘kill fees’. The Government should consult on whether further legislation is needed to strengthen the rights of freelancers, including whether contract law should be amended to ensure that freelancers are not solely liable for legal costs arising from their work and whether copyright law should be reformed to make freelance–author copyright ownership inalienable. (Paragraph 195)**

#### Government response

30. The Government has committed to strengthening the powers of the Office of the Small Business Commissioner (the Office of the SBC), who provides a vital free service to support small businesses with payment issues and disputes. The recent consultation on proposed new powers for the Office of the SBC closed on 24

December and analysis of those responses is currently underway. Once the responses have been given the careful consideration they deserve, we will publish a Government response setting out next steps.

31. With regard to whether contract law should be amended to ensure that freelancers are not solely liable for legal costs arising from their work, the Government respects freedom of contract in a business to business context. Freelancers can in principle negotiate (by contract) protection for themselves, through indemnity arrangements with the news organisation and / or through insurance (the premium for which could be paid by the news organisation).
32. Copyright is a private property right, and it is up to rights holders to decide whether to assign their rights to a third party. Such assignments are private agreements between rights holders and their contractual counterparts and the Government plays no role in them. This approach has been a longstanding feature of UK copyright law. It ensures legal certainty for businesses and is consistent with the wider principle of freedom of contract. Any restriction on such freedom, including the introduction of a new inalienable right, could have wide impacts and would require careful consideration.

### C. A sustainable future for journalism

#### **Recommendation 10:**

**The Government should set up the proposed Digital Markets Unit as a matter of urgency and ensure that it has the powers and resources it needs. The possibility that the establishment of the Digital Markets Unit could be delayed until 2022 or later is unacceptable. The news industry cannot afford to wait that long. There are strong arguments in favour of undertaking a market investigation into the online advertising market in parallel to this work. However, the CMA is justified in leaving the issue for the Digital Markets Unit provided that the Government acts swiftly. (Paragraph 227)**

#### Government response

33. In November 2020, [the Government set out its proposals for a new pro-competition regime for digital markets](#). This included committing to the establishment of a dedicated Digital Markets Unit from April 2021, to build on the work of the Digital Markets Taskforce and begin to operationalise the key elements of the regime.
34. At the heart of the new regime will be a mandatory code of conduct to govern the relationships between dominant firms and different groups of users which rely on their services. We understand the need to make quick and tangible progress on this

given local publishers are under increasing financial pressure. This work will contribute to the long-term sustainability of the press sector as it transitions to digital media and seeks to effectively monetise its online content. We will hold a public consultation this year and legislate to put the DMU on a statutory footing as soon as parliamentary time allows.

#### **Recommendation 11:**

**The Government should use the Online Harms Bill to legislate for a mandatory news bargaining code modelled on the Australian Competition and Consumer Commission’s proposal. Once it is set up, the Digital Markets Unit should take on responsibility for this and keep under review publishers’ concerns about the ways in which platforms use their content. The Government and regulators should work closely with international partners on this issue.**

#### Government response

35. As referenced above, we have announced plans to introduce a new code of conduct to govern the relationships between powerful online platforms and the businesses which depend on them. It will cover the relationships between publishers and platforms to ensure they are fair, and help support the sustainability of the press. The code will be overseen by a new Digital Markets Unit and we will consider all the options as we consult on the unit's form and function later this year. No decisions have yet been taken.

36. The experience of news publishers in the UK is part of a much wider, global trend and we are engaging with other jurisdictions on these issues. We are aware of the developments in Australia and are engaging with the Australian government and the Australian Consumer and Competition Authority to develop our understanding of the progress they are making and the reactions from both publishers and platforms.

#### **Recommendation 12:**

**We call on the Government to take the lead on developing a more strategic approach to funding journalism. The Government should use its convening power to provide a forum for organisations to co-ordinate their schemes and share successes. Encouraging greater coherence will help funds more effectively support established news media organisations to adapt to rapid digital change. The Government should encourage those with the deepest pockets to come together, step-up and support journalism—both now and as new challenges emerge in future. (paragraph 284)**

#### Government response

37. The Government already plays a role in maintaining a coherent and strategic approach to work intended to support the press sector. We are in regular contact with key relevant stakeholders, including representatives from the industry and online platforms, with a view to tracking broader developments across the industry and shaping government policy in the light of this.
38. We welcome the various industry initiatives highlighted in the Committee's report, and the diverse and valuable contribution they make to supporting the sustainability of the press sector. More specifically, we welcome the recent expansion of the Local Democracy Reporting Scheme to fund 165 reporters in local newsrooms across the UK, underlining the BBC's commitment to supporting public interest local news. The emergency relief funds offered since the beginning of the pandemic by many of the other organisations cited in the report have collectively played an important role in mitigating short-term economic damage to the sector, and we note in the context of the Committee's recommendation the coordination between the European Journalism Centre and Facebook in delivering a European Journalism COVID-19 Support Fund.
39. It is important to note that these initiatives extend beyond simple funding schemes, and encompass training and networking opportunities, collaborative projects, and practical support. They are delivered by a variety of organisations, with different motivations, objectives and business models. Most importantly, these are organisations with whom the Government already maintains a healthy and regular dialogue. While we do not propose to take a formal role in convening a forum to co-ordinate their work, we will continue to engage with them and to encourage the sharing of best practice, with a view to ensuring that our work in supporting UK journalism is complementary and effective.