

## **Trans Media Watch and TransActual—written evidence (FON0022)**

### **House of Lords Communications and Digital Select Committee inquiry: The future of news: impartiality, trust, and technology**

#### **Summary**

- Our thanks to the Committee for inviting contributions on this key subject.
- *Trans Media Watch (TMW)* is the premier organisation focused on how news stories concerning trans and intersex people and issues are reported. As such, we will in this response focus exclusively on the media and the ways in which a concerted campaign of disinformation may have directly influenced government decision-making in this area.
- In previous submissions to parliamentary committees<sup>1</sup> we have set out some of the key tropes and issues we have identified within UK media.
- *TransActual* is a trans led and run CIC focussed on improving life for trans (including non-binary) people in the UK.
- In this submission, we explore the impact of new technology on the UK's news environment, arguing that this has been largely detrimental to news integrity.
- An alternative, we suggest, lies in new models of citizen journalism and niche publishing.
- We report significant distrust in news organisations, fuelled by a widespread belief that news reporting is partial and increasingly given to spreading disinformation – not as outright untruth, so much as through selective reporting and its framing of stories.
- This distrust extends to traditional broadcast media, such as the BBC.
- We report failings in the legal framework around news media and corresponding flaws in the regulatory structure supporting it.
- In order to address concerns around due impartiality, trust, and influence of news media, and to address mis- and dis-information in the news, government should:
  - Implement the recommendations of the *Leveson Report* fully, and proceed with Part II;
  - Remove the position of privilege given to 'news publishers' by the

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<sup>1</sup> A written submission to the Women and Equalities Select Committee Call for Evidence in respect of the Government response to Reform of the Gender Recognition Act <https://transmediawatch.org/a-written-submission-to-the-women-and-equalities-select-committee-call-for-evidence-in-respect-of-the-government-response-to-reform-of-the-gender-recognition-act>

*Online Safety Act 2023;*

- Re-balance legislation to ensure that hostile reporting of minorities or vulnerable groups is treated as seriously as hostile reporting of individuals.

## **Introduction and Perspective**

1. *Trans Media Watch* is a charity dedicated to improving media coverage of trans and intersex issues. We are the premier group working in this area, being one of the few LGBT organisations dedicated to working with the press. We made consistent interventions in respect of policy over the last decade.
2. *TransActual* is a trans led and run CIC focussed on improving life for trans (including non-binary) people in the UK. We advocate for trans people with policy makers, provide practical information and guidance for trans people, healthcare professionals and others. As an organisation we're committed to ensuring that a wide range of trans people are able to have their voices heard, including by providing opportunities to write articles for our website. Our research, including the *Trans Lives Survey 2021*, is respected and widely cited.
3. We would like to thank the Select Committee for seeking evidence on an issue of significant concern to the trans community, and this evidence is hereby submitted on behalf of *Trans Media Watch* and *TransActual*.
4. In that time, we have contributed to the *Leveson Inquiry*, inquiries by the *Women and Equalities Select Committee* into the issues facing trans people and a 2017 inquiry into No Platforming by the *Joint Parliamentary Committee on Human Rights*. We have also engaged with consultations with the *Law Commission* on Online Harm and with press regulators *IPSO* and *Impress* to provide input on how their codes of conduct impact trans people. We have also worked with *Ofcom*, the *BBC*, the *BBFC* and the *Advertising Standards Authority*.
5. A key framing point that we have made in previous submissions is that while the press and wider media do not directly determine the outcome of legislation, they can be highly influential in setting a public agenda and creating a backdrop against which matters are considered.
6. Over the last few years, we have been concerned that a barrage of what appears to be deliberate misinformation and alarmist reporting by mainstream British media has contributed significantly to a backlash against trans people. This manifests as an increasingly hostile political climate, with significant proposals being put forward by government – several of which have been rejected as unlawful – to the detriment of trans people; and a rise in anti-trans discrimination, hate crime, and violence.
7. In parallel with this, the community mood is one of shock. Mental health conditions such as depression and anxiety appear to be on the rise; and the

number of individuals making plans to leave the UK because they perceive it as no longer a safe place for trans people seems to be at an all-time high.

8. In this submission, we would like to provide a snapshot of specific issues, many closely related, some less so, that we have observed through working both with the media and in it (many of our supporters work as journalists and/or broadcasters).
9. Our perspective is taken primarily from the point of view of the trans community: that is, after all, our remit. However, many of the issues we highlight have also been noted by independent researchers; further, it was noted by Lord Leveson at the time of his inquiry that the way in which the media treats the least powerful minorities in society (trans people, travellers, etc.) provides helpful insight into how they would treat the rest of society if they were able to do so.

### **'Content is King': de-skilling the newsroom and falling standards**

10. It is a given that the media landscape has changed irrevocably since the advent of the world wide web. When it comes to news media, there are some specific and broadly accepted outcomes.
11. News is now 'always on'. This process began with the rise in 24/7 TV broadcasting, and the proliferation of cable and satellite channels. However, it has received an exponential boost with the arrival of social media and the advent of an audience that demands to know what is happening anytime, anywhere in the world. This has several implications.
12. The rhythm of news is broken. No longer is news something that arrives on our tables in print form over breakfast, with an update at 6pm when we return from work. Individuals are now actively seeking news updates on new and breaking stories every minute of every day.
13. This creates a demand for content which cannot be satiated by the journalistic efforts of any single news organisation. That, in turn leads to a rise in a cohort of 'journalists' whose primary function is the re-write, without carrying out any additional checking, of news already covered by other news outlets.
14. The primary author of this submission (jane fae) can testify to this. Working on an online news magazine in the noughties, she was frequently told that while double-checking stories was 'admirable', the time taken to do this would often lead to stories running late relative to the momentum of events, and therefore performing less well.
15. A prime example of this arose in 2013, when a story on the labelling of unisex toilets in one District Council area went viral across almost every national news outlet. On contacting the relevant council, she was provided with direct evidence that the reports were inaccurate, as well as confirmation that apart from one local newspaper, *no-one* from any of the national media had contacted them to verify the story.

16. In February, 2021, a *Times* article claimed that in new guidance, Brighton and Sussex University Hospitals NHS Trust told staff in perinatal services to “say ‘chestfeeding’ instead of ‘breastfeeding’”, and to “replace the term ‘mother’”.
17. Following a complaint to *IPSO*, the *Times* later admitted – in October 2021 - that this was untrue.<sup>2</sup> In the interim, however, the story was taken up and republished as fact by multiple news organisations worldwide. It also formed the basis for multiple broadcast news segments and debates.
18. Despite this correction, the myth continues to be referenced in parliamentary debates, as here by Equalities Minister, Kemi Badenoch, MP.<sup>3</sup>
19. Closely related to this is a dearth of subject experts. *TMW* regularly engages with journalists, yet with a few rare exceptions, it is almost always a different journalist, and often one with no background in reporting on trans-related issues. Time is therefore taken in simply explaining ‘Trans 101’, to counter misunderstandings.
20. A corollary to this arises when researchers co-opt the person with the biggest social media hit on the story at the time, rather than seeking out anyone with a broader understanding, or who may be able to explain/usefully inform the public debate.
21. This demand for content has also seen a proliferation of comment and opinion pieces to plug the gap. In theory, comment is regulated as strictly as news. In practice, we have often observed pushback from publishers, with inaccuracies being permitted because ‘it’s just x’s opinion’.
22. If the demand for content leads to a downgrading of the news product and a de-skilling in the newsroom, the metrics used to measure success are also driving change – and not for the better.
23. A well-managed business needs accurate performance measures to drive it. However, it is also understood that over-reliance on certain metrics can have a distorting effect on an organisation.<sup>4</sup>
24. In the case of news media, a plethora of measures, based on search engine optimisation (seo) and engagement (clicks, clickthru, etc.) have created the perfect environment for ‘clickbait’. That is, individual pieces, each of which must perform on its own merits.
25. This, in turn, has two negative effects: a rise in sensationalism, because every story must tickle the reader’s interests; and a slow demise of brand

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<sup>2</sup> The *Times* forced to issue corrections after spreading ‘anti-trans’ misinformation <https://www.thepinknews.com/2022/01/07/the-times-corrections-trans-misinformation-rape-chestfeeding/>

<sup>3</sup> From Hansard, 6 December 2023: <https://hansard.parliament.uk/commons/2023-12-06/debates/E7306EC2-EFCB-4331-BD82-F01FDF67CCBF/GenderRecognition#contribution-B5E7586E-0276-45A9-BB3A-E1C3FB5F8277>

<sup>4</sup> Don’t Let Metrics Undermine Your Business, Harvard Business Review <https://hbr.org/2019/09/dont-let-metrics-undermine-your-business>

values. That is, the role and value of the individual title is diminished relative to its ability to publish exciting standalone pieces of content.

### **Opportunity ignored: the rise of citizen journalism and niche publishing**

26. The trends detailed in pars10. to 25. have led to the growth of a 'news monolith'. The same stories and same commentators are recycled from platform to platform, with little in the way of new insight.
27. This is reinforced by an absence of diversity within legacy media, and a dearth of publications that foreground the LGBTQ+ experience. In the UK, following closure of *GayStarNews*, the primary publications in this area include *Pink News*, *Gay Times*, *Attitude* and *Diva*. There are two very niche online publications that cater for the trans and queer communities: *QAF*, and *TransWrites*. Taken together, this leads to an absence of diverse viewpoints in respect of issues that impact queer communities.
28. Despite this, the internet creates opportunity for a new form of expert/engaged reporting, in the form of 'citizen journalism'. From single-issue blogs run by individuals, to networks such as the *Bylines Network*, alternatives to traditional news reporting are proliferating and providing opportunities as new citizen models of journalism that are unsupported by government.

### **Transphobia is not a flaw: it is a design**

29. While success, in news terms, is increasingly defined in terms of individual stories, the impact of the news business is felt by minorities according to the sheer volume of stories that target them.
30. In this context, a raw figure that gives pause for thought is the exponential rise in stories about trans people since 2012. In that year, according to data provided to *Trans Media Watch* by *Dysphorum*, there were approx. 60 trans-related stories; by 2022 that had risen to c.7,500 (qv. Fig. 1)

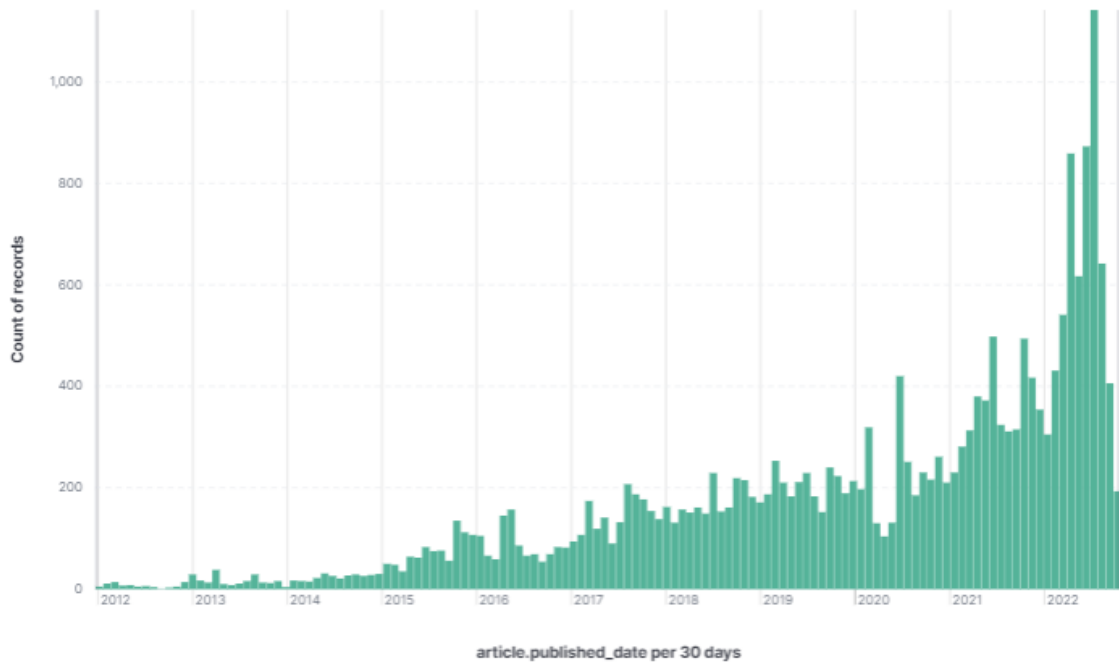


Fig. 1. Frequency of trans-related articles by month, UK press

31. A further shift is highlighted in work by Professor Paul Baker (Lancaster University) carried out for Mermaids charity. In 2019, he wrote:

*"Trans(gender) people are regularly written about as quick to take offence or as causing offence to others. The words occur 308 times with transgender and 278 times with trans (in a window of 5 words either side). In 2012, these words only occurred 8 times with transgender/trans."*

Category	Term	2012 (%)	2017-18 (%)
Offense words	<i>transgender</i>	6/345 (1.73%)	308/9305 (3.31%)
	<i>trans</i>	2/72 (2.77%)	278/8545 (3.25%)
Sex words	<i>transgender</i>	0/345 (0%)	28/9305 (0.30%)
	<i>trans</i>	0/72 (0%)	22/8545 (0.25%)
	<i>transsexual</i>	4/233 (1.71%)	7/223 (3.13%)
Crime words	<i>transgender</i>	3/345 (0.86%)	415/9305 (4.45%)
	<i>trans</i>	0/72 (0%)	193/8545 (2.25%)
Conflict words	<i>transgender</i>	4/345 (1.15%)	195/9305 (2.09%)
	<i>trans</i>	1/72 (1.38%)	139/8545 (1.62%)

Fig. 2.: Extract from Paul Baker corpus analysis of language used to describe trans people in the UK media

32. Baker also found, in 2019, almost half of the UK press reluctant to characterise any individual or event as "transphobic". They claim that there is no general agreement on the meaning of the term.

33. This is disingenuous. Definitions of transphobia exist within the community, e.g., from *TransActual*.<sup>5</sup> There are also useable definitions of trans-related hate crime in Scottish and international law.
34. In this respect, UK media reflect a growing trend in politics of minorities not being allowed to define their own oppression. We see this when people say "I'm not transphobic" in debate, before going on to say or do the most horrifically transphobic things, thereby demonstrating an incredible arrogance that their view on the world is far superior to that of anyone they may be trampling over.
35. A recent instance of this, which has led to widespread disgust in the trans community, is the minimisation of transphobia as a factor in reporting on the trial of the murderers of Brianna Ghey.
36. Several titles reported, on the basis of early police briefing, that Brianna's murder was not motivated by transphobia. Rather fewer followed with the conclusion by the trial judge, at sentencing, that transphobia *had* played a part.
37. Most outstanding 'reverse ferret' in this respect goes to the *Daily Mail*, which favoured the not-transphobia angle in early stories. This included one, just a few weeks before the verdict, headlined "Schoolgirl Brianna Ghey was murdered because she was 'vulnerable' and 'accessible' and not because she was transgender..."<sup>6</sup>
38. This was followed, when sentence was passed down by a piece proclaiming "Brianna Ghey WAS killed for being trans..."<sup>7</sup>
39. Discourse on matters affecting trans people is regularly skewed by selective reporting, or insistence on focusing on certain angles. For instance, a recent report, sponsored by *TransMedia Watch*, on media representation of trans people in sport,<sup>8</sup> highlights how hundreds of articles written on this topic have drawn largely on non-expert comment, and with a narrow focus on issues of 'fairness' and 'safety' *only* in respect of trans participation. Broader discourse on these issues is almost wholly absent, as, too, is the viewpoint of trans people just wanting to take part in sport for social purposes.
40. A common feature of such reporting is to create stories – or to set up broadcast debates – around a 'concerns narrative'. In these, the jumping-off point is a concern voiced by a high-profile non-expert about trans people, and this is then turned into an issue worthy of reporting.

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<sup>5</sup> Transphobia <https://www.transactual.org.uk/transphobia>

<sup>6</sup> Schoolgirl Brianna Ghey was murdered because she was 'vulnerable' and 'accessible' and not because she was transgender <https://www.dailymail.co.uk/news/article-12886893/brianna-ghey-reasons-transgender-schoolgirl-murder-detectives-reveal.html>

<sup>7</sup> Brianna Ghey WAS killed for being trans <https://www.dailymail.co.uk/news/article-13037925/Brianna-Gheys-killers-jailed-life-Scarlett-Jenkinson-Eddie-Ratcliffe-languish-prison-42-years-evil-pair-considered-release-judge-says-murder-driven-transphobia.html>

<sup>8</sup> Media Representation of Trans Athletes <https://transmediawatch.org/media-representation-of-trans-athletes>

41. This, the use of phrases like 'the trans question, and 'both-sidesing' of debate where individual human rights are at stake is profoundly dehumanising and, we believe, a direct cause of anti-trans violence.
42. Dehumanisation is also a direct result of news media creating and demonising an 'out group' that can be blamed for any ill ascribed to a minority. In the case of trans people, the culprits are card-carrying 'trans rights activists', an amorphous collection of people who can be blamed for anything that mainstream commentators dislike. Similar tropes exist with respect to other minorities (e.g., 'BLM activists').
43. This leads to individual trans people being asked to apologise 'on behalf of all trans people' – as happened during one interview of a member of the *TMW* Board on LBC.
44. It was refreshing to see the backlash that Prime Minister Rishi Sunak received for his comments about murdered trans teenager, Brianna Ghey.<sup>9</sup> This suggests some degree of revulsion towards the dehumanisation process. However, the outrage tended to be in broadcast media, with print media more inclined to report along party lines.
45. None of the above is limited to legacy media. The BBC exhibits all of the same symptoms and is widely distrusted by the trans community. An instance that contributed to this was its publication of a story in 2021 headlined "The lesbians who feel pressured to have sex and relationships with trans women".<sup>10</sup> Following widespread criticism of this story, the BBC appears to have accepted that it broke its own guidelines on sourcing and reporting stories of this nature; but they have left it as is and appear unwilling to apologise for any mistakes on their part.

### **Legal and Regulatory failure**

46. The history of press regulation in the UK is an ongoing tale of hope eternally dashed by government inaction or intransigence. In 2015, a report by this committee listed 9 official inquiries over the preceding 70 years.
47. The most recent attempt to place news media on a more equitable footing came with the *Leveson Inquiry* on the culture, practices, and ethics of news media. This reported in 2012, and recommended a new, independent, and state-recognised body to regulate the press.
48. However, the government refused to endorse this, leading to the formation of two regulatory bodies: *Impress*, which is Leveson compliant and regulates a number of local newspapers and magazines; and *IPSO*, which is non-compliant and funded, ultimately, by national newspaper groups, who also make up the most important tranche of their membership.

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<sup>9</sup> Rishi Sunak Refuses To Apologise For Anti-Trans Joke During PMQs  
[https://www.huffingtonpost.co.uk/entry/rishi-sunak-refuses-to-apologise-for-anti-trans-joke-during-pmqs\\_uk\\_65c4bd0fe4b069b665de591c](https://www.huffingtonpost.co.uk/entry/rishi-sunak-refuses-to-apologise-for-anti-trans-joke-during-pmqs_uk_65c4bd0fe4b069b665de591c)

<sup>10</sup> The lesbians who feel pressured to have sex and relationships with trans women  
<https://www.bbc.co.uk/news/uk-england-57853385>



49. In 2018, government confirmed it was no longer planning to go ahead with *Leveson II*, which would have investigated unlawful conduct by media organisations.
50. s40 of the *Crime and Courts Act 2013* was intended as a carrot to encourage participation in Leveson compliant regulators. However, s40 was never enacted, and in recent months, government has announced plans to repeal it by means of its new Media Bill.
51. A shift in how news organisations are viewed, and government attitudes to public discourse are manifest in the recently passed *Online Safety Act* and the *Media Bill*, now before parliament.
52. The first claims to be concerned with setting out a level playing field for freedom of speech. As such, it includes multiple new offences for speech that is deemed to be harmful or threatening.
53. In contrast to this claim, it sets up a two-tier system which privileges major news organisations over the general public and citizen journalists. The former will now be recognised as 'news publishers' and as such be exempt from significant restrictions set up by the Act.<sup>11</sup>
54. This includes provisions that make it harder for ISPs to take down content put up by news publishers; and an exemption from penalties for promoting 'fake news'. The latter is a direct result of new provisions that make publishing of 'false communications' a criminal offence – but which specifically exempt recognised news publishers from any penalties.<sup>12</sup>
55. An additional carve-out for news publishers within the *Online Safety Act* is a provision that appears to exempt those who make below-the-line comment on their sites from regulation.<sup>13</sup>
56. Some smaller publishers and dedicated sites will be able to comply, but certainly not all.
57. From our work with legacy media journalists and ethical citizen journalists there is massive concern about the intentional proliferation of disinformation online as a political tactic to reduce faith in media generally, thereby undermining the belief that what is published in the media is likely to be true.
58. It is vital that persistent inaccuracies in legacy media be dealt with in order to avoid bolstering this belief, which has worrying implications for both democracy and national security. A first step towards this would be a repeal of the provisions of the *Online Safety Act* that privilege 'news publishers'.

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<sup>11</sup> s56 *Online Safety Act* <https://www.legislation.gov.uk/ukpga/2023/50/section/56/enacted>

<sup>12</sup> s179 *Online Safety Act*  
<https://www.legislation.gov.uk/ukpga/2023/50/section/179/enacted>

<sup>13</sup> s55(2) *Online Safety Act*  
<https://www.legislation.gov.uk/ukpga/2023/50/section/55/enacted>

59. An additional concern for minorities is the existence of a double standard embedded in legislation around speech. On the one hand, despite recent amendments to the law, London is still considered the 'libel capital of the world'. There are significant penalties for making harmful statements about named individuals or other lawful bodies.
60. Statements such as "Lord so-and-so is an ass" are easy to prosecute through private legal suits. They are often ruinous for the person expressing such a view, even if that individual is subsequently found innocent of any offence.
61. By contrast, statements about groups face no such penalty. Comments of the form "trans people are {insert insult here}" may be rejected on grounds of good taste. However, there is no commensurate legal peril.
62. In theory, such commentary would be prohibited by the *Online Safety Act*, which now takes up and supersedes s127 of the *Communications Act 2003* in respect of malicious communications. However, in 2013, the then DPP – Sir Keir Starmer – declared that the bar, when it came to malicious communication, must be set very high indeed. We do not anticipate any imminent change to this approach.
63. Not surprisingly, this duality is reflected in the way in which *IPSO* – the regulator favoured by large news organisations – regulates what is published.
64. A cynical point of view might be that the *IPSO Code* is designed to deflect complaints that could potentially turn into libel cases, with little concern for broader ethical considerations. The majority of its code is taken up with stipulation about reporting on individuals, with just one clause requiring newspapers to demonstrate accuracy.
65. When it comes to complaining about what is published, that single ground – accuracy – is often the only ground open to the general public. However, even that is limited, as where a story is limited to a single individual or a group of individuals, *IPSO* frequently refuses to accept complaints from anyone other than the individual concerned – even where an inaccuracy can be demonstrated without need for input from that individual.
66. Most recently, *IPSO* told *TMW* that they would not accept complaints about a series of stories about a 'school girl who identified as a cat'. They were inaccurate, we held, because there was no evidence that any such individual existed. *IPSO* refused, on the grounds that such complaints went to issues of personal identity and as such, the mere processing of such a complaint could be harmful to the individual concerned.
67. This is a 21<sup>st</sup> century version of *Catch 22*: 'we cannot hear any complaint suggesting that this person does not exist...because they would be very upset if they did!'
68. On the other hand, this response is a logical conclusion to other responses we have had from *IPSO*. In one instance, they rejected a complaint on the

grounds that press reportage doesn't need to be accurate, merely "accurate enough".

69. They have also upheld the right of news organisations to invent quotes on behalf of groups of people. Such quotes may not be real, but – according to *IPSO* - they accurately reflect the sort of things that might have been said. Responding to one complaint that words quoted in a piece had been said by no-one, *IPSO* maintained this was permissible as long as the individual may have said something like it.<sup>14</sup>
70. This should be of concern to anyone who is in the public eye, as the *IPSO* precedents mean the only redress is court action against the press.
71. While *IPSO* might argue that any restriction on what it says about minorities impairs the right of journalists to free speech, this is not what journalists think. The NUJ Ethics Council is clear<sup>15</sup> in recommending that press regulators should be able to process complaints regarding discrimination against groups of people.
72. In addition, following a recent consultation, in which *TMW* took part, *Impress* has amended its own code to take account of minorities. Clearly it is possible to regulate respect for minorities without doing serious damage to the ability of newspapers to report the news.

### **Our recommendations**

73. We recommend:

- a) That this Committee take note of and acknowledge the *TransActual* definition of transphobia cited in this submission;

We further recommend that government:

- b) Implement the recommendations of the *Leveson Report* fully, and proceed with Part II;
- c) Remove the position of privilege given to 'news publishers' by the *Online Safety Act 2023*;
- d) Re-balance legislation to ensure that hostile reporting on minorities is treated as seriously as hostile reporting on individuals.

12 February 2024

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<sup>14</sup> 07454-18 *Belcher v The Times* <https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07454-18>

<sup>15</sup> Code of conduct <https://www.nuj.org.uk/about-us/rules-and-guidance/code-of-conduct.html>