

The Transparency Project—written evidence (FOJ0040)

Submission to the House of Lords Select Committee on Communications and Digital on 'The Future of Journalism' inquiry

1. Introduction

- 1.1. The Transparency Project (www.transparencyproject.org.uk) is a registered charity (no. 1161471) whose purposes include the advancement of education of the public and the promotion of the sound administration of law, particularly in relation to family law. It explains and discusses family law and family courts in England & Wales, and signposts useful resources to help people understand the system and the law better. It works towards improving the quality, range and accessibility of information available to the public both in the press and elsewhere.
- 1.2. The House of Lords Committee on Communications and Digital has called for evidence by reference to a list of questions under consideration. The Transparency Project has expertise and experience only in relation to some of these and proposes to confine its submissions to those questions, as follows. We focus on those questions that most directly relate to our primary interest in access to courts and court reporting, and our own role in supporting and contributing to public interest journalism, as a registered charity.

2. How should journalism be defined and what is its value to society? What is the difference between 'citizen journalism' and other forms of journalism?

- 2.1. It has never been the case that the activity of journalism is confined to a small number of professional journalists. The activity is far broader and involves a range of different actors: those who act as regular or occasional sources of information, commentators and experts from various fields, as well as those individuals employed or self-employed as journalists for media organisations.
- 2.2. We consider that we, as a registered charity with an educational purpose, play a role in the scrutiny and production of journalism. Among our trustees and core members, there are those with training and experience as journalists; others come from the fields of law, academic research and social work. In this sense, while we contribute to what may be thought of as 'citizen' journalism, we also draw on journalistic and other professional expertise. There is not a neat division between 'citizen journalism' and professionalised journalism: non-journalists contribute to the journalism of media organisations, and conversely, professional journalists may contribute to civic or 'grassroots' not-for-profit media often characterised as 'citizen journalism'. In our view, this broad spectrum of journalistic activity needs protection, and any approach that overly focuses on professionalised and commercial media operations would be misguided.
- 2.3. Within this spectrum of journalistic activity – often referred to as a media or journalistic 'ecosystem' – we might, however, attempt to identify forms of 'public interest' journalism, which meet narrower criteria for informing, investigating, campaigning and representing matters of public interest. Similarly, but distinctly, we might also delineate 'public benefit' journalism, undertaken by some charities, which fulfils the requirements of providing 'public benefit' as understood in English charity law. We do not attempt either

definitional exercise here, in this short submission, but suggest it would be worthy of further academic and policy attention, especially with view to devising mechanisms for providing particular support to these especially vital forms of journalism.

3. How have digital technologies changed the consumption of journalism?

- 3.1. Digital technologies have been both a positive and negative force in the production and consumption of accurate and reliable journalism in the public interest. On the one hand, they have allowed new and valuable voices to find a platform, to improve the quality of information in circulation. In a legal context, for example, we might look at the range of high quality legal bloggers – anonymous or otherwise – who add important legal context via social media and blogs, which is often then used by mainstream media organisations. In this way, the quality of information reaching wide public audiences has been enhanced. On the other hand, these technologies have facilitated the fast spread of dis/misinformation, including commercially incentivised mistruths, hate speech, and other forms of undesirable speech. This has eroded public trust. High quality journalism must be protected to counter this latter phenomenon.

4. How can public policy improve media literacy, particularly among those who have a low level of digital literacy?

- 4.1. As noted above, digital technology has facilitated – in some areas – enhanced quality of information in circulation, which counters misleading propaganda or ‘fake’ stories. In the Transparency Project’s area of expertise, that of law and especially family law – we believe we and a wider network of family law specialist bloggers provide an important corrective to the false and misleading information about family law that is propagated via social media platforms and online networks. Our ‘Reporting Watch’ service, for example, corrects information that has been wrongly reported, and offers factual evidence for a wide range of readers – which include court users/litigants as well as legal professionals. The ongoing challenge, however, is how to help online audiences navigate different information sources, assess their provenance and decide what information is reliable. Here, we believe, charities which cannot have a political purpose, nor serve a private interest, play a very important role in improving media and digital literacy. For example, that played by the charity Full Fact, which has recently been fact checking widely spread claims about Covid-19 and helping public audiences receive accurate public health information.

5. How have digital technologies changed the production of journalism? Do journalists have access to the training necessary to adapt to the digital world?

- 5.1. Here we would simply note two points. First, that there has been a noticeable decline in law coverage in recent years, i.e. the volume and quality of coverage of court hearings and other legal developments in the mainstream media. As commercial media organisations have reduced investment in this area, the role of other types of organisations such as NGOs and charities becomes more vital.
- 5.2. Second, that media law resources are crucial to the production and protection of public interest journalism. Commercial and national-scale media organisations benefit from in-house legal expertise which is often not available to smaller operations. Training in media law and access to legal advice is vital for anyone engaged in public interest journalism; in our area, training and advice on the rules surrounding court reporting is especially important.

6. What qualifications do professional journalists need? How could public policy better support non-degree routes into journalism?

N/A.

7. What are the main challenges for freelance journalists? How could public policy better support them?

- 7.1. As a result of the reduced investment in legal coverage noted above, freelance journalists may struggle to pitch important stories about law and the justice system. Investigative stories requiring months of preparation may be especially difficult to finance; both investigations and long periods of court reporting are costly activities. Public policy interventions could include training and financial support for demonstrably public interest investigations and court reporting. The BBC's Local Democracy Reporters scheme offered some promise here, but frustratingly, this scheme as currently administered has mainly been beneficial to profitmaking organisations who had already made a commercial decision to under-invest in those areas, rather than supporting independent or non-commercial media entities. Other public policy interventions have focused on 'innovation' and app development. While these innovation funds are important, additional grants to facilitate the basic activity of research and reporting would be hugely beneficial to smaller organisations and public audiences.

8. Why is the journalism profession not more representative of the population? How could this be addressed?

N/A.

9. Why has trust in journalism declined? How could it be improved? How can journalists better understand and convey the concerns and priorities of people who do not live in London or other metropolitan hubs?

- 9.1. As noted above, we have observed a noticeable decline in law coverage, i.e. the volume and quality of coverage of court hearings and other legal developments in the mainstream media – in London and especially in other regional areas, less well served by traditional journalism organisations.
- 9.2. The paucity of proper legal coverage appears to be the result of under-investment in quality training of journalists and a failure to recruit well-qualified commentators. Until some years ago, every major newspaper employed a full-time legal affairs correspondent. Now the number of such expert journalists may be counted on the fingers of one hand. Many law stories are written by journalists assigned to other areas, such as politics or home affairs. Whilst some build up specialist expertise, there are others who lack training or fail to check the details in those stories. The trend appears to be for publishers to use fewer court reporters and legal specialists, to reduce or abolish the role of the sub-editor, and to maximise their reliance on agency or PR content whose reliability should be more thoroughly tested. The downward trend in both quality of writing and accuracy of copy seems set to continue. There has also been a substantial, and well documented, decline in the amount and quality of local press coverage of courts, such as local magistrates', county and Crown courts, which used to be a staple of local journalism and had the benefit of giving trainee reporters a grounding in court procedures. This is something the BBC Local Democracy Reporters scheme has failed to address thus far, although there was an announcement in November 2019 that the scheme would be extended to some forms of court reporting.

9.3. One response to these problems is to encourage other sorts of organisations, with suitable expertise, to contribute to legal commentary and reporting, and to scrutinise mainstream or social media reports. One of the Transparency Project's functions (under its Family Court Reporting Watch programme) is to monitor coverage of cases involving family law in the national media, in order to correct, explain and, where necessary, complain to a regulator about distortions, inaccuracies and misrepresentations in those reports. In regular blog posts, the Transparency Project provides information on inaccurate or partial reports, setting out the facts of the case and linking to source material, such as the written judgment.

9.4. By way of example, see:

- Transparency Project, 'Freedom versus responsibility when the Press report on care proceedings'. Available at: <http://www.transparencyproject.org.uk/freedom-versus-responsibility-when-the-press-report-on-care-proceedings/>
- Transparency Project, 'How effective is press regulation when it comes to accuracy?' Available at: <http://www.transparencyproject.org.uk/how-effective-is-press-regulation-when-it-comes-to-accuracy/>

10. How can innovation and collaboration help news providers of all types to maintain sustainable business models and adapt what they produce to audience demand? What lessons can be learnt from successful innovations, including in other countries?

10.1. As noted above, funding models should not only be about technological innovation, but also help sustain basic reporting – most importantly, costly investigations, and court reporting.

11. Are there any other ways in which public policy could better support journalists and news organisations, now and in the future? Are there examples from other countries from which the Government could learn?

11.1. We think one form it could take would be for the Charity Commission – supported by public policy initiatives – to more readily treat limited forms of not-for-profit high-quality journalism as serving charitable purposes enshrined in section 3 of the Charities Act 2011 and delivering public benefit. That would justify both tax relief which might make journalism meeting the criterion of serving a charitable purpose more viable and help such organisations secure subsidies and grants.

11.2. The conditions imposed would preclude journalism serving political purposes and journalism mixing opinion with fact and would require a regulatory framework that was more stringent in relation to inaccuracies of fact, including omission of relevant and easily discoverable fact. In terms of oversight of content, the communications regulator Ofcom could play a regulatory role here.

11.3. We do not go into detail here, but suggest the Inquiry considers recent articles and reports which have explored the expansion of charitable journalism in the UK (one of our members and authors of this submission, Dr Judith Townend, has been involved in some of this research work and has contributed to a separate submission to this Inquiry by the Public Benefit Journalism Research Centre). These include:

- Townend, J. and Barnett, S., 2018. Reform charity law to allow funding of public interest journalism. [online] The Conversation. Available at: <http://theconversation.com/reform-charity-law-to-allow-funding-of-public-interest-journalism-102422>
- Townend, J., in Picard, R.G., Belair-Gagnon, V. and Ranchordás, S., 2016, pp. 56-78. The impact of charity and tax law/regulation on not-for-profit news organizations. Reuters Institute for the Study of Journalism, University of Oxford; Information Society Project, Yale Law School. Available at: <https://reutersinstitute.politics.ox.ac.uk/our-research/impact-charity-and-tax-lawregulation-not-profit-news-organizations>
- Harrow, J. and Pharoah, C., 2017. Philanthropic journalism funding in the UK. Cass Business School. Available at: https://journalismfundersforum.com/uploads/downloads/jff_london_report.pdf

11.4. In terms of further supporting the reporting of the family court by journalists and legal bloggers, we are in the process of compiling a substantial response to the 'Transparency Review' being undertaken by the President of the Family Division; this will be made available on the Transparency Project blog after the 11 May deadline (<http://www.transparencyproject.org.uk/blog/>).

Submitted by:

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