

Hacked Off Campaign—written evidence (FOJ0044)

House of Lords Select Committee on Communications and Digital: The future of journalism

Background of the Hacked Off Campaign

Hacked Off is the campaign for a free and accountable press.

In addition to efforts to improve press standards, the Campaign is committed to:

1. Reducing the role of government and politicians in media regulation
2. Incentivising and protecting journalism which is in the public interest
3. Safeguarding and enhancing journalistic freedom from all threats including political parties, governments, malicious litigants, as well as editors and publishers who operate to the detriment of journalistic freedom.

Our submission is limited to those questions which cover areas of our expertise.

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

Definitions of journalism

1. Hacked Off do not have a view on how journalism should be defined. The campaign does, however, believe it is of critical importance to distinguish journalism which is in the public interest and subject to independent standards of accountability from other published content.
2. Public interest journalism plays a vital role in how our society functions. Among its important roles are:
 - The provision of "news" in an accessible format; informing the public at both national and local level
 - Analysing news, and providing commentary and context
 - Publicly holding powerful organisations and people to account
 - Investigating allegations of wrongdoing and exposing corruption, impropriety and hypocrisy

The societal value of journalism and the role of accountability

3. The value of all forms of journalism to society is degraded when journalists and editors are not held to reasonable standards of accountability.
4. For example, journalism's role of informing the public is not beneficial to society when there is no independent regulator to sanction and disincentivise deliberately or recklessly published inaccuracies. After a newspaper published an untrue story about the views of the Queen on EU membership, the paper published a small adjudication (which did not constitute a correction) on at the bottom of page 2 more than 8 weeks later (indeed, many inaccuracies related to the EU were not remedied until after the vote).

Its editor had so little concern for this meagre sanction enforced by the industry complaints-handler "IPSO" that he stated he would have no hesitation in repeating the inaccuracy.¹ A comparison showing the size of the story and the size of the adjudication is set out in the Appendix². The consequence of the weakness of complaints-handler IPSO, in how it considers complaints and how it sanctions wrongdoing, are that the attitude of that editor is likely to be reflected across the industry.

5. In December 2017 a Mail on Sunday article about a home beautician, Danielle Hindley, referred to her under a headline on "cosmetic cowboys". It was not until July of the following year that IPSO ordered the Mail on Sunday to publish an adjudication. Although the article was a full two-page spread, IPSO ordered a much smaller adjudication on page 2. The evening before the paper went to print the Mail on Sunday called IPSO and asked if they could ignore the terms of the adjudication and publish on page 8 instead. Extraordinarily, IPSO agreed. Against the odds, Ms Hindley was subsequently able to find legal representation willing to act on her behalf and in February 2020 (over two years after the article was first published) the Mail on Sunday settled her claim and apologised to her in court. She has spoken publicly about the severely damaging effect the libellous coverage had on her home beauty business, her family, and her mental health.³
6. Further examples of IPSO adjudications are listed in the Appendix⁴ and include a diverse range of cases of inaccuracies inadequately remedied. In six years, IPSO has never ordered an investigation and never ordered an equal prominence frontpage correction against a national newspaper.
7. The same applies to investigations. Last year, retired rugby player Gareth Thomas revealed that he had been blackmailed over his HIV status by a news publisher.⁵ Thomas said the publisher had pursued the story for over two years. Where a genuine media regulator would have investigated the clearly unethical intrusions and abuses involved in an investigation into the private health concerns of an individual, IPSO did nothing. Had an independent regulator existed, the news publisher would have been incentivised to reflect on the public interest in such an investigation, in the knowledge that meaningful sanctions would have been likely if none was to be found. Under an independent regulator, the publisher may have preferred to expend the same resources pursuing investigations which satisfied the public interest (or at least did not breach standards), such as exposing corruption or incompetence.
8. In this important sense, the value of journalism to society is effectively underwritten by the standards to which it is held.
9. Further, journalism which falls short of reasonable regulatory standards is capable of doing extraordinary harm to society. Through disinformation, intrusions into privacy or personal grief, discriminatory coverage targeting minority communities, and through illegal acts journalism has the potential to cause significant damage – both societally and to individuals.

¹ <https://www.theguardian.com/uk-news/2016/may/18/queen-backs-brexit-headline-in-the-sun-was-inaccurate-press-watchdog-rules>

² Appendix not published

³ <https://www.theguardian.com/commentisfree/2020/feb/27/new-law-british-press-watchdog-regulation>

⁴ Appendix not published

⁵ <https://www.bbc.co.uk/news/uk-wales-49739345>

10. Societally, many mental health organisations have highlighted the way unethical reporting on suicide costs lives by putting vulnerable people at risk.⁶ Disinformation on a range of issues, such as climate change, public expenditure, the EU, the comments or speeches of elected representatives, immigration, and others damage the integrity of public debate in the UK and have a distortive effect on policy formulation. Abusive coverage of minority groups can contribute to a climate of fear and hatred of those groups and potentially increases the risk of hate crime.⁷
11. Hacked Off's "Thrown to the Wolves" report covers several cases of egregious abuse suffered by ordinary members of the public at the hands of journalists and news publishers over the last 5 years (in other words, *after* the Leveson report).⁸ They include a teenager informed of her brother's death at the Manchester Arena by a journalist seeking a quote on the doorstep; a woman who was forced to take precautions to keep reporters away from her late teenage daughter's funeral; and an innocent man who lived in the Grenfell tower block and was effectively blamed in several news reports for the outbreak of fire and subsequent loss of life (IPSO failed to protect any of these individuals).
12. More recently, and in addition to the case of Gareth Thomas, television presenter Caroline Flack's suicide followed months of intrusions and abusive coverage in newspapers and magazines.⁹ Photographs, allegedly of the scene of an incident she was involved in and which led to her arrest, were published. None of this was investigated by IPSO. A prominent Parliamentarian was forced to reveal her sexuality by a newspaper over the recent winter recess.¹⁰ In late 2019, cricketer Ben Stokes' family background was the subject of an intrusive and unethical article which breached press standards in multiple places.¹¹ Again, IPSO did nothing.
13. Presently only one genuine press regulator exists, which is called "IMPRESS". The largest news media websites and newspapers in the UK have decided against regulation, persisting instead with IPSO, which does not have substantive regulatory powers and has not met the national standard for an independent press regulator, as determined by Parliament and administered by the independent Press Recognition Panel.¹²

⁶ <https://www.theguardian.com/society/2018/sep/09/celebrities-appeal-to-media-change-how-suicide-is-reported>

⁷ <https://www.independent.co.uk/news/media/press/the-sun-and-daily-mail-fuelling-prejudice-racist-violence-hate-crime-speech-uk-ecri-report-a7351856.html>

⁸ <https://hackinginquiry.org/thrown-to-the-wolves/>

⁹ <https://www.theguardian.com/tv-and-radio/2020/feb/21/caroline-flack-negative-media-coverage-before-death-revealed>

¹⁰ <https://inews.co.uk/opinion/pansexual-layla-moran-liberal-democrat-stand-up-westminster-journalists-1354801>

¹¹ <https://www.theguardian.com/sport/2019/sep/17/ben-stokes-attacks-despicable-sun-story-family-tragedy>

¹² In 2013 a Royal Charter was agreed on a cross-party basis, which set out a process for independent auditing of future press regulators. While the industry would continue to self-regulate, an auditing body (the Press Recognition Panel) would ensure that self-regulators meet basic standards of independence and effectiveness as recommended in the Leveson Report. These were set out as 29 criteria (such as, for example, the board is appointed in an independent way, the standards code is controlled by the regulator, no political involvement, and similar). IMPRESS is the only regulator to pass that audit.

Citizen journalism

14. There is not always a significant distinction between citizen and professional journalism. It is possible, for example, to make pocket money from a blog, but individuals running a bedroom blog operate in a very different way to international publishing corporations.
15. The more useful distinction is, as set out above, journalism which is carried out in the public interest and subject to independent standards of regulation. This can occur in blogs, in national newspapers, and on media websites.

2) *How have digital technologies changed the consumption of journalism?*

16. Of the ten most popular news media websites in the UK, seven are those of national newspapers (eight if you include The Independent, which no longer publishes a print edition)¹³. Indeed, the rise in online readerships has more than made-up for declines in print readerships (if not yet in revenue terms). More people read national newspapers today than ever in their history – albeit through a different medium. The Daily Mirror is now read by more than 27m people every month (in addition to a daily print circulation of 450k/day)¹⁴, while at its peak the newspaper’s print circulation was a little over 5m. Although this effect is not yet always true in the case of subscription models, publishers relying on such models are beginning to catch up. For example, at the turn of the 21st Century The Times’ print circulation was approx. 720k; although that has now declined to 370k¹⁵, the newspaper now boasts 300k digital-only subscribers¹⁶. Last year, the newspaper revealed that Times Newspapers (publisher of The Times & Sunday Times) turned a profit of £9m.¹⁷
17. The most effective way for a publisher to demonstrate credibility is by signing up to an independent regulator. IMPRESS, the only independent regulator, now has over 100 members. Traditional media outlets wishing to improve their public reputation - and thereby attract more readers - should be encouraged to join IMPRESS or establish their own independent regulator which achieves recognition through the Press Recognition Panel auditing model endorsed by Parliament in 2013.
18. Major publishers’ membership of an independent regulator such as IMPRESS would therefore be beneficial for both the public and, in the face of increased competition from dubious online outlets, the traditional news publishers themselves. Hacked Off recommend that legislators do more to encourage publishers to join such a regulator through legislative incentives or compulsion.

8) *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?*

¹³ P.66, Ofcom, News Consumption in the UK: 2018
https://www.ofcom.org.uk/_data/assets/pdf_file/0024/116529/news-consumption-2018.pdf

¹⁴ <https://www.newsworks.org.uk/daily-mirror>

¹⁵ <https://www.abc.org.uk/product/2896>

¹⁶ <https://www.news.co.uk/2019/08/the-times-the-sunday-times-surpass-300000-digital-only-subscribers/>

¹⁷ <https://www.thetimes.co.uk/article/times-newspapers-in-profit-as-subscriptions-rise-bxwg7z9pv>

Trust in journalism: introducing accountability

19. The lack of accountability affects trust in journalism in two ways. Firstly, traditional media will inevitably suffer declining public trust for as long as it remains unregulated and unaccountable. In a society in which almost every other major industry is independently regulated, an industry which persists with a form of industry-controlled complaints-handling cannot hope to retain public trust.
20. Secondly, the lack of standards results in highly variable quality and credibility of publishers' output across much of the industry. Repeated inaccuracies about major public interest issues would be significantly less likely to occur under an independent regulator. All such inaccuracies contribute to lower public trust as well as a less informed citizenry.
21. The same applies to unethical coverage of well-known individuals (such as Caroline Flack). The city of Liverpool's ongoing "boycott" of The Sun newspaper is evidence of the capacity for egregiously poor and unethical standards of reporting to cause significant loss of trust in media outlets.
22. Part of the solution to creating a healthy and sustainable media environment is therefore a genuinely independent regulatory framework which fosters greater public trust in journalism through effective implementation of professional codes, particularly on accuracy.

An industry still seen to be "above the law"

23. The public remains aware of the phone hacking scandal and the dozens of ongoing court cases make it unlikely that the issue will retreat from public consciousness.¹⁸ This need not be a source of declining trust in the industry. Had traditional media responded to the crisis as other scandal-hit industries have done with investigation and reform, such as finance and MPs for example, the publishers involved would have been able to recover public confidence. In the case of the phone hacking scandal, however, publishers lobbied the Government intensively to cancel the second part of the Leveson Inquiry designed to uncover precise details of the scandal.¹⁹ Such transparency would have provided an opportunity for proper reform.
24. Instead of reform, major news publishers have carried on as before. Court cases are initiated on a rolling basis, with no end in sight (more are anticipated after the current tranche). The legal strategy of publishers, to push claimants to their financial and emotional limits by refusing to settle early, and then effectively forcing settlements with apparently inflated "Part 36" offers immediately before claims reach court, serves only to remind the public of the industry's essential untrustworthiness.²⁰ How can these publishers expect to command public trust when they have utterly failed to respond in any constructive manner to a scandal which has hit – in some form or another – at least 10 national newspaper titles²¹?

¹⁸ Byline Investigates covers the latest court developments: <https://www.bylineinvestigates.com/>

¹⁹ [http://www.newsmediauk.org/write/MediaUploads/PDF%20Docs/FINAL -
_NMA_response_to_Government_consultation_on_S40_and_Leveson_10.1.17.pdf](http://www.newsmediauk.org/write/MediaUploads/PDF%20Docs/FINAL_-_NMA_response_to_Government_consultation_on_S40_and_Leveson_10.1.17.pdf)

²⁰ <https://www.byline.com/project/86/article/2037>

²¹ News of the World has admitted phone hacking; The Sun, Mirror, Sunday Mirror, The People, and Sunday People have faced allegations of hacking and have settled claims; the Daily Mail, Times, Sunday Times and Mail on Sunday have faced allegations of knowingly commissioning the theft of personal data.

25. The decisions taken in Government on media policy, which have clashed with freedom of expression groups, victim representatives, the Inquiry Chairman himself, and the balance of responses to the Government's *own* consultation, reinforce this perception. Newspapers are seen to be above Parliament and above the law.²²
26. Had Leveson Part Two happened when promised, illegality would have been brought to light earlier and reforms could have been enacted by now.

How journalists can do more to connect with the concerns and priorities of citizens living outside major cities

27. There are two major obstacles to better serving citizens outside of major cities. The first is that fewer and fewer local newspapers exist to serve those who live in more rural areas.
28. The second is the business model employed by the largest publishers of local newspaper titles. 80% of the local press is owned by 5 publishers, with 60% owned by just 3: Gannet UK (Newsquest), JPIMedia (Johnston Press), and Reach Regionals (Trinity Mirror)²³.
29. Those three companies, which dominate the local news media landscape, have been heavily criticised by the NUJ and others for their approach to the market.²⁴ Their strategy relies on the cheap acquisition of local titles, forced redundancies of the journalists employed to work on the title, forced relocation of any remaining staff to a regional hub, and the development of that title alongside several others from a location many miles away from the area it was intended to serve. Fewer staff are expected to produce more copy serving more local areas, with a single editor often responsible for multiple titles serving vastly different areas.
30. A seriously depleted workforce will inevitably affect the quality of titles. Moving a title's production to many miles outside of the area it is intended to serve, possibly being edited by someone who has no connection to the area, will always make it more challenging for titles to connect with their audience.²⁵
31. Both of these problems – increasing the availability of local newspapers and mitigating the damage being inflicted on local journalism by the regional conglomerates – require policies that encourage small and independent publishers.
32. Charitable status for local publishers and funding for local titles dedicated to producing public interest journalism are both recommendations from the Cairncross Review which Hacked Off support.²⁶ It is regrettable that both have been rejected by the Government.

²² Sir Brian Leveson wrote to the Govt to confirm his opposition to the proposed cancellation of his Inquiry; the NUJ and Article 19 submitted responses confirming their opposition to cancelling the Inquiry, and the balance of public submissions to the Govt's own inquiry were in favour of completion (although the Govt did not report this detail to the House).

²³ MRC March 2019 report: <https://www.mediareform.org.uk/wp-content/uploads/2019/03/FINALonline2.pdf>

²⁴ <https://www.nuj.org.uk/news/newsquest-is-toxic-say-striking-staff/>

²⁵ <https://www.pressgazette.co.uk/newsquest-condemned-as-incompetent-and-brutal-by-nuj-over-closure-of-newport-subbing-hub/>

²⁶ <https://www.gov.uk/government/publications/the-cairncross-review-a-sustainable-future-for-journalism>

33. While more financial support for new, local journalistic enterprises should be encouraged, it should be carefully targeted away from the largest publishers. As Cairncross recommended, support should specifically go towards supporting independent, public interest publications.

10) 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?

34. This submission has outlined three areas for reform to better support journalists and news organisations through policy.
35. Firstly, we recommend that legislators require, or at least incentivise, basic standards of accountability for the press as recommended in Part One of the Leveson Report. This can be done through statute which already exists, such as commencement of section 40 of the Crime and Courts Act 2013. Alternatively, there is a case to be made (and which is set out in the Leveson Report Part One) for new statute to effectively require membership of an independent regulator for the largest publishers.
36. Leveson-standard regulation is better for freedom of expression through its rules prohibiting political involvement (a rule which IPSO, having installed a politician as Chairman, clearly breaches). It is manifestly better for the public through the protections it would provide. And it is better for the industry in its objective of raising standards and providing a new basis for credibility for member publishers.
37. Secondly, the promised second part of the Leveson Inquiry should be established immediately, to bring all the historic allegations of wrongdoing into daylight, to recommend the necessary reforms, and to allow the industry to start the process of recovering public trust.
38. Thirdly, support is needed for independent, public interest-focused local publishers. That can be done, for example, through a new grant-giving body, similar to that recommended by Dame Frances as well as allowing more flexibility on charitable status for those publishers which meet public interest journalism standards.

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