

Written evidence submitted by the Professional Publishers Association (PPA) (OSB0154)

Submitted on behalf of the Professional Publishers Association (PPA) by Sebastian Cuttill

About the PPA

The Professional Publishers Association (PPA) is the membership network for UK consumer magazine media and business information publishers, representing around 160 of the UK's most renowned publishing houses. With more than 40 million adults in the UK reading magazine media every month, the sector is worth £3.74 billion to the UK economy, and employs around 55,000 people.

The PPA's membership incorporates the UK's largest publishing houses, including Future plc, Bauer Media Group, Condé Nast, The Economist, Haymarket Media Group, Hearst UK, Immediate Media, and William Reed Business Media, and many smaller independent publishers. A full list of members can be found here: <https://www.ppa.co.uk/members>

Summary

Consumer magazine and business media publishers are an indispensable element of the UK's media ecosystem, publishing professionally produced, well-researched journalism that performs a crucial civic function. The definitions of 'recognised news publisher' (Clause 40) and 'news-related material' (Clause 40, Subsection 5) in the Bill are too narrowly focused to protect the vibrant and plural consumer magazine and business media sector, which is bound together by the common business of the creation and curation of specialist content. This specialist content focuses on highly salient topics that would not otherwise be scrutinised.

PPA proposes that the definitions of 'recognised news publisher' and 'news-related material' are amended to reflect the wide range of trusted information sources produced by PPA members. However, this alone would be insufficient to protect journalistic content and guarantee the sustainability of the UK press sector. PPA endorses and supports the News Media Association's (NMA) suggested amendments to the Bill (found in Annex A, Annex B, and Annex C of the NMA submission to the Joint Committee's Call for Evidence), provided that the definitions of 'recognised news publisher' and 'news-related material' are amended as PPA suggests.¹

Why consumer magazine and business media must be protected in the Online Safety regime

¹ For clarity, if the Joint Committee decides against accepting PPA's recommendations to amend the definitions of 'recognised news publisher' and 'news-related material', PPA would not oppose the amendments suggested by the NMA; however, without our suggested changes, the amendments will not properly protect many consumer magazine and business media publishers, or ensure that the bargaining imbalance between these publishers and digital platforms is remedied.

Consumer magazine and business media publishers are already regulated, in the same way as news media

While they may be more targeted in their readership, consumer magazine and business media publishers adhere to the same journalistic principles as the news media, with most major magazine publishers committed to follow the Editor's Code of Practice set out by the Independent Press Standards Organisation (IPSO). As such, the impact of magazine journalism is no less significant, with journalistic principles put to powerful use by the editors, reporters, and writers of the consumer magazine and business media world.

The Editor's Code sets out stringent requirements covering areas such as privacy; reporting suicide; children; children in sex cases; victims of sexual assault.² These rules ensure that reporting around highly sensitive issues is carried out in a manner that balances the rights of the individual and the public's right to know.

PPA members agree to, where relevant, participate in self-regulatory agreements when joining the organisation. The 'Professional Publishers Association Ltd ("PPA") - Membership Terms & Conditions'³ contains the following in Section 5, 'PPA Code of Publishing Practice':

5.4. Members agree to participate in self-regulatory arrangements including, where relevant:

5.4.2. complying with the Editors' Code of Practice, abiding by Independent Press Standards (IPSO) adjudications and contributing to IPSO funding through the Regulatory Funding Company;

In addition, publishers are subject to the criminal and civil law – this encompasses legislation regarding terrorism, obscenity, public order, and incitement to hatred.

Making the Online Safety Bill 'future proof' – the move to niche news

This shift to niche information sources has been spurred in large part by the dissemination of content online, through search engines and user-to-user services. The Nieman Foundation for Journalism at Harvard University's Journalism Lab states: 'In 2021, niche news media will be the go-to platforms for news. The future resilience of the world's media lies in focusing on niche audiences and verticals. Its success lies in organizations that speak to very specific interests and the need for credible content.'⁴ Therefore, if the Government wishes to make the Online Safety Bill effective in the long term, specialist media - including consumer magazine and business media - must be protected.

This is particularly important when it is considered that, according to an Ofcom study⁵, the internet is the most-used platform for news consumption among 16–24-year-olds (79%). Indeed, rather than having news curated in a newspaper, many people now prefer to seek out specific information. As the Lab observe: 'A key advantage of niche news media is that their narrow focus can allow reporters to become subject-matter experts.' This means that

² <https://www.ipso.co.uk/editors-code-of-practice/>

³ <https://www.ppa.co.uk/ppa-membership-terms-and-conditions>

⁴ <https://www.niemanlab.org/2020/12/go-niche/>

⁵ https://www.ofcom.org.uk/__data/assets/pdf_file/0013/201316/news-consumption-2020-report.pdf

niche publishers ‘become valuable as they provide deeper insights on focus areas that larger but broader news organizations are more likely to miss.’ If it does not explicitly protect the consumer magazine and business information media that produces this deep insight, the Bill will fail to guarantee the public’s access to professionally researched information that is not available elsewhere. This will in turn hurt publishers’ revenues due to decreased reach, disincentivising investment in original journalism and research.

An equibalance with local news

There is an equivalence between magazines and local news in that they focus on the concerns of a specific community, whether based on interest or location. This focus allows consumer magazine and business media publishers, and local news outlets, to concentrate on issues that would not otherwise be reported on. Whilst local news outlets cover local democracy, court cases, and local services, magazines serve the public interest by investigating, reporting on, and leading change on some of society’s most pressing challenges. In short, both give a voice to those that may not otherwise be represented, and report on issues that may otherwise be ignored.

Public opinion should be accounted for in protections for publishers

Just as public opinion should be accounted for when determining what should be considered harmful content - experts have recommended ‘citizen juries’ or similar initiatives – public opinion should also be accounted for when determining what journalistic organisations should be carved out of the Bill. Consumer magazine and business media publishers are well positioned to combat misinformation and disinformation, and boost the public’s media literacy.

Survey results from Ofcom’s study *News Consumption in the UK: 2020*⁶ show the public consider magazine media to be more trustworthy and accurate than TV, print newspapers, radio, and social media. Respondents also considered magazines as the most highly rated platform for offering ‘a range of opinions,’ ‘helping me make up my mind,’ and being ‘impartial.’ As political and societal debates become increasingly polarised, these attributes make magazines an indispensable part of the media environment and must be protected.

Mental Health

It is hoped that the Online Safety Bill will make the UK a safer place to be online. As well as informing readers with well-researched journalism, magazines can improve readers’ mood by providing positive content based on readers’ interests. A study by PPA member Hearst UK and Bournemouth University⁷ into the impact of magazine brands, found that 82% of the audience immediately experienced an uplift in positive feeling following an individual interaction with Hearst UK content. 83% of positively uplifted people took immediate action, such as talking to others or investigating what they have read further.

⁶ https://www.ofcom.org.uk/__data/assets/pdf_file/0013/201316/news-consumption-2020-report.pdf

⁷ <https://www.bournemouth.ac.uk/news/2021-06-16/bu-research-captured-real-time-how-hearst-uk-content-affects-influences-positivity-consumers>

This shows how reading magazines can both help readers' mental health, motivating them to engage with others and be proactive in seeking out more information. Therefore, safeguarding the content produced by PPA members can complement the fundamental aims of the Online Safety Bill, including combatting psychological harms and promoting media literacy.

If content is legal to print in a consumer magazine or business media publication, it should be legal to publish online

The duties concerning legal but harmful material on Category 1 user-to-user services, combined with the current definitions for 'news-related material', could lead to an anomalous situation whereby content that is legally printed by an IPSO regulated magazine could be subject to removals by social media companies. A person who has bought a print copy of a magazine should have the same right to access that material on a user-to-user service.

Consumer magazines help to prevent economic harms

By providing reliable information on consumer products, including product testing and reviews, consumer magazines provide the public with well-researched information to inform purchases. This information stands in contrast to easily manipulated public review websites, and allows consumers to compare and contrast the relative merit of products.

Consumer magazine and business media is an indispensable element of the UK's media ecosystem

Consumer and business media publishers produce well-researched original content that is no less impactful than the news media. Many stories originally investigated and published by niche publications are taken up by national news outlets, whilst their campaigns play a key role in leading public debates on highly salient and sensitive issues. Case studies demonstrating the impact of consumer magazine and business media publisher's original public interest journalism and campaigns are laid out below:

ELLE UK and The Warriors

The Warriors was a year-long reporting project by *ELLE UK* and the Fuller Project for International Reporting that covered the lives of women from Moscow to Mogadishu and a range of issues, from domestic violence to ISIS slavery. The body of work examines acts of feminism and bravery from women around the world who are fighting to change laws and attitudes that have led to oppression and abuse. One such story saw journalists Corinne Redfern and Allison Joyce follow the lives of sex workers in Bangladesh over the course of seven months as part of an exclusive investigation into people trafficking across the country. Amnesty International recognised their work by naming them winners of the Features category at their prestigious Media Awards in 2019.

Inside Housing and Grenfell

In 2017, *Inside Housing* published an article highlighting the threat that flammable external cladding presented to tower block residents – it was a piece of investigative journalism work undertaken by Pete Apps following a blaze in Shepherd’s Bush twelve months earlier. Just weeks after Apps’ piece was published, a fire tore through Grenfell Tower, claiming 72 lives and prompting the title to go on and conduct a forensic examination of the situation surrounding the disaster. In addition, two years after calls were made for remedial action to be taken on buildings with similar dangerous cladding, and with safety work completed on just 89 of 434 high-rise buildings and ten of the 178 residential buildings identified as being at risk, *Inside Housing* magazine raised the profile of this injustice with the launch of the ‘End Our Cladding Scandal’ campaign. It calls on ministers to take action and act in the interests of anxious tower block residents, the majority (65%) of whom say their mental health has been "hugely affected" by the ongoing crisis.

Grazia and women’s rights

Grace Millane was a British backpacker strangled to death on the eve of her 22nd birthday. Her killer attempted to persuade a jury that her death was the result of a sex game gone wrong. This so-called ‘rough sex’ defence had been identified by Harriet Harman MP, Mark Garnier MP and campaign group ‘We Can’t Consent To This’ as being increasingly used in UK courts. *Grazia* gave a platform to calls for a law change in December 2019, helping attract over 67,000 petition signatories, encouraging readers to lobby their MPs, and eliciting a promise from Boris Johnson that he would tackle the problem. In June 2020, the Government published a new clause to the Domestic Abuse Bill which, if passed, means attackers and murderers can no longer claim their victim consented to violence during sex that then resulted in harm. It is an important victory that follows earlier campaigning triumphs for *Grazia*, which include Mind The Pay Gap. Inspired by the hit musical *Made in Dagenham*, this campaign eventually resulted in then-Prime Minister David Cameron introducing Section 78 of the Equality Act, which required large companies in the UK to publish their staff salaries, highlighting any gender pay gap and securing a significant step forward in the fight for equal pay.

The Economist and the right to die

Established in 1843 with a mission to repeal the protectionist Corn Laws, *The Economist* has remained committed to its campaigning origins. In 2015, the newspaper (as it prefers to be known) championed the right to die through a bold initiative across its editorial platforms, on digital billboards and in a 20-minute film that, through the eyes of one individual, underlined the title’s standpoint on what it considers an important individual right – the right to die. As with all journalism published under the brand, it remains the collective, anonymous work of *The Economist* rather than being attributed to any given individual writer.

Replacing the definition of ‘recognised news publisher’ and ‘news-related material’, with a definition that encompasses consumer magazine and business media publishers

At present, the definition of ‘news-related material’ that ‘recognised news publishers’ must ‘have the principal purpose of producing’ (Clause 40, Subsection 2, Paragraph a) is as follows:

(5) In this section—

“news-related material” means material consisting of—

(a) news or information about current affairs,

(b) opinion about matters relating to the news or current affairs, or

(c) gossip about celebrities, other public figures or other persons in the news;

The focus on current affairs, and the requirement that this must be the ‘principal purpose’ of a publication is problematic.

First, it would likely exclude publications which may focus on topics such as fashion or industry, but which also often publish high salience stories in the public interest (which are often subsequently picked up by major newspapers and broadcasters). If consumer magazine and business media publishers’ websites and content published on Category 1 user-to-user services is not protected, this would inhibit the public’s ability to access well researched, reliable information on highly sensitive topics. This content is written by journalists that are experts in their specific field. Furthermore, the chance of having their content taken down would disincentivise publishers to invest in journalism focusing on sensitive issues; it is unlikely that current affairs-focused newspapers would replicate magazine publishers’ journalism in these areas.

Second, the Bill does not sufficiently account for the value of well-researched content on matters which may not be considered within a narrow understanding of current affairs. Consumer magazine and business media publications focus on medicine, healthcare, specific industries, finance, personal health, exercise, social rights, eating disorders and a range of other topics. These professional publications create well researched, reliable content, for which their publishers have legal responsibility. The websites of these publishers, and their content when displayed on Category user-to-user services, should be protected in the same way as publications focused on current affairs, gossip, and national politics. Having reliable information available on these matters is a fundamental requirement if the Government wishes to protect adults and children from harm online.

Furthermore, in the Government’s Plan For Digital Regulation, one of the key three objectives is: ‘Promoting a flourishing, democratic society’ – one of the key factors listed as contributing to this is: ‘UK’s media and press sectors are able to flourish online.’⁸ The PPA

⁸ <https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation/digital-regulation-driving-growth-and-unlocking-innovation>

Sector Report 2021⁹ shows that the sector – which is bound together by the common business of the creation and curation of specialist content – reaches an estimated 44.3 million consumers in the UK per month. This accounts for 83% of the UK population aged over 15. For the 25-64-year-olds, covering the core of the working age population of 33.7 million people, there is a penetration of 88%. 93% of members surveyed operate on the web, making dissemination of content online a key element of consumer magazine and business media publishers’ wide reach. Clearly, the Government would undermine its objective of allowing the UK’s media and press sectors to flourish online if it were to not explicitly protect the consumer magazine and business media publishing industry in the Online Safety Bill.

Just as the Bill seeks to prevent a wide range of physical and psychological harms, it should also seek to protect a wide range of trusted information sources. The Bill should dispense with any attempt to narrowly define the categories of press material it wishes to protect, as the availability of professionally produced, trusted, and reliable content on a range of topics are critical in preventing harms.

Therefore, the definition of ‘news-related material’ should not contain its narrow focus on current affairs, and should not seek to include a threshold for content (the ‘principal purpose’ requirement). Instead, there should be a broad definition of the professionally produced publications which generate material that should be protected. This should replace the definition of ‘news-related material’. This would still be combined with the other substantive requirements detailed in Clause 40, Subsections 2 - 4 such as a code of practice and editorial control– these other requirements help ensure that only content produced to a professional standard will be protected.

Directive (EU) 2019/790 Of The European Parliament And Of The Council (The EU Copyright Directive)¹⁰ contains the following definition of ‘Press Publication’, which serves as an example of a broad definition which could be modified to replace the definition of ‘news-related material’. The relevant part of the definition reads:

(4) ‘press publication’ means a collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which:

(a) constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine;

(b) has the purpose of providing the general public with information related to news or other topics;

A definition similar to this could replace the narrow definition of ‘news-related material’ in Clause 40, Subsection 5, protecting consumer magazine and business media which publish original public interest journalism and information. We would recommend that the term ‘recognised news publisher’ and ‘news-related material’ are replaced terms such as

⁹ PPA Sector Report 2021

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0790&from=en>

‘recognised press publisher’ and ‘press publisher material’ to reflect the changes in definitions. For clarity, when suggesting the use of the term ‘press publisher’, we firmly believe this should encompass online-only publications, as well as entities that produce a print edition. This is particularly important if the Online Safety Bill is to protect trusted information sources in the long term, as the pivot to digital transforms journalism.

Standards Code

We agree that, as per Section 40, Subsection 5 of the Bill, recognised news publishers (recognised press publishers) should be protected if they are subject to a standards code that is ‘published by the entity itself’, as well as an ‘independent regulator.’ This is critical in preventing regulation of the press through the backdoor, allowing publishers to create standards codes which best ensure the safety of their readers.

Furthermore, it is likely that more and more journalistic publications will cease publishing printed editions (the shift to digital has been accelerated by the pandemic). Therefore, it is correct that to be exempt from the Bill, a journalistic organisation will not be compelled to be regulated by print-based regulatory organisations such as IPSO or IMPRESS.

Summary of the proposal to replace the definition of ‘recognised news publisher’ and ‘news-related material’:

There should be a broad definition of the professionally produced publications which generate the journalistic material to be protected in the Bill, dispensing with the narrow current affairs focus. To reflect the broader definition, the term ‘recognised news publisher’ should be replaced with ‘recognised press publisher’, and the term ‘news-related material’ should be replaced with ‘press publisher material’. (This should include online-only titles.) This would reflect the value of protecting the wide range of professionally produced, trusted, and reliable content produced by consumer magazine and business media publishers. PPA agrees that recognised news publishers (recognised press publishers) should be able to publish their own standards code.

Amendments to protect journalistic content and support a sustainable UK press sector

Protecting journalistic content on in-scope services, and providing redress

PPA has had scrutinised the amendments proposed by the News Media Association (NMA), detailed in Annex A, Annex B, and Annex C of the NMA’s submission to the Joint Committee. PPA endorses and supports all of the proposed amendments, provided that the definitions of ‘recognised news publisher’ and ‘news-related material’ are amended to encompass consumer magazine and business media. As detailed above, PPA proposes a broader definition of ‘news-related material’, and by extension ‘recognised news publisher’, based on that found in the EU Copyright Directive. (For clarity, if the Joint Committee decides against accepting PPA’s recommendation to amend the definitions of ‘recognised news publisher’ and ‘news-related material’, we would not oppose the amendments suggested by the NMA; however, without our suggested changes, the amendments would not properly protect many consumer magazine and business media publishers, or ensure that the bargaining imbalance between these publishers and digital platforms is remedied).

PPA supports the NMA amendment designed to expressly exclude news publisher (press publisher) websites from the scope of the Bill, and amendments to Clause 14 to protect news publisher content (press publisher content) and provide a scheme of effective redress for breaches of the duty to protect journalistic content. PPA also supports the amendment designed to ensure equivalent protection for news publisher content (press publisher content) in search results, and the amendment designed to protect the ‘employees or agents’ of a recognised news publisher (recognised press publisher).

The NMA’s proposed revisions to Clause 14 Subsection 6, and addition of a Clause 18A, Subsection 6, set out a duty for Category 1 user-to-user services and search engines respectively to specify in their terms of service by what method content appearing on their services is to be identified as news publisher content (press publisher content). This includes these in-scope services specifically referencing any register of recognised news publishers maintained by groups, including but not limited to the News Media Association and the Professional Publishers Association. This is supported by PPA.

Economic Harms: A mandatory bargaining code

PPA also supports the addition to the Bill in Annex C of the NMA submission, which sets out a mandatory bargaining process designed to address the entrenched bargaining imbalance that persists between search engines and user-to-user services, and recognised news publishers (recognised press publishers).

The Australian News Media and Digital Platforms Mandatory Bargaining Code is a key step in the global effort to compel monopolistic digital platforms to properly negotiate with creators of high-quality journalism. The Code is an acknowledgement that well-funded, professionally produced journalism is an essential element of a flourishing democracy. However, the Code has a major shortcoming which constrains its impact on media sustainability.

By focusing on core news content, the Code fails to ensure the sustainability of specialist content creators. Given that consumer magazine and business media publishers are highly valued by readers as trusted, impartial, and accurate information sources, implementing a code in the UK which excludes consumer magazine and business media would severely limit the potentiality for such a code to sustain a plural UK media.

PPA welcomes the opportunity to submit evidence to the Joint Committee. We are happy to supply further evidence as required.

28 September 2021