



MEDIA POLICY PROJECT

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MEDIA POLICY BRIEF 12

The New UK Model of Press Regulation

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DECLARATION OF INTEREST

The author is the Chair of the campaigning group Hacked Off and was involved in negotiations with the Government in relation to the Leveson recommendations.

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KEY MESSAGES

- The Leveson Report on the Culture, Practices and Ethics of the Press proposed a system under which the independence and effectiveness of a self-regulator set up by the press could be assured through a process of independent “audit” or “recognition”.
- The Royal Charter on Self-Regulation of the Press establishes an independent Recognition Panel, which does not regulate the press, but decides whether a self-regulator meets pre-set criteria for regulatory independence and effectiveness.
- The Recognition Panel is independently appointed and protected from political interference by the terms of the Royal Charter and by a statutory requirement that a two-thirds majority of both Houses of Parliament is required to amend that Charter. There is a “double lock” on political interference with the recognition system.
- Under the system proposed by Leveson the press remains in operational control of its own regulation and politicians are excluded from any role in the process. The Recognition Panel is an auditor, not a regulator.

“the press is given significant and special rights in this country ... With these rights, however, come responsibilities to the public interest: to respect the truth, to obey the law and to uphold the rights and liberties of individuals. In short, to honour the very principles proclaimed and articulated by the industry itself (and to a large degree reflected in the Editors’ Code of Practice)”.

- Sir Brian Leveson

INTRODUCTION

The British press has long been free from state regulation. By the late nineteenth century the previous regimes of licensing and onerous taxation had been removed. Over the next century, with the exception of short periods during wartime, the press was not subject to any form of government backed regulation. But public concern about the conduct of the press over the past 60 years led to the establishment of a series of Royal Commissions and other official inquiries. These, in turn, resulted in the establishment of a series of largely ineffective self-regulatory bodies, most recently the Press Complaints Commission (PCC).

In July 2011, following a series of revelations about “phone hacking” and other illegal practices at the country largest circulation newspaper, the *News of the World*, all political parties agreed to establish an inquiry into the “culture practices and ethics of the press”. This was carried out by a senior judge of the Court of Appeal in England and Wales, Sir Brian Leveson, who published his report in November 2012.

On 18 March 2013, the main political parties agreed on the terms of a “Royal Charter on Self-Regulation of the Press” to implement the recommendations contained in the Leveson Report. This was approved by the Privy Council on 30 October 2013.

The establishment of a body which plays a role in the self-regulation of the press by a process as obscure and little understood as a Royal Charter has given rise to considerable confusion and misunderstanding, particularly among people outside of the UK. The purpose of this brief is to look at the background and to explain how the Charter is designed to operate and, in particular, how it is designed to protect the press against political interference in its regulation.

The system of self-regulation established by the Charter implements two key innovations which were proposed by Sir Brian Leveson. These are a mechanism of “recognition” or audit of the self-regulator (or self-regulators) set up by the press themselves and a series of incentives to membership of the self-regulatory body enshrined in law. This brief will explain how this system is designed to ensure that a self-regulator is independent and effective, and where it contains “double lock” safeguards against government or political interference. It argues that any attempts to replicate the Leveson model in other countries should include such strong safeguards against political interference in the self-regulation of the press.

INQUIRING INTO THE PRESS

A History of Failure in Self-Regulation of the British Press

There has been public concern about press standards in the United Kingdom for more than 70 years. The British press has, throughout that period, been dominated by a small number of powerful proprietors – often referred to as the “press barons”. Many different civil society elements – including but not limited to journalists, academics and NGOs – have drawn attention to the concentration of media ownership, the exercise of unaccountable political power and the use of the press to attack and abuse individuals. The timeline below shows the major events of this extended struggle over press standards.

Table 1: Timeline of Press Self-Regulation in the UK

1947	A Royal Commission on Press is established to examine the finance, control, management and ownership of the press.
1949	The First Royal Commission on the Press reports, finding that there had been “ <i>a progressive decline in the calibre of editors and in the quality of British journalism</i> ”. It recommends the establishment of a system of self-regulation based on a ‘General Council of the Press’, which would promote best practice and encourage a spirit of responsibility, draw up a code of conduct, and have the power to receive and adjudicate on complaints and to impose appropriate sanctions.
1953	The General Council of the Press was finally established, after initial rejection by the press, as a result of the threat of political action to establish statutory regulation. This Council was substantially different from that recommended. It had no code and no lay representation.
1962	The Second Royal Commission on the Press reported. The General Council of the Press was severely criticised, particularly for not including lay members. This Royal Commission proposed statutory regulation unless the performance of the General Council improved. The Press Council was formed, including minority of non-press members
1974	After continued concerns over privacy invasions and inadequate addressing of complaints, a Third Royal Commission on the Press, was established to “ <i>...inquire into the factors affecting the maintenance of the independence, diversity and editorial standards of newspapers and periodicals and the public freedom of choice of newspapers and periodicals, nationally, regionally and locally.</i> ”

1977	The Third Royal Commission report was critical of the Press Council. It commented, ' <i>It is unhappily certain that the council has so far failed to persuade the knowledgeable public that it deals satisfactorily with complaints against newspapers</i> ', and proposed that it should produce a written Code of Conduct for journalists. It again suggested a statutory solution if the response of the industry and Press Council was insufficient. The Press Council rejected five of the twelve recommendations made and ignored the recommendation for a written code of conduct.
1989	Sir David Calcutt's "Inquiry into Privacy and Related Matters" was established. The Press Council set about reforming itself and issued its first-ever Code of Practice.
June 1990	The Calcutt Inquiry Report concluded that existing self-regulatory arrangements for the press should be revised, and that the Press Council should be abolished and replaced with a new self-regulatory organisation: the Press Complaints Commission (PCC). It suggested that the press should be given " <i>one final chance to prove that voluntary self-regulation can be made to work</i> ". It set out a framework of measures that it regarded as the necessary elements of an effective self-regulatory regime, and that the PCC should be given 18 months to demonstrate that non-statutory self-regulation could be made to work effectively. If at the end of that period it was demonstrated that the PCC had failed to work effectively, a statutory tribunal should take over the job of dealing with complaints about the press.
Jan 1991	The PCC was incorporated, and set up a Code of Practice Committee against which editorial practice might be judged.
Jan 1993	A Second Calcutt Report was published. It concluded that self-regulation by the PCC had failed and called for the introduction of a statutory Press Complaints Tribunal. The press rejected these conclusions but did institute some reforms of the PCC.
1995	The Government responded to the second Calcutt rejecting his recommendation for statutory regulation.

Sir Brian Leveson reviewed this history in his report and he noted that there was recurring concern about the "*inability of self-regulation' to address the underlying problem sufficiently*" and distinct and enduring resistance to change from within the press.

In the UK there is a long history of attempts to address problems of press behaviour and power. Each time the press has responded with a new or revised self-regulator that has proved inadequate.

The Leveson Inquiry's Innovations

In his Report, Sir Brian Leveson concluded that

“The evidence placed before the Inquiry has demonstrated, beyond any doubt, that there have been far too many occasions over the last decade and more (itself said to have been better than previous decades) when these responsibilities, on which the public so heavily rely, have simply been ignored. There have been too many times when, chasing the story, parts of the press have acted as if its own code, which it wrote, simply did not exist. This has caused real hardship and, on occasion, wreaked havoc with the lives of innocent people whose rights and liberties have been disdained.” (Executive Summary, para 7).

He agreed with the general assessment that the existing self-regulatory mechanisms of the PCC had failed. This body lacked independence from the press industry, the remedies at its disposal were woefully inadequate, and it had repeatedly failed to deal with major issues of press misconduct.

Nevertheless, Sir Brian Leveson did not recommend statutory regulation of the press. He made it clear that he considered that what was needed was a *“genuinely independent and effective system of self-regulation”*. In his view this remained the best model and of vital importance for ensuring that there could be no government or political interference with press regulation.

There were two central issues concerning self-regulation that the Leveson Report had to deal with:

- How to ensure that a new self-regulator was independent and effective and did not suffer from defects of previous self-regulatory bodies.
- How to ensure that all major publishers joined a new self-regulator.

The solution to these problems involved two major innovations in relation to self-regulation of the press. Both these innovations are aimed at striking a balance between effective regulation and press freedom – at ensuring that the press properly regulate itself whilst remaining entirely free from political interference.

The **first innovation** is a system of “recognition” or audit of the self-regulator (or self-regulators) set up by the press themselves. The Report described the process in these terms:

In order to meet the public concern that the organisation by the press of its regulation is by a body which is independent of the press, independent of Parliament and independent of the Government, that fulfils the legitimate requirements of such a body and can provide, by way of benefit to its subscribers, recognition of involvement in the maintenance of high standards of journalism, the law must identify those legitimate requirements and provide a mechanism to recognise and certify that a new body meets them” (Recommendation 27)

The purpose of this recognition system is to ensure that the new body comply with certain basic requirements, which are set out in detail in the Report and are designed to ensure the independence and effectiveness of the self-regulatory body.

The role of the recognition body is to “*recognise and certify that any particular body satisfies*” the recognition requirements. This body should not be involved in regulation of any publisher (Recommendation 28).

Sir Brian Leveson suggested that the recognition body should be the existing statutory communications regulator, Ofcom, which regulates broadcasters, fixed line telecoms, mobiles and postal services. But, he recognised that this would be controversial (because the Chairman and Chief Executive of Ofcom are appointed by Government ministers). As an alternative, he suggested that there could be a statutory “Recognition Commissioner” (Recommendation 31).

The recognition body would audit a self-regulator set up by the press on the basis of a number of “recognition criteria”, which form Recommendations 1 to 22 and 34 to 47 of the Report.

The Report recommends that a new independent self-regulatory body should:

- promulgate a code of journalistic standards;
- hear complaints against its members regarding alleged breaches of those standards;
- order appropriate redress while encouraging individual newspapers to embrace a more rigorous process for dealing with complaints internally;
- play an active role in promoting high standards, including having the power to investigate “*serious or systemic breaches*” and impose appropriate sanctions;
- provide a fair, quick and inexpensive arbitration service to deal with any civil law claims based upon its members’ publications.

The new self-regulatory body would be headed by an independent Board. The Board should comprise a majority of individuals who are independent of the press, although it must include a “*sufficient number of people with experience of the industry who may include former editors and senior or academic journalists*”. It should not include any serving editor or member of the House of Commons or the Government.

The regulator would include a Code Committee tasked with making recommendations on the content of a Code of Standards for the press. This Code Committee could include serving editors; however ultimate responsibility for the content and promulgation of the Code would reside with the Board itself.

The Board would have the power to hear and decide on complaints about breaches of the standards Code by subscribers to the new body. It would have the power to impose appropriate remedial measures, including to:

- direct the nature, extent and placement of apologies and corrections;
- impose appropriate and proportionate sanctions (including financial sanctions up to 1% of turnover, with a maximum of £1m) on any member found to be responsible for serious or systemic breaches of the standards code or governance requirements.

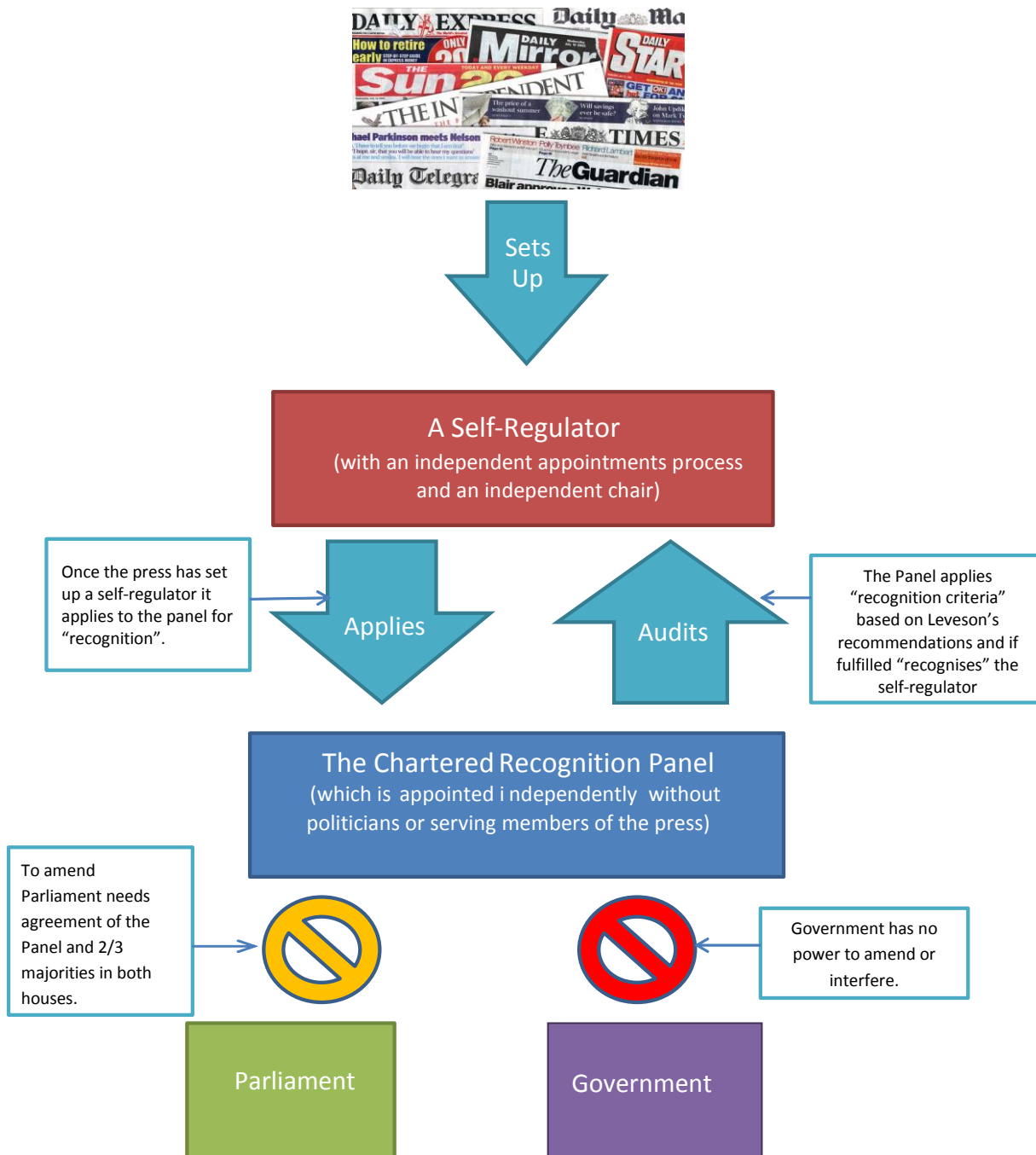
Serving editors would not be permitted to sit on any Committee advising the Board on complaints. Any such Committee must have a majority of people who are independent of the press.

The process by which the Chair and members of the regulator are appointed must be independent of the press. The Report recommends that this should be achieved through the establishment of an independent appointments panel. The appointment panel:

- should be appointed in an independent, fair and open way;
- should contain a substantial majority of members who are demonstrably independent of the press;
- should include at least one person with a current understanding and experience of the press;
- should include no more than one current editor.

The recognition body only audits the self-regulator set up by any group of the press according to these criteria. How this system proposed by Leveson has been implemented is illustrated in the diagram below.

Figure 1: The New System of Press Self-Regulation in the UK



Source: the author

Under the system proposed by Leveson the press still sets up its own self-regulator. The recognition body he suggested exists to audit whether the self-regulator meets minimum requirements for independence and effectiveness.

The **second innovation** was to propose that incentives to membership of the self-regulatory body should be enshrined in law. Sir Brian Leveson accepted that membership of an independent self-regulator should remain voluntary but recognised that incentives would be required to ensure that all significant publishers joined.

The need for incentives “*coupled with the equally important imperative of providing an improved route to justice for individuals*”, led him to recommend, as an essential component of the system, an arbitration service for to civil legal claims against publishers.

- Participation in the arbitration service would be a condition of membership of the new body.
- The arbitration service should be staffed by retired judges or senior lawyers with specialist knowledge of media law.
- Arbitrations would operate on an inquisitorial model, and the process would be free for complainants to use. Frivolous or vexatious claims would be struck out at an early stage.

If a publisher does not subscribe to the new self-regulator and, as a result, does not offer free arbitration to claimants, then the courts could deprive the publisher of its costs in any reasonably arguable legal claim against it, even if the publisher is successful in that litigation.

This Policy Brief is centrally concerned with the first of these innovations: Sir Brian Leveson’s proposal for a system of “audit or recognition”. It is this which led, as a result of events dealt with in the next section, to the establishment of a Recognition Panel set up by a Charter.

Leveson also recommended incentives be set up to encourage publishers to participate in self-regulation.

THE ROYAL CHARTER FOR THE PRESS

As already discussed, a key innovation of the Leveson proposals for a new system of press self-regulation was the proposed establishment of a “recognition process”, underpinned by a statutory framework setting out “recognition requirements”. This required legislation to establish a recognition body, set out how it is appointed, the “recognition requirements”, and to provide the “incentives” for membership that Sir Brian Leveson had recommended.

Why a Royal Charter?

The form of self-regulation envisaged in the United Kingdom does not depend on there being a Royal Charter. Sir Brian Leveson did not recommend the use of this kind of legal structure, but that the self-regulator set up by the press should be “audited” by Ofcom (the body which regulates broadcasters) or by a statutory independent recognition commissioner. This recommendation was not accepted and, instead of using statute, a Royal Charter was proposed to provide further comfort to the press.

Leveson’s recommendations for self-regulation of the press were welcomed by the leaders of all the major political parties in the United Kingdom. But there were two important caveats.

Firstly, there was an apparent consensus among all three main political party leaders that Ofcom was not an appropriate body to act as the recognition body.

Secondly, the Prime Minister David Cameron MP told Parliament on the day of the publication of the Leveson Report that he had “*serious concerns and misgivings*” in principle to any statutory scheme for the regulation of the press. He said “*It would mean for the first time we have crossed the Rubicon of writing elements of press regulation into law of the land*”. This view reflected concerns expressed by Conservative peers, Lords Black and Hunt who were acting as the spokesmen for the press. The view was, however, not shared by the Liberal Democrat and Labour Parties.

Although many commentators pointed out that “elements of press regulation” were already contained in various statutes, Conservative ministers suggested an approach in which the recognition body did not have a statutory foundation.

The proposal was to have a Royal Charter on the self-regulation of the press. The inspiration for this was the arrangement relating to the United Kingdom's long established public service broadcaster, the British Broadcasting Corporation (BBC), which was incorporated under its first Royal Charter in 1926. This has been regarded by many as having helped to ensure its independence from Government.

The use of a Royal Charter to provide the framework for self-regulation of the press was criticised by many supporters of the Leveson Report as an arcane and unjustified departure from the recommendations that had been made.

This approach was, however, supported by the Conservative Party and by the press. Between December 2012 and February 2013, there were extensive private negotiations between Conservative ministers and the press leading to the publication of a draft Charter on 12 February 2013. This draft Charter was criticised as being a "surrender to press pressure" and modification of Leveson's recommendations so that a self-regulator that lacked independence and effectiveness could be recognised.

Further talks between the main political parties, and consultations with the press and the campaigning group Hacked Off (representing victims of press abuse), resulted in a "Cross Party" Charter being agreed by the leaders of the three main political parties that was placed before and formally approved by the House of Commons on 18 March 2013. This was supported by two sets of statutory provisions:

- Sections 34 to 42 of the Crime and Courts Act 2013 which concern costs and exemplary damages relating to "relevant publishers" (the subject of a complex definition designed to exclude small bloggers and news website). This meant that relevant publishers who were not members of approved regulators faced adverse costs awards (whether they won or lost) and, reciprocally, that members of an approved regulator would be immune from adverse costs orders and exemplary damages. These provisions would only apply if a regulator had been recognised by a body established by Royal Charter.
- Section 96 of the Enterprise and Regulatory Reform Act 2013 which deals with the amendment of Royal Charters and which will be considered below.

On 25 April 2013 the Press Standards Board of Finance (PressBof), on behalf of the industry, published its own Charter, substantially in the terms of the version agreed between the press and Conservative ministers in February 2013. This was submitted to the Privy Council on 30 April 2013.

There was then a long process of consultation on the PressBof Charter that was, eventually, rejected by a Privy Council Committee as being inconsistent with the Leveson recommendations. On 11 October 2013, the final draft of the Charter was published. On 30 October 2013, PressBof unsuccessfully applied for a last minute injunction to restrain the consideration of the Charter and, on the same day, the Privy Council finally granted the Royal Charter on Self-Regulation of the Press.

The use of a Royal Charter was a compromise reached among politicians between the Leveson recommendation for statutory underpinning for a new self-regulator and the Conservative leader's insistence that there not be a statutory recognition scheme.

What is a Royal Charter?

It is important to understand the legal nature and effect of a Royal Charter, which, despite its name, has only a formal connection to the Queen, who has no decision making power in relation to the granting or operation of such charters.

A Royal Charter is a document that incorporates a body known as a "chartered corporation". It is a way of turning a collection of individuals into a single legal entity. Until 1844 this was the only way of establishing a company in English law and was used for trading corporations. Universities and professional bodies were also granted Royal Charters. Over 1000 such Charters have been granted since the Middle Ages, the oldest being those granted to the Universities of Cambridge (1231) and Oxford (1248).

After the enactment of the Joint Stock Companies Act 1844 ordinary trading companies were established under a statutory mechanism. Royal Charters came to be largely reserved for the incorporation of eminent professional bodies, charities and educational institutions. They are,

however, from time to time used for the creation of corporations that are established by the Government but are independent of it. The BBC is one example of this.

Royal Charters are granted by the Privy Council. This is a body set up under the “Royal Prerogative”. It is not a deliberative body. Its meetings are short and formal – lasting only for a few minutes with everyone remaining standing. Its members are the Queen and several hundred distinguished politicians, judges and others - although only three or four members (who are current government ministers) attend meetings, along with the Queen or her representative.

By convention, the “Queen in Council” always follows the advice of her ministers. In other words, the Privy Council is, in substance (although not in form) a sub-committee of the Cabinet. It executes the orders of Government ministers.

It is unclear whether and to what extent the Privy Council (that is, Government ministers) is entitled to interfere with the day-to-day operation of a chartered corporation or with the terms of its Charter. There are no clear legal rules governing the position.

For this reason, and bearing in mind the general acceptance that Government ministers should have no role in the regulation of the press, special provision was made in relation to the Royal Charter on Self-Regulation of the Press to prevent political interference.

A Royal Charter is an ancient and uniquely British instrument for creating corporations. It is not a model for other national contexts.

ENSURING INDEPENDENCE OF THE PRESS

The opposition of some Government Ministers and the press to statutory underpinning for the recognition mechanism recommended by Sir Brian Leveson derived, in part, from concern that, in the future, politicians might seek to amend the statute to place more stringent restrictions on the press. At first sight, a Charter did not solve this problem because it is granted and controlled by the Privy Council, which is, in substance, a sub-committee of the Cabinet and is under the control of the Government. Much of the initial opposition the Charter proposal was based on concerns that in future Government Ministers might, at the behest of the press, amend the Charter to relax the requirements for press regulation.

Independence of the Recognition Panel

In order to minimise the risk of political interference with the Recognition Panel constituted by the Charter, two protections were put in place. There is a “double lock” on political interference:

First, there are provisions written into the Charter itself concerning its amendment. Article 9 provides that the Charter can only be “added to, supplemented, varied or omitted” if:

- the proposed change is ratified by a unanimous resolution of all members of the board of the Recognition Panel;
- a draft of the amendment is approved by a resolution of both Houses of Parliament with at least two thirds of members voting in support.

This means that neither the Government nor Parliament can change the Charter without the approval of the members of the Recognition Panel.

Secondly, as already mentioned, there is Section 96 of the Enterprise and Regulatory Reform Act 2013, which provides that:

“Where a body is established by Royal Charter after 1 March 2013 with functions relating to the carrying on of an industry, no recommendation may be made to Her Majesty in Council to amend the body’s Charter or dissolve the body unless any requirements included in the Charter on the date it is granted for Parliament to approve the amendment or dissolution have been met.”

This gives statutory effect to the restriction on amendment in Article 9 of the Charter and puts in place the “double lock” on political interference. Although it is expressed in general terms, it in fact applies only to the Royal Charter on Self-Regulation of the Press – this is the only Charter establishing a body after 1 March 2013 “with functions relating to the carrying on of an industry”.

The provisions of Article 9 of the Charter and section 96 of the Enterprise and Regulatory Reform Act can, of course, be overridden by a new, later, statute – passed by a simple majority of both Houses of Parliament. This is an unavoidable consequence of the United Kingdom’s constitutional principle of “sovereignty of Parliament”. As a result of this principle, no Parliament can bind itself or its successors.

However, what these provisions mean is that a new statute dealing with amendment of the Charter would have to be proposed. This would be, politically, very difficult for any Government without a broad civil society and political consensus in favour. It is most unlikely that any Government would, in fact, choose to put forward such a statute without this consensus and very unlikely it would achieve a parliamentary majority.

But, most importantly, such a statute would have no direct impact on the regulation of the press. This is because the Charter does not deal directly with regulation, but only with recognition of a regulator. In the unlikely event that a future Government wanted to restrict the freedom of the press – and had the support of a majority in both Houses of Parliament – then this could be done directly by a new statute. Interfering with the recognition process under the Charter would not restrict the freedom of the press it would simply alter the characteristics that a self-regulator needed to be recognised.

If a Government made the recognition criteria more draconian – by, for example, requiring a recognised self-regulator to have a power of pre-publication censorship – this would not be effective to restrict press freedom. This is because the press’ self-regulator could simply refuse to comply with the new recognition criteria. This would mean that when its position was reviewed under the Charter (two years after first recognition and then every three years) it would cease to be recognised but no new draconian rules would have been imposed on the press.

In short, the Charter has an effective mechanism for protecting itself against change by politicians that is not agreed by the Recognition Panel. The operation of the recognised self-regulator is protected not just against interference by politicians, but also against interference by the Recognition Panel in its day-to-day regulatory activities.

Changes to the Recognition Panel can only be done with its agreement and a two-thirds majority in the Parliament, which provides significant protection from political influence over the Panel.

Independence of the Self-Regulator

To recap, the way in which the Leveson Report sought to preserve self-regulation whilst ensuring its independence and effectiveness was by a system of “audit” or “recognition”. Sir Brian Leveson recommended that this mechanism be underpinned by statute. However, as a result of press resistance to statute, it was decided that a non-statutory mechanism would be devised, using a Royal Charter (building on the example of the BBC).

The Royal Charter on the Self-Regulation of the Press contains a set of provisions designed to ensure that a self-regulator is both effective and independent from outside interference, whether from the regulated publishers or from politicians.

This guarantee of the independence of the self-regulator is in two stages.

Firstly, the Recognition Panel itself is independently appointed. The Board of the Recognition Panel is appointed not by a Government minister but by an independent “Appointments Committee” appointed by the Commissioner for Public Appointments (an official independent of the Government). The members of the Board of the recognition panel must have “*senior level experiences in a public, private or voluntary sector organisation*” and an “*understanding of the context with which the Regulator will operate*”. Editors, former editors and current publishers are excluded, as are all current members of the national and devolved legislature and all Government ministers.

Secondly, in its auditing of a self-regulator, the Recognition Panel applies a “Scheme of Recognition” which is set out in the Charter. Under this scheme, a self-regulator can only be recognised if it, itself, has an independent board, “*appointed in a genuinely open, transparent*

and independent way, without any influence from industry or Government". The Chair and members of the Board are to be appointed by an independent appointment panel. The Board should comprise a majority of people who are independent of the press, but no serving editor, national politician or minister.

In addition to these "recognition criteria", the Charter lays down a number of other features that a recognised self-regulator must have, including the following:

- a standards code – the responsibility of the board but drawn up by a committee that can include serving editors – that must take into account the importance of freedom of speech, the public interest and the protection of sources and must cover standards of conduct, respect for privacy and accuracy;
- a "whistleblowing hotline" for journalists;
- an adequate and speedy complaints handling mechanism;
- a simple and credible investigations power with the power to impose appropriate and proportionate sanctions, including financial sanctions limited to 1% of turnover, with a maximum of £1 million;
- the power to require the publication of corrections or apologies and, if necessary, their size and prominence; and,
- an arbitral process for civil legal claims against members of a recognised regulator that is free for complainants to use and is, overall, inexpensive.

The Recognition Panel is independently appointed and has to use clear criteria when deciding whether to recognise a self-regulator, including ones aimed at ensuring its independence from politicians and the press industry.

CONCLUSIONS

The Leveson reforms have created a new framework for press accountability and a series of new protections for press independence for the UK. These are designed to ensure independent and effective self-regulation of the press whilst protecting the self-regulator from political interference. Central to this balance is a system of “recognition” or “audit”. Leveson recommended that this be done by the existing broadcasting regulator, Ofcom, under statutory powers, but to meet press concerns about potential political interference and the use of statute the recognition body was constituted by Royal Charter. This established a “recognition panel” in which politicians can have no role. The rules governing recognition can only be amended with the agreement of the Panel and two-thirds majorities in each House of Parliament. As a result, the Charter puts in place a system that ensures effective self-regulation whilst fully protecting press freedom.

Leveson’s recommendations came after more than half a century of press self-regulation failing to adequately protect the privacy of individuals and to encourage and promote ethical and responsible journalism. This system of press regulation contains constitutional elements peculiar to the UK and is implemented against a background of established legal protection of freedom of expression. The Royal Charter was used specifically to avoid the kind of statutory press regulation that the British publishers feared and contains a number of clear and specific safeguards against government or political interference in the press. Any attempts to replicate the Leveson model in other countries should include such strong safeguards against political interference or influence over the self-regulation of the press.

The new UK system of press regulation is designed to ensure that a self-regulator is independent and effective. It also enshrines in law a series of protections to protect the self-regulator from direct or indirect interference by politicians.

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