Centre for the Study of Media, Communication and Power
King's College London

Submission to:

Consultation on the Leveson Inquiry and its Implementation

Department for Culture, Media and Sport and the Home Office

Authors:
Dr Martin Moore and Dr Gordon Ramsay

About the Centre

The Centre for the Study of Media Communication and Power is an academic research centre based in the Policy Institute at King's College London. The Centre conducts research and analysis on news media, news media content, the civic functions of the media and technology, and the relationship between media and politics.

The authors of the study, Dr Martin Moore and Dr Gordon Ramsay, were both previously at the Media Standards Trust, where they led research into press self-regulation and gave evidence – written and oral – to the Leveson Inquiry (a list of relevant publications is included in Appendix 1). This submission reflects the views of the authors based on their previous experience and on the research they have done since joining King's College London in 2015. Both authors are employees of King's College London.

Purpose of this response to the consultation

The government's consultation considers two issues: 'commencement of section 40 of the Crime and Courts Act 2013; and whether proceeding with Part 2 of the Inquiry is appropriate and proportionate, whether it should be terminated or whether the government should follow an alternative course'.

In order to consider each of these issues properly, and in order to decide whether to commence section 40 or proceed with Leveson Part 2, the consultation needs to recognise the risks of the options it sets out, particularly with respect to harm to the public, and in the context of repeated failures of press self-regulation over the previous eight decades.

For this reason this submission sets each decision in a historical context, tests the claim made in the consultation that we have seen, since Leveson, 'arguably the most significant changes to press self-regulation in decades', and considers – as the consultation suggests – whether the 'press have adequately reformed to ensure phone hacking and other illegal and improper activity could not happen again today'. Whilst such an objective could never wholly be achieved, the public should have confidence that a regulator can take sufficient action for those harmed to receive effective and speedy relief.

The present consultation on the commencement of Section 40 is only necessary because the previous Secretary of State for Culture, Media and Sport decided not to commence the legislation, despite the Parliamentary vote of 18 March 2013 (of 530 votes in favour to 13 against).[1] Moreover, it should be noted that the consultation limits the options available to respondents and ignores potential alternative steps forward.

[1] Hansard, Division 192, 18 March 2013, https://hansard.parliament.uk/commons/2013-03-18/debates/13031839000001/CrimeAndCourtsBill(Lords)

Contents

About the Centre 1
Executive Summary 3
1. The Relevance of the Leveson System in a Digital Era 4
2. The 2016 Consultation in Historical Context 8
3. The Similarities between IPSO and the PCC 16
4. The Differences between IPSO and the PCC 22
Supplementary Submission: The Question of Size 28
Appendix 1: Relevant Publications 31

Executive Summary

This submission proposes that:

- The objective of any action by the government at this time ought to be to achieve independent and effective self-regulation of the press on behalf of the public. Any such system needs to preserve and enhance freedom of expression as well as offering adequate redress and protecting personal privacy.

- The key elements of the Leveson system are – contrary to what its critics and newspaper industry representatives have claimed – as suited to the digital environment as the print environment.

- Keeping Section 40 under review, as proposed in Option 1, will perpetuate the cycle of unsatisfactory and ineffective responses by successive governments since the Second World War, which have resulted in a repetitive and harmful 'pattern of cosmetic reform' of self-regulation.

- Repealing the incentives, in particular section 40, will be an endorsement of a status quo which is deeply unsatisfactory from the perspective of the public. Unsatisfactory notably because of the lack of independence and effectiveness of the self-regulator IPSO:
  - IPSO is very similar to its predecessor, the Press Complaints Commission, continues to be dominated by the industry through a powerful funding body, and – like the PCC – can best be described as a complaints handling and mediation body, rather than a regulator
  - IPSO represents a consistent attempt by major news publishing groups to resist establishing a genuinely independent and effective self-regulator; this resistance to reform follows a familiar pattern repeated over the past eight decades
  - IPSO is structured in such a way that the differences between IPSO and the PCC – most notably with respect to standards investigations, fines, and low cost arbitration – are so compromised or constrained as to have no significant impact on the major publishers who are its members.

Supplementary Submission

This submission will, in addition, propose a change to the current plans, though not one put forward in the consultation. This change could allow the government to address concerns about the potential impact of S40 commencement on small publishers, while ensuring that large publishers – who by definition possess the legal resources to obstruct access to justice to individual claimants – are incentivized to participate in independent and effective self-regulation.

The supplement proposes that the elements of Section 40 that expose news publishers to costs, should they choose to remain outside a recognized self-regulator, should only apply to news publishers ('Relevant Publishers' as defined in the legislation) with annual revenues greater than £6.5m per annum (larger than a 'small company' as defined by HMRC). Relevant Publishers with revenues at or below £6.5m per annum would gain the protections provided to members of a recognized self-regulator, should they choose to join, but would not be exposed to costs should they choose not to.

1. The Relevance of the Leveson System in a Digital Era

Immediately after the Leveson Inquiry a range of commentators claimed that the system Leveson proposed was unsuited to a digital environment.

> We're putting a system of regulation on print newspapers and their websites when the world's changed… The horse hasn't just bolted – there's a whole new horse.
>
> - David Banks, quoted in *The Guardian*[2]
>
> By ignoring the lawless internet, the judge proves he's on another planet.
>
> - Stephen Glover, *Daily Mail*[3]
>
> Leveson report ignores the impact of the internet.
>
> - Charles Arthur, *The Guardian*[4]

Yet the opposite is true. The PRP's recognition of a self-regulator – IMPRESS – many of whose members are digital-only news publishers, shows that the system is as applicable to non-print publishers as to print.

Moreover, three of the basic tenets of the Leveson recommendations are equally – if not more – applicable to the digital environment as they are to print. These three are:

1. The need for incentives if commercial news organisations are to participate in a sustainable system of independent and effective self-regulation
2. The need for any system of self-regulation to be externally assessed on behalf of the public with regard to its independence and effectiveness
3. The need for low cost legal redress for ordinary people who have been illegally harmed, and to protect publishers from the threat of expensive lawsuits

Not only are these three tenets of Leveson relevant to digital news publishers, they could even be adapted to apply to other publishers online, and even to social media (though clearly some of the criteria for assessment, and incentives, would have to be different).

1. The need for incentives to participate in independent and effective self-regulation in a digital environment

The incentives for establishing and maintaining a genuinely independent system of self-regulation in the media have always been challenged by the commercial needs of news organisations. Self-regulation has been considered a restraint – on newsgathering, on speed of publication, and on the content published. Self-regulation can also expose news organisations to regulatory sanctions post-publication.

These commercial challenges to self-regulation were apparent in a print environment, and led to ongoing concerns that the independence and effectiveness of self-regulation was compromised by the commercial demands of news organisations. Hence the many Royal Commissions and Inquiries that examined self-regulation and made recommendations to increase its independence and

---

[2] https://www.theguardian.com/media/2012/nov/29/leveson-web-print-undermine-regulation

[3] http://www.dailymail.co.uk/debate/article-2240717/Leveson-By-ignoring-lawless-internet-judge-proves-hes-planet.html

[4] https://www.theguardian.com/media/2012/dec/02/leveson-report-ignores-impact-internet

effectiveness. Still, when the number of news print titles was relatively constrained, the barriers to entry were high, and the economic model for news was mixed, these challenges were balanced by the benefits of self-regulation. Self-regulation was seen as a way of avoiding expensive legal action, as a way of shielding the press from government intervention, and as a way of providing some external accountability to the public.

The commercial challenges to participation in an effective self-regulatory system are far more acute in a digital environment. In this environment there is potentially no limit to the number of titles – both nationally and internationally; many news publishers rely more heavily on advertising as their main source of revenue (excepting subscription-only titles); and the barriers to entry – and to publication – are very low. In this environment, where competition extends far beyond national print titles, and where the method of newsgathering, the speed of publication, and the type of content published is not constrained – for most publishers – by anything but the law, there is a strong commercial disincentive to establish and maintain independent and effective self-regulation. This is particularly the case when the likelihood of legal action is low (since most people cannot afford to go to the High Court), when the government has made clear it has no intention of intervening (as it has made explicit since Leveson and in this consultation), and when there appear to be limited commercial benefits to greater public accountability.

For commercial news publishers with large audiences to participate in an independent and effective system of self-regulation in a digital environment, there therefore need to be other incentives.

A number of democratic countries have come to this conclusion in recent years. Lara Fielden examined many different systems of press regulation across the world in a 2012 study.[5] In Denmark, Fielden notes: 'In exchange for submitting to its regulation, and compliance with its rules and decisions online media gain the rights of traditional journalism, for example, in relation to the protection of sources.'[6] In Ireland, '[t]he framework under which the Irish Press Council has been established… identifies certain privileges accorded to the press and then recognises Press Council membership as a demonstration that a publication is worthy of those privileges.'[7] The *Irish Daily Mail* (owned by Associated Newspapers) and The *Irish Daily Mirror* (Trinity Mirror) are both members of the Press Council of Ireland and benefit from the associated legal recognition.

The New Zealand Law Commission recommended that 'only those entities willing to join the NMSA would be eligible to access the news media's legal privileges and exemptions'.[8] These included: 'being able to access a closed court, and to challenge suppression orders, and being exempt from the Privacy Act 1993, and some provisions of the Fair Trading Act 1986, the Electoral Act 1993, and the Human Rights Act 1993'. The Australian 'Convergence Review' proposed making the exemption from Australia's Privacy Act conditional on Press Council membership.

In a separate study Fielden listed the types of incentives that could be offered to publishers that agreed to participate. These might include:

> [A]ccreditation in relation to court reporting and other privileged access to information, attractive advertising associations, recognition of affiliation by the courts in any privacy or libel proceedings…', [and] 'potential taxation and charitable incentives.[9]

---

[5] Fielden, Lara (2012) *Regulating the Press: A Comparative Study of International Press Councils*, Oxford: Reuters Institute for the Study of Journalism

[6] Ibid. (p16)

[7] Ibid. (p17)

[8] New Zealand Law Commission (2011) *The News Media Meets New Media*, http://r128.publications.lawcom.govt.nz/uploads/NZLC-R128-The-news-media-meets-new-media.pdf (p179)

[9] Fielden, Lara (2011) *Regulating for Trust in Journalism*, Oxford: Reuters Institute for the Study of Journalism (p7)

Lord Justice Leveson proposed that there be costs incentives such that news publishers within a recognized system of self-regulation would be more protected financially if someone sought to take them to court. Equally, in this system, publishers that chose to remain outside a recognized system of self-regulation would be more exposed financially if someone sought to take them to court.

Far from being unsuitable to a digital environment, the use of incentives to ensure broad and sustainable participation in independent and effective self-regulation – as Leveson proposed – is both coherent, rational and necessary.

2. External assessment

Since the Second World War there have been three Royal Commissions on the Press (1947-49; 1961-62; 1974-77), two major Parliamentary inquiries into privacy and related matters (1972, 1991), and a review of press self-regulation (1993) These happened approximately every ten to fifteen years, each triggered in part by the failure of major news publishers to live up to the commitments they made after the previous review.

In order to break this repetitive cycle, Lord Justice Leveson proposed that there should be external assessment of self-regulation, in order to assess – on a reasonably regular basis – whether the self-regulator(s) was/were independent and effective on behalf of the public. The powers of this external assessor should be strictly limited to assessment, and it should be demonstrably independent of both government and industry.

As well as breaking the cycle of dependent and ineffective self-regulation, external assessment was necessary if news publishers were to qualify for incentives within the law. Without any external assessment anyone could claim the benefits available to news organisations, without accepting any corresponding responsibility.

Should the government choose to abandon the principle of independent external assessment there is no reason to believe we will not return to the cycle of commissions and inquiries that have characterized press self-regulation since the Second World War.

External assessment not only works as well in a digital environment as in with print, but there is no reason why it should not be extended to other digital services, such as ISPs and social media organisations.

3. The need for low cost legal redress

One of the few areas of relative consensus at the Leveson inquiry was around the need for low cost legal redress. This would, it was generally agreed, benefit both ordinary people, who are unable to gain access to justice otherwise, and news publishers, who are at risk from litigation by wealthy individuals or corporations.

There was no question, Leveson wrote, of the need for quick and inexpensive legal redress:

> In the light of the very real difficulties facing those seeking access to justice, I have no doubt that a regulator needs to provide a speedy, effective and costs-free regime which provides a mechanism for those who complain that their rights have been infringed to be able seek redress. This is equally in the interests of the press who, although an increased number of complaints might be made, will equally be able to hold up the system as a model of dispute

> resolution which is much cheaper (and less me consuming) than litigation through the courts.[10]

The need for such legal redress has not diminished in the digital environment, rather it has increased. There are now many more opportunities for publishers – which in a digital environment can mean virtually anyone – to libel an individual or to illegally intrude on someone's privacy.

Yet the barriers to legal redress remain extremely high. These cases have to be taken to the High Court, the law is complex and requires legal training to interpret, and cases can last for an extended period.

> Privacy claims and claims of the type that have been pursued against [*The News of the World*] are not necessarily straightforward and, in the absence of appropriate legal assistance, there is no question of an equality of arms between those who claim to have been victimised and the press.[11]

As a consequence, just to embark on such an action is very expensive, and to complete one successfully is unaffordable except to the very few. From the perspective of all but the wealthiest individuals, therefore, this blocks access to justice. As Leveson wrote, 'Those of sufficient personal wealth can afford to fund legal advice and representation. Those who are not, cannot.'[12]

The need for low cost legal redress for ordinary people is even more necessary in the digital era as the era of print.

[10] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1512)

[11] Ibid. (p1505)

[12] Ibid. (p1500)

2. The 2016 Consultation in Historical Context

A Repetitive Cycle of Cosmetic Reform

The DCMS/Home Office Consultation announced on November 1st 2016 should be viewed not only in the context of the present post-Leveson environment, but in the wider historical context of UK press self-regulation over the past eight decades. This is because press self-regulation has consistently failed to work for the public, and reform by the industry has been characterized by a consistent pattern of relatively ineffectual changes.

After each of the crises arising from ethical and regulatory failures by the UK's newspaper industry since the Second World War, there has been a sustained campaign of resistance to meaningful change by the industry. Each campaign has invariably been successful in enabling the industry to avoid implementation of many of the recommended reforms. The current consultation, therefore, needs to be seen in the context of the present campaign by the newspaper industry to avoid the reforms proposed by the Leveson Inquiry, agreed in Parliament, and shown consistently in opinion polls since 2012 to be in line with the wishes of the public.[13]. Should the present government accede to industry demands for further concessions, it will be repeating a cyclical process that has perpetuated for many decades.

The Four-Stage Cycle of Failure in UK Press Regulation

Previous research by the authors[14] concluded that periods of reform in UK press regulation have followed a four-step cyclical process:

1. An observed deficiency in the operation of the press (typically consisting of the detrimental impact of proprietorial control or commercial interests on journalistic standards, and/or concerns over existing privacy protection) gathers sufficient support in Parliament to lead to the setting up of an official inquiry

2. The Inquiry makes a recommendation that statutory regulation is – for the time being – off the agenda, but requests a number of reforms underpinned by the threat of possible statutory intervention if they are not fulfilled

3. The press makes selective changes, avoiding those that are especially inconvenient, or those which affect commercial interests

4. Dissatisfaction with the extent of reforms instituted by the press is reduced by better industry behaviour – prominently publicised by the press – which fails to last, restarting the cycle

This pattern has been observed after each of the previous public interventions resulting from observed failings of the newspaper industry prior to the events which led to the creation of the Leveson Inquiry – the Royal Commissions on the Press which reported in 1949, 1962 and 1977, and the Calcutt Reports of 1991 and 1993. Significantly, each of these interventions initially made substantial recommendations for strengthening press regulation, and each of which was either

[13] Public opinion polls published on the subject of press regulation from May 2012 to June 2014 (24 polls in total): http://mediastandardstrust.org/blog/a-list-of-all-polls-on-press-regulation-published-since-may-2012/
[14] Moore, Martin and Gordon Neil Ramsay (2012) *A Free and Accountable Media – Reform of press self-regulation: report and recommendations*, London: Media Standards Trust, http://mediastandardstrust.org/wp-content/uploads/downloads/2012/06/MST-A-Free-and-Accountable-Media-21-06-12.pdf (pp9-22)

initially ignored, or implemented so selectively and self-interestedly by the newspaper industry as to prompt subsequent calls for legislative intervention:[15]

The First Royal Commission on the Press (1947-49)

Main Commission Recommendations and Industry Responses:

- **Creation of a (voluntary, non-statutory) General Council of the Press;** Implemented by industry after a 4-year delay and the renewed threat of statutory regulation
- **25-strong Council to have 20% lay representation;** Industry Council had no lay representatives
- **Code of Practice proposed;** Ignored by industry – finally implemented 40 years later
- **Council to be of significant size and well-funded;** Industry Council had reduced scope and minimal funding
- **Complaints function to be included;** Ignored by industry

The Second Royal Commission on the Press (1961-62)

Main Commission Recommendations and Industry Responses

- **'Second Chance' for self-regulation on basis of previous Royal Commission;** Implemented in part by industry, including lay representation and complaints function
- **Increased funding for Council;** Implemented by industry
- **Powers to consider and deal with press standards and the conduct of the press;** Ignored by industry
- **Tribunal function to hear editor/journalist complaints of interference from advertisers or managers;** Ignored by industry

The Third Royal Commission on the Press (1974-77)

Main Commission Recommendations and Industry Responses

- **50/50 lay/industry representation on the Council;** Implemented by industry
- **Nominations to Council to be accepted from any source;** Implemented by industry
- **Capacity to propose remedies in disputes;** Implemented by industry
- **Extension of Right To Reply, and ability of Council to ensure space available for reply with equal prominence;** Ignored by industry
- **Standards Code to be implemented and Council to have freedom to censure breaches in both spirit and letter of the law;** Ignored by industry
- **Duty to approach publishers to ensure front-page corrections;** Ignored by industry
- **Censure of contentious opinions based on inaccurate information;** Ignored by industry

Committee on Privacy and Related Matters (Calcutt I) (1991)

Main Commission Recommendations and Industry Responses

- **Replacement of Press Council with Press Complaints Commission**; Implemented by industry, along with creation of the Press Standards Board of Finance (PressBoF) to raise funds
- **Reduction in size of committee;** Implemented by industry
- **Introduction of 24-hour complaints line;** Eventually implemented by industry

[15] This analysis is based on a comprehensive summary of the catalysts for each of the public inquiries on press regulation between 1947 and 1993, the solutions and sanctions proposed, and the industry's implementation: Moore, Martin and Gordon Neil Ramsay (2012) *A Free and Accountable Media – Reform of press self-regulation: report and recommendations*, London: Media Standards Trust, http://mediastandardstrust.org/wp-content/uploads/downloads/2012/06/MST-A-Free-and-Accountable-Media-21-06-12.pdf (pp92-95)

- **Ability of regulator to publish and monitor a Code of Practice;** Industry retains full control of Code under ownership of PressBoF
- **Ability of regulator to recommend apologies, and to influence the position of apologies;** Ignored by industry

Review of Press Self-Regulation (Calcutt II) (1993)

Conclusion of Review (Ultimately ignored by Government):

- **PCC should be dissolved due to continued public criticism and failure to implement recommendations of Calcutt I, and replaced with statutory Press Complaints Tribunal:**

  "On an overall assessment, the Press Complaints Commission is not, in my view, an effective regulator of the press. The Commission has not been set up in a way, and is not operating a code of practice, which enables it to command not only press but public confidence. It does not, in my view, hold the balance fairly between the press and the individual. The Commission is not the truly independent body it should be. The Commission, as constituted, is, in essence, a body set up by the industry, financed by the industry, dominated by the industry, operating a code of practice devised by the industry and which is over-favourable to the industry."[16]

The structures left in place after 1993 led to the environment in which the abuses could occur that eventually led to the phone-hacking scandal and the creation of the Leveson Inquiry in 2011, yet the policy of inaction and the adoption of a wait-and-see approach represented a continuation of the cyclical failures in press regulation since 1947. At each juncture, self-interested selective implementation by the industry of recommendations made by official public inquiries has laid the foundations for a collapse in public trust in press regulation several years later.

Where the need for reform has become unavoidable, several themes have been observed in the newspaper industry's responses:

Sidelining of the interests of the general public, and of ordinary journalists: The negotiation of press self-regulation has historically almost exclusively been a conversation between politicians (and those selected to conduct inquiries on their behalf) and the managerial and proprietorial side of the newspaper industry. The National Union of Journalists, often critical of the status quo, has mostly been marginalised when reforms are made. The general public (in whose name both sides claim to be acting) are almost completely absent from the debate. The public involvement in the Leveson Inquiry (for example via testimony from victims of press abuse) was a rare exception to this theme.

The dominance of industry interests: Where reform has taken place in the wake of one of the various inquiries, the newspaper industry has, through the selective implementation of measures, sought to maintain industry control, most notably through the control of funding of regulatory bodies, and control over appointments processes and the rules by which regulatory bodies operate.

The substitution of tinkering in place of genuine reform: Central recommendations of previous inquiries and Royal Commissions have taken decades to achieve implementation. The failure of the various inquiries to elicit genuine reform has led to the entrenchment of certain practices, and an inability to deal effectively with the underlying causes that tend towards systemic problems and public harm.

The growing issue of privacy: The undue invasion of privacy by the press has been identified as a problem requiring further attention since 1938. The inability of politicians and the press to deal with this issue adequately, combined with the advent of new technologies that facilitate the gathering of personal information without consent, ensure that this is an ongoing problem.

[16] Department of National Heritage (1993) *Review of Press Self-Regulation*, London: HMSO, Para 5.26, p41

Repeating the cycle: Selective implementation since Leveson

The Leveson Inquiry was similar to its predecessors in its emphasis of the importance of a free press and in not recommending statutory regulation. In fact, the judge anticipated the arguments that have been made by the press, stating: 'Despite what will be said about these recommendations by those who oppose them, this is not, and cannot be characterised as, statutory regulation of the press.'[17] However, the recommendations differed from previous proposals in two ways. First, an independent auditing body was to be established to assess the independence and effectiveness of self-regulatory organisations, in order to break the repetitive cycle since the 1940s. Second, news publishers should be incentivized to participate in self-regulation in order to make it sustainable.

Yet, events since the Leveson Report was published in November 2012 indicate that an identical strategy has been deployed by the newspaper industry and its representative groups. Certain Leveson recommendations have been cherry-picked and implemented, often in substantially changed form, and other recommendations – particularly those that would have fostered independence of the new regulator from the industry – diluted or ignored. A comparison of the newspaper industry's proposed regulatory system, put forward at various times during and after the Leveson Inquiry and culminating in the creation of the current IPSO-RFC (Regulatory Funding Company) system, demonstrates the industry's approach to bypassing meaningful reform.

During the Leveson Inquiry, PressBoF Chair Lord Black put forward a proposal on behalf of PressBoF for a new regulatory structure, the Independent Press Trust (IPT).[18] The IPT was intended to replace the Press Complaints Commission. Yet it was, Lord Justice Leveson said, highly similar to the PCC.

As the judge stated: 'the [IPT] proposal does not, in its current form, meet any of the criteria that I set out in May.'[19] Going further, Leveson explained that '…the proposal is structured entirely around the interests of the press, with no explicit recognition of the rights of individuals.'[20] In particular, he raised concerns about the dominance of the new funding body, which replicated the powers of PressBoF over the Press Complaints Commission.

Despite this strong critique of the IPT system by Leveson, the newspaper industry continued to construct a system that they had favoured before the judge's Report was published. There are fundamental structural similarities between the IPT (pre-Leveson) and IPSO. These include – a powerful funding body with substantial control over the central aspects of the regulator, including appointments and regulations; continued control over the standards code, with no representation for ordinary journalists; the continuation of mediation over regulation; an extremely high bar for third-party complaints; and a convoluted investigations process that minimises the likelihood of significant financial sanctions being levied. These echo the pattern of selective reform after previous public inquiries.

---

[17] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0779/0779.pdf (Paragraph 73)

[18] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Submission-by-Lord-Black-of-Brentwood1.pdf

[19] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1648)

[20] Ibid. (p1649)

Table 1: How the Industry Has Selectively Implemented Reforms Following Leveson

Area of Concern	Leveson Recommendations (November 2012)	Independent Press Trust Proposal (June 2012)	First Royal Charter (Feb 2013)	PressBoF Charter (April 2013)	IPSO/RFC System (October-November 2013)
Funding body powers	"In my opinion there is no need for such a body to exist at all; it would be perfectly possible for the regulator to set its own fees and collect them directly from its members, taking account of the financial position of the industry" (pp1761-62)	Industry Funding Body granted substantial powers (beyond funding the regulator) over appointments; removal of staff; salaries; membership; sanctions; ownership of standards code; and regulations (Proposed Contractual Framework Sections 5, 6 & 9;[21] IPSO Articles of Association Sections 20, 21 & 22[22])	No additional role in Charter functions[23]	PressBoF (initially) and then IFB to have the following additional powers: *Ownership of Charter; Appointments to initial Recognition Panel; veto on amendments; veto on dissolution of charter; funding of Recognition Panel on annual basis* (Charter Preamble, Sections 1, 9, 10 & 11[24])	Regulatory Funding Company given powers over: Funding and budgets; appointments and salaries; ownership of standards code; regulations; investigations; sanctions; *arbitration and voting by members* (RFC Articles 2, 10, 24, 46 & Schedule 1[25]; IPSO Articles 19, 22, 24, 26, 27 & Schedule 1; IPSO Regulation 34[26]; IPSO Scheme Membership Agreement Articles 1, 5, 7, 10, 24[27])
Code Committee Ownership & Public Input	"I recommend that the standards code must ultimately be the responsibility of, and adopted by, the Board advised by a Code Committee […] It appears to me to be valuable if the Board was to satisfy itself that the proposed Code had been subjected to public consultation…" (p1763)	The IFB, not the Board of the regulator, has responsibility for the standards Code; minority public representation on Committee; Annual public consultations (Proposed Contractual Framework Article 6; Lord Black 'Proposal for a new model' Paragraph 99[28])	No change	No change	Code Committee becomes a subcommittee of the RFC; minority public representation on Committee; *no formal commitment to public consultations, annual or otherwise* (RFC Articles 2 & 10)
Arbitration	"I recommend that the Board should provide an arbitral process in relation to civil legal claims against subscribers" (p1768)	N/A (Prior to Leveson recommendations)	Mandatory: "should provide" (Schedule 3, Section 22)	*Optional: "May provide"* (Schedule 3, Section 22)	Optional: "May provide," *with added power of veto for RFC and capacity for case-by-case implementation at members' discretion* (Scheme Membership Agreement, Section 5.4)
Trigger for Investigation	"In order to provide any broader standards oversight, the body would need to have the power to investigate **serious or systemic breaches** of standards and to require information from publishers to facilitate that. (p1787)	"Serious or systemic breach" (Paragraphs 10 & 11)	"Serious or systemic breach" (Schedule, 3 Para 18)	"Serious or systemic breach" (Schedule 3, Para 18)	Serious *and* systemic breach (Regulation 53.1)

[21] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Lord-Black-of-Brentwood-Annex-B1.pdf
[22] https://www.ipso.co.uk/media/1039/ipso-articles-of-association-2016.pdf
[23] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136347/RC_Draft_Royal_Charter_12_February_2013.pdf
[24] http://mediastandardstrust.org/wp-content/uploads/downloads/2013/04/Press-Royal-Charter-25-4-13.pdf
[25] http://www.regulatoryfunding.co.uk/sites/default/files/15840651-v1-final_rfc_articles.pdf
[26] https://www.ipso.co.uk/media/1240/regulations.pdf
[27] https://www.ipso.co.uk/media/1292/ipso-scheme-membership-agreement-2016-for-website.pdf
[28] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Submission-by-Lord-Black-of-Brentwood1.pdf

Indeed close analysis of the origins and development of certain aspects of the IPSO system also shows the extent to which the newspaper industry has used periods of negotiation during and after the publication of the Leveson Report either to dilute recommendations, or to weight certain rules and regulations in their favour (see Table 1).

Between June 2012 and November 2013 – when IPSO was launched publicly – there were four points at which documents were published indicating the newspaper industry's views or proposals for a post-Leveson regulatory system. These were: Lord Black's IPT proposal; the first iteration of a Royal Charter published in February 2013 following negotiation between government and the newspaper industry, and which the IPT plan would largely have satisfied; the newspaper industry's own Draft Royal Charter, published in April 2013; and the initial papers outlining the IPSO/RFC system, published in October 2013 and amended the following month. Each period was used to dilute the recommendations to the benefit of the industry rather than the public.

The present consultation on Section 40 and Leveson 2 represents another opportunity for the newspaper industry to dilute the post-Leveson regulatory system and weight it in their favour. This repeats a historical pattern going back many decades. This pattern has shown that failure to reform press self-regulation has, over time, subsequently led to collapses in ethical standards and public confidence. The current cycle of negotiation is no different. Should the government choose to dilute or abandon the Leveson system, as this consultation considers, it will be repeating this cycle of failed reform.

The Mechanisms of Industry Control – Powerful Funding Bodies and the Continued Involvement of Senior Industry Figures

Dominance of the Funding Body

Since the constitution of the Press Complaints Commission and the Press Standards Board of Finance in 1990, a hallmark of the UK's press regulatory system has been dominance of regulation by a powerful funding body with powers that go far beyond those expected of an entity whose core function is to collect and distribute funding to the regulator. As identified by Lord Justice Leveson, the role of the funding body contributed to the PCC's 'profound lack of any functional or meaningful independence from the industry.'[29] Indeed, Lord Justice Leveson stated that 'in my opinion… there is no need for such a body [as PressBoF] to exist at all; it would be perfectly possible for the regulator to set its own fees and collect them directly from its members, taking account of the financial situation of the industry".[30] Yet it still remains the template for the current funding body dominating IPSO (the RFC).

Prior to the creation of the PCC-PressBoF system, the newspaper industry primarily exerted control over the Press Council and its predecessors by strict limiting of its funds. The creation of PressBoF represented a structural change that allowed many of these practices to continue, but also concentrated industry power in a small group of directors and gave PressBoF further powers beyond any comparable industry funding body (for example over appointments to the regulator, control of the Code Committee, and over PCC membership).[31]

The PressBoF directors were chosen from the industry groups representing national newspapers, local and regional papers (including a separate body for Scottish regionals and locals), and the

[29] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf, p1520
[30] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf, p1761-1762
[31] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf, p1576

magazine industry. As the section below shows, many of these groups (and PressBoF itself) have shared personnel at various points, including with other industry bodies such as the Editors' Code Committee and the Society of Editors.

Despite the Leveson Inquiry concluding that the powers of PressBoF compromised the independence of the PCC, Lord Black's Independent Press Trust proposal sought to recreate the model, with a new Industry Funding Body (IFB) created on almost exactly the same lines. Again, this was rejected by the judge as preventing true independence for the regulator (see above). Regardless, the industry maintained and even strengthened the powers of the IFB, notably with respect to the industry's proposed Royal Charter and its Recognition Panel (see Table 2). Indeed under that Press Charter the IFB would have had veto power over the dissolution of the Charter, in effect granting it control in perpetuity.

The creation of IPSO has seen a further strengthening of the funding body (now renamed the Regulatory Funding Company, or RFC), with the Regulatory Funding Company retaining many of the powers of the PressBoF/IFB model, and a range of new powers, including veto power over arbitration, veto over changes to regulations, control over the voting power of members, and influence over funding available for investigations.[32]

The presence of a powerful funding body with an inexplicably large range of powers beyond collecting and passing on funding has been central to the industry's ability to exert control and influence on the regulatory system, and was clearly identified by Lord Justice Leveson as anathema to the independence of the PCC. As with many selective reforms, the industry has sought to reinforce and formalise this lever of control through the creation of the RFC.

Dominance of Senior Industry Figures

One of the problems with each system of press self-regulation, Leveson noted, was the dominance of senior industry figures with each system, in such a way that compromised the independence of the system. As Leveson noted, one of the PCC system's key failings was that 'a few powerful individuals have been able to dominate the system.'[33] This has been a consistent characteristic historically, and one which persists in the IPSO-RFC system.

Many of the personnel connected with the PCC-PressBoF system continue to play influential roles either in the IPSO-RFC structure itself, or via industry representative groups – most notably via the News Media Association (NMA), which was formed in November 2014 through a merger of the Newspaper Society (representing local newspapers) and the Newspaper Publishers' Association (NPA – representing national newspapers). This merger has created a more powerful lobbying organisation, apparently at the expense of a loss of a distinct voice for local newspaper representation separate from the interests of the much larger national press. There is no publicly-available evidence that local newspaper publishers were consulted on this merger.

The continued involvement of senior industry personnel in the post-Leveson regulatory system is visible across a series of organisations: on representative and lobbying groups such as the News Media Association and the Society of Editors; on the Editors' Code of Practice Committee; the Regulatory Funding Company; and on IPSO itself.

[32] For a full list of the RFC's original powers, see http://mediastandardstrust.org/wp-content/uploads/downloads/2013/11/MST-IPSO-Analysis-15-11-13.pdf pp11-13
[33] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf, p1625

Industry Links via the Regulatory Funding Company[34]

David Newell is the Secretary of the RFC. As Secretary, Newell has significant powers over the cost of subscription of IPSO membership to different publishers and the voting rights of IPSO members (and therefore over amendments to IPSO's regulations).[35] He is also Chief Executive of the news industry lobbying organisation, the News Media Association (NMA), which has been central to the newspaper industry's lobbying in favour of the IPSO-RFC system, and against IMPRESS, the alternative regulator recognised by the Press Recognition Panel. David Newell was previously Board member and latterly Secretary of PressBoF – for 19 years between 1997 and 2016; his association with PressBoF goes back to 1990, when he was witness to the signing of the papers incorporating the funding body.[36] He was also Secretary of the Newspaper Publishers' Association (the representative body of the national press) between 2008 and 2016 at the same time as being Director of the Newspaper Society (the representative body of the local press, excluding Scotland).

Murdoch MacLennan, Chief Executive of the Telegraph Group, is a Board member of the RFC. He is also on the Board of the News Media Association, having been a Board member of the Newspaper Publishers Association from 1998 to 2016.

Kevin Beatty, CEO of DMG Media, parent company to the publisher of the *Daily Mail*, is the Chair of the RFC, as well as a Board member of the NMA. He served on the NPA Board in two spells for a total of 14 years (1998-2000; 2004-2016). Also on the RFC Board is Michael Gilson, a local newspaper editor most recently with Newsquest, who was a member of the Editors' Code Committee from 2002-2008; and Ellis Watson, CEO of large local publisher DC Thomson, who was previously a Board member of the NPA from 2003 to 2004.

Industry Group Links within IPSO

Several members of IPSO itself – notably the Board and the Complaints Committee – were previously members of the PCC. On the IPSO Board, Charles McGhee, former editor of *The Herald* in Glasgow, was previously a Board member of the Press Complaints Commission (2003-2004), and was also on the Board of the Society of Editors between 2006 and 2008.

On the Complaints Panel of IPSO, Peter Wright – Editor Emeritus at Associated Newspapers – was on the Board of the PCC from 2008-2013 as well as on the Editors' Code Committee from 2003-2007. Mr Wright was also in charge of industry negotiations with the government after the Leveson Inquiry.[37] Neil Watts, a former Deputy Chairman of the Advertising Standards Authority, was on the Board of the Press Complaints Commission in 2012.

On the Appointments Panel of IPSO, Adrian Jeakings was a founding Board member of the NMA and previously President, Vice-President and Treasurer of the Newspaper Society's Council. The initial Appointments Panel at the founding of IPSO contained *Times* editor John Witherow, who has been a member of the Editors' Code Committee for over 18 years, and Paul Horrocks, who was both a PCC Board member from 2002-2005 and a Board member of the Society of Editors from 2002-2009.

Many of those senior industry figures that previously dominated the PCC, therefore, are now integral to the IPSO-RFC system.

---

[34] All information in this section is in the public domain and has been obtained from Companies House

[35] http://www.regulatoryfunding.co.uk/sites/default/files/15840651-v1-final_rfc_articles.pdf

[36] https://beta.companieshouse.gov.uk/company/02554323/filing-history/MDA5NjA3MDEyNGFkaXF6a2N4/document?format=pdf&download=0 p48

[37] http://mediastandardstrust.org/wp-content/uploads/2013/02/Could-Hunt-Black-pass-Royal-Charter-test-1-3-13.pdf (pp38-40)

3. The Similarities between IPSO and the PCC

If, following this consultation, the government chooses to abandon the Leveson incentives and the second part of the Leveson Inquiry, then it will be accepting the claims of major news publishers that press self-regulation has changed fundamentally since Leveson. Yet a comparison of IPSO and the PCC shows how similar they are to one another.

IPSO, like the PCC, mediates but does not regulate. It is not sufficiently independent from the industry it seeks to regulate. Like the PCC, the inherent weakness of IPSO is structural, and has been apparent since its establishment in 2014.

A Failure to Regulate

Prior to and during the Leveson Inquiry there was a general consensus that the PCC had failed as a regulator, particularly due to its ineffectiveness and lack of independence from the industry it was meant to regulate.

> 'Let's be honest' then Prime Minister David Cameron said, 'The Press Complaints Commission has failed. In this case, the hacking case, frankly it was pretty much absent. Therefore we have to conclude that it's ineffective and lacking in rigour' (David Cameron, Prime Minister, 8th July 2011).[38]
>
> The Press Complaints Commission has failed… The PCC was established to be a watchdog. But it has been exposed as a toothless poodle. Wherever blame lies for this, the PCC cannot restore trust in self-regulation (Nick Clegg, Deputy Prime Minister, 8th July 2011).[39]

The problem, the last Chair of the Press Complaints Commission said, was that the PCC was not a regulator: 'The Press Complaints Commission has never been a regulator' (Lord Hunt, March 2012).[40] Likewise Lord Black, formerly Director of the PCC, gave evidence to the Leveson Inquiry that he 'never believed the PCC to be a regulator'.[41] The media commentator Roy Greenslade, writing in his submission to the Leveson Inquiry, similarly concluded that – 'It [the PCC] has not been effective as a regulator. Indeed, it has not been a regulator.'[42] Given the almost unanimous consensus within and outside the industry, it is not surprising that Lord Justice Leveson also concluded that this was one of the fundamental problems of the PCC. It was, he wrote, 'a fundamental failing: the PCC was not a regulator.'[43]

The Press Complaints Commission was, rather, a complaints handling body that sought to mediate complaints on behalf of the public. '[I]n reality it [the PCC] is a complaints handling body' and 'not

---

[38] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf

[39] Ibid. (p1516)

[40] http://www.pcc.org.uk/assets/0/Draft_proposal.pdf

[41] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1541)

[42] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/07/Submission-by-Professor-Roy-Greenslade-of-City-University.pdf (p10)

[43] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1541)

actually a regulator at all'. The 'PCC', he wrote 'is better characterised as a complaints and mediation service.'[44]

Useful though such a service was, it was not regulation (despite being misleadingly presented as such). Yet by claiming to regulate when it did not, the PCC gave an inaccurate impression that there was nothing wrong: 'The self-presentation of the PCC as a competent regulator with adequate powers perpetuated the unsatisfactory status quo. The PCC gave the public a false impression of what it could do and never acknowledged the limitations of its powers.'[45]

The PCC, Leveson found, lacked the powers and the independence to regulate. Its failure was, therefore, structural, and apparent from the outset. 'Although the system as constituted in this manner unravelled, in spectacular fashion, in July 2011,' Leveson wrote, 'the inherent weakness was there for all to see almost from the very start.'[46]

The PCC was, as Leveson wrote, 'little more than a complaints handling body' that mediated complaints, IPSO essentially does the same. IPSO seeks to mediate complaints on behalf of the public, even after a news outlet itself has failed to resolve a complaint in the 28 days available to it.

Mediation can be a valuable service, giving the public a process by which to negotiate a response from a news outlet to a complaint. In the case of the PCC and IPSO mediation is, however, inherently weighted to the benefit of the news outlet to whom the public is appealing. As such it succeeds when complaints are relatively straightforward and easily resolvable, and fails when one side does not agree or where fair resolution cannot easily be reached.

Mediation must also be distinguished from regulation. A regulator keeps a comprehensive record of breaches of the code, publishes transparent records of members' conduct, performs standards investigations where there is prima facie evidence of serious problems, and penalizes members where necessary and proportionate. The PCC did not regulate in this regard; neither does IPSO.

An IPSO complaint is dealt with in much the same way as at the PCC, except that the complainant is first required to approach the news outlet concerned:

- After a member of the public goes to the offending news outlet with a complaint, the outlet has 28 days in which to resolve the complaint, before it escalates to IPSO. If the news outlet successfully resolves the complaint within 28 days, or the complainant chooses not to pursue it, then no breach of the code is recorded, regardless of whether or not a breach has occurred.

- If the publication is unable to resolve the complaint in 28 days it escalates to IPSO. IPSO again seeks to resolve the complaint through mediation, generally through an exchange of letters. The process is similar to that at the PCC, which was singled out by Leveson as a significant failing:

> In most cases, the PCC functioned as a letterbox both for the complainant and the industry, passing on the accounts of events but more damagingly, particularly for the victims of press mistreatment, being unable to challenge in any way the version of events advanced by the industry even in those cases when these were clearly open to question.[47]

---

[44] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1542)

[45] Ibid. (p1538)

[46] Ibid. (p1515)

[47] Ibid. (pp1552-53)

- Leveson was critical of the PCC's persistent attempts to reach a mediated settlement, finding that this worked in favour of the news outlet not the public. The judge acknowledged accusations that the PCC mediated too many complaints to a negotiated conclusion rather than giving formal adjudications, allowing newspapers to capitalise on "complaint fatigue" to encourage complainants to settle. The balance between mediation and formal adjudication, Leveson concluded, had "fallen in the wrong place."[48]

- If the complaint is resolved, then the PCC did not record whether or not there was a breach; neither does IPSO

- If IPSO is unable to resolve the complaint through mediation then it goes to the Complaints Committee who will uphold the complaint (in other words record a breach) or record no breach.

For this reason, just like with the PCC, the number of cases that are recorded as a breach of the code is – as a proportion of the total complaints – very small. '[W]hat is troubling' Leveson wrote of the PCC, 'is the paucity of cases which eventually arrive at the adjudication stage.'[49] A similarly small number of cases arrive at IPSO's adjudication stage (for example see below).

As a consequence, the public is presented with a misleading picture of the accountability and compliance of IPSO members. It is not possible to assess, for example, which outlet is most often found to be inaccurate, which most frequently breaches people's privacy, or which regularly intrudes on people's grief. Equally important, it precludes IPSO from judging whether any outlet is breaching any articles of the code on a systemic basis (which is necessary if IPSO is to justify starting a standards investigation).

This, again, is as it was at the PCC. Given 'that a mediated complaint does not feature in any statistics as a breach of the Code,' Leveson wrote, 'it seems clear that from the point of view of public accountability and compliance there is a misleading picture.'[50]

Associated Newspapers, for example, received 343 complaints in 2015 (Associated Newspapers covers the *Daily Mail*, *Mail on Sunday* – and their Scottish versions, MailOnline, Metro and Metro.co.uk).[51] Associated did not state how many of those complaints represented a breach of the code (nor could it since this would have meant ruling on complaints against itself).

In addition to these 343 complaints, 44 complaints about Associated Newspapers were accepted directly by IPSO or escalated to IPSO during the course of 2015.[52] Of these 44, IPSO resolved 22 through mediation (50%), again not stating whether any of these breached the code. IPSO then ruled on the other 22 complaints. It found Associated Newspapers not in breach in 20 of those 22. It found Associated Newspapers had breached the code in 2 complaints (both regarding the *Daily Mail*). For only one of those two complaints was the *Daily Mail* required to publish an adjudication.

Associated Newspapers was therefore found to have breached the code twice with respect to complaints made in 2015 out of a total of 387 complaints - 0.5% of the total number of complaints that fell within the remit of the code. This does not mean the code was only breached twice, only that this is the total number of breaches recorded by IPSO.

---

[48] Ibid. (p1558)

[49] Ibid. (p1558)

[50] Ibid. (p1558)

[51] These figures are taken from the 2015 Annual Statement that Associated Newspapers submitted to IPSO - https://www.ipso.co.uk/press-standards/annual-statements/annual-statements-2015/

[52] These figures are taken from rulings and resolution statements on the IPSO site - https://www.ipso.co.uk/rulings-and-resolution-statements/

Structured in this way, IPSO is effectively bound to act as a mediator, not a regulator. The vast majority of complaints are resolved with no record as to whether or not they breached the code. There is therefore no comprehensive public record of code breaches. This undermines IPSO's ability to monitor trends in behaviour, obstructs its ability to conduct standards investigations, and gives the public a false impression of news outlets' adherence to the code.

Complaints 'Investigations'

The PCC talked about 'investigations' that were not investigations as the public would imagine, but rather an indication that the PCC considered the complaint to fall within the code and was willing to ask the newspaper to respond to the accusation. These 'investigations' were rarely more than the start of mediation. The PCC would then engage in what was essentially an exchange of letters/emails as:

> A PCC investigation into a complaint typically involves the complaints officer contacting a newspaper to ask for its version of the events or justification for the content at the heart of the complaint. There then follows correspondence between the PCC complaints officer and a contact at the newspaper, typically the newspaper's legal department or managing editor's office. The PCC does not demand documents or other evidence in support of the positions adopted by the parties, although parties might voluntarily supply these. Complainants have access to all material submitted by newspapers in support of their accounts, but do not necessarily have access to the correspondence between a complaints officer and the newspaper. The PCC does not request statements from the journalists who researched and wrote stories.[53]

This is also the process employed by IPSO, including the misleading use of the term 'investigation'. Moreover, IPSO currently 'investigates' fewer complaints than the PCC.[54]

Lack of Independence from Industry

The PCC suffered from 'A profound lack of any functional or meaningful independence from the industry that the PCC claimed to regulate.'[55] So much so that 'On occasion, the PCC acted as an unabashed advocate or lobbyist for the press industry.'[56]

A major part of that lack of independence was structural. The PCC was structured, by the industry, in such a way that it was highly constrained in what it could and could not do. As identified in Section 2 (above), one of the primary means of constraint was through the industry funding body – the Press Board of Finance or PressBoF. As Leveson wrote:

> "The PCC is constrained by serious structural deficiencies which limit what it can do. The power of PressBoF in relation to appointments, the Code Committee and the funding of the PCC means that the PCC is far from being an independent body."[57]

---

[53] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1545)

[54] Based on a comparison of complaints' investigations by IPSO in 2015 and by the PCC in 2011

[55] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1520)

[56] Ibid. (p1530)

[57] Ibid. (p1576)

IPSO suffers from the same lack of independence from the industry as the PCC, for many of the same reasons. Most notably, IPSO is highly constrained by PressBoF's successor, the Regulatory Funding Company (RFC). Given the formal powers granted to the RFC, IPSO is even more dependent on the industry than the PCC. The powers of the Regulatory Funding Company of the IPSO system extend even further than its predecessor.

The Regulatory Funding Company's powers include:[58]

Funding

- **Membership fee**: the RFC decides what each regulated entity pays (Scheme Membership Agreement, 1; RFC Articles of Association)
- **Membership fee collection**: the RFC collects the levy from the participating news organisations (Scheme Membership Agreement, 1; RFC Articles of Association)
- **IPSO budget**: the RFC sets the overall budget of IPSO (RFC Articles of Association 24.4)
- **Initial budget**: the RFC determined the initial budget of IPSO (RFC Articles of Association)
- **Changes in budget**: the RFC decides on increases in the budget, and, in addition, any special funding required (RFC Articles of Association, 24.4)

Appointments

- **Regulatory Board**: the appointment of the five industry members of the regulatory board needs to be agreed with the RFC (IPSO Articles of Association 22.5)
- **Complaints Committee**: the industry members of the Complaints Committee need to be agreed with the RFC (Regulations 42, and Articles of Association 27.4)

The Standards Code

- **RFC subcommittee**: the IPSO Code Committee will, like the previous Code Committee, be a subcommittee of the RFC (RFC Articles of Association, 2.2)
- **Changes to the Code**: the RFC has a veto over any changes to the Code of Practice (RFC Articles of Association, 10.11)

The Regulations

- **Regulations veto**: the RFC has a veto over changes to the regulations (Scheme membership agreement Article 7.1)

Investigations

- **Funding investigations**: the RFC determines the amount paid into the enforcement fund which pays for investigations (Scheme Membership Agreement, 10)

Sanctions

- **Writing sanctions guidance**: the RFC wrote the original Financial Sanctions Guidance which determine the amount of any fines, and has to be consulted should any changes be made to the guidance (Scheme Membership Agreement, 1.1)

Arbitration

- **Arbitration veto**: the RFC has a veto over the very existence of any arbitration scheme (Scheme Membership Agreement 5.4.3)

Voting

- **Determining votes**: rather than one publication one vote, the number of votes of each publisher is determined by how much it pays towards the RFC, which is determined by the RFC.

[58] http://mediastandardstrust.org/wp-content/uploads/downloads/2013/11/MST-IPSO-Analysis-15-11-13.pdf (pp11-13)

> The secretary of the RFC then has discretion over the allocation of votes, and the criteria by which this allocation is made (Scheme Membership Agreement, Article 6.1)

As outlined in Section 2 (above), the RFC, like PressBoF, is also composed of some of the most senior figures in the industry, including (in 2016): the Chief Executive of Telegraph Media Group, the Chief Executive of DMG Media, the legal director of Times Newspapers, the Group Editorial Director of Northern and Shell, and the Chief Executive of the News Media Association. There are no working journalists, or union representatives of journalists, on either the RFC or its subsidiary, the Editor's Code of Practice Committee.

This dominance of the two governing bodies of IPSO, the RFC and the Code Committee, by senior figures within the industry, severely compromises IPSO's independence from the industry. As Leveson wrote of the PCC:

> 'The self-regulatory system for the press, taken as a whole, is not in any way independent of the industry. In particular, two out of the three elements of the self-regulatory structure – PressBoF (on whom the PCC is dependent for its funding) and the Editors' Code of Practice Committee – are wholly composed of serving industry figures and, in both cases, extremely senior industry figures' (p.1,520)

As detailed above, IPSO is structurally very similar to the PCC, with the same inherent structural dependence on the industry. It is symptomatic of what Leveson called 'A pattern of cosmetic reform' of press self-regulation, where '[a] show of reform has been used as a substitute for the reality of it.'[59] As with reforms to the General Council of the Press and to the Press Council, reform of the PCC into IPSO has been cosmetic. Moreover, the constraints on its ability to regulate and its dependence on industry have been inherent in its structure since its establishment.

Unless major changes are made to the structure of IPSO – such as the dissolution of the RFC and the removal of links to other industry representative groups – then its independence will continue to be fundamentally compromised.

[59] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1535)

4. The Differences between IPSO and the PCC

There are differences between IPSO and the PCC, yet these differences are so circumscribed and compromised as to be inaccessible, inapplicable, or ineffectual.

Standards Investigations and Fines

By the end of 2016, almost two and a half years after IPSO launched, it had not launched a standards investigation. Based on public statements by IPSO and the information provided on its website, IPSO had not considered, or explored the possibility of starting, a standards investigation.

Sir Alan Moses told the Culture, Media and Sport Select Committee that IPSO had discussed the rules of investigations, and considered the possibility, but would not launch any investigation without significant justification:

> ***Sir Alan Moses***: One has to be careful and I am very determined we should not launch an investigation lightly, because I think that must be reserved for the most serious sanction, and that it should not be launched unless there is a real prospect that it will conclude that a sanction is justified. Just to do it for the sake of it would be disastrous.
>
> ***Christian Matheson:*** *How close have you come to levying fines or launching investigations?*
>
> ***Sir Alan Moses***: We constantly have it in mind. I cannot say how closely we have discussed it. We have discussed the rules on the basis of which we would launch it and we have discussed the sorts of cases. We have had some hypotheticals. The board and the committee did not always agree as to what was appropriate. We have it constantly in mind and so do the newspapers.[60]

This is significant for two reasons:
1. Standards investigations are meant to be one of the chief differences between the Press Complaints Commission and IPSO.
2. Fines – one of the other main differences between the PCC and IPSO (and the one most commonly cited by IPSO's founders and supporters as its main strength as a regulator) – cannot be imposed until after the successful completion of a standards investigation.

Without conducting standards investigations or imposing fines IPSO loses two of its most substantive claims to be different from the PCC.

Moreover, there is prima facie evidence to suggest that investigations have been warranted in the two years since it was set up:
- There is, and continues to be, little transparency around payments to sources by newspapers. Since 2011, 34 police and public officials have been convicted for accepting payment from journalists. At the one year anniversary of IPSO the editor of the *Press Gazette*, Dominic Ponsford, asked why IPSO had not engaged with this issue.[61]
- A study by the European Commission against Racism and Intolerance (ECRI) published in October 2016 reported that: 'hate speech in some traditional media continues to be a serious

[60] http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/culture-media-and-sport-committee/dealing-with-complaints-against-the-press/oral/38536.html (Q130-131)
[61] http://www.pressgazette.co.uk/ipsos-first-year-report-card-it-has-been-a-tougher-complaints-handler-than-the-pcc-but-is-failing-as-a-regulator/

problem, notably as concerns tabloid newspapers'. It found this 'particularly worrying not only because it is often a first step in the process towards actual violence but also because of the pernicious effects it has on those who are targeted emotionally and psychologically'.[62]

- In February 2015 Peter Oborne alleged that the *Daily Telegraph* was distorting its coverage of HSBC because of the importance of advertising revenue from the bank.[63] Following Oborne's allegation similar concerns have been raised about the influence of commercial relationships at other news outlets.
- In October 2016 Mazher Mahmood, former *Sun*, *News of the World* and *Sunday Times* journalist, was convicted of conspiracy to pervert the course of justice, for actions taken whilst employed by News UK after the conclusion of the Leveson Inquiry. The CPS has, due to the conviction, announced a review of 25 past convictions that included evidence from Mahmood.[64] Mahmood was employed by News Corporation, and subsequently by News UK, for 25 years.

Why has IPSO not started any standards investigations?

There are at least four reasons why IPSO standards investigations have not happened, are not happening, and will only ever happen very rarely if at all; and why – even should such an investigation begin against a major media organisation – the chances of it reaching a successful conclusion are very low. As a consequence, there is almost no likelihood of a large media group ever being fined a million pounds by IPSO, despite this being one of IPSO's key selling points at launch.

Four factors prevent IPSO prosecuting a successful standards investigation:

1. Obstacles to starting a standards investigation

A standards investigation can only be started if there is evidence of 'serious <u>and</u> systemic breaches of the code' - a considerably higher threshold than recommended by Leveson.[65] To obtain enough evidence to exceed this threshold would require ongoing and systematic collection of all code breaches by each news outlet. Yet IPSO does not collect this information. Indeed IPSO is structured such as to preclude the collection of such evidence (see Section 3 above: 'Failure to Regulate').

2. Opportunities to obstruct an investigation[66]

Should IPSO overcome this structural deficiency and start an investigation into a news publisher, it would then have to follow a lengthy process of investigation that gives multiple opportunities to the publisher concerned to influence and – should it wish to – frustrate and obstruct a successful outcome. If the investigations panel is able to overcome obstructions and secure the material on which to draw up a report and recommendations, it is then required to send this draft report – confidentially – to the regulated entity under investigation. The regulated entity then has 28 days in which to respond to the report, to

[62] http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-V-2016-038-ENG.pdf

[63] https://www.opendemocracy.net/ourkingdom/peter-oborne/why-i-have-resigned-from-telegraph

[64] http://www.cps.gov.uk/news/latest_news/action_on_cases_involving_mazher_mahmood/

[65] The self-regulatory body should, Leveson recommended, 'have authority to examine issues on its own initiative and have sufficient powers to carry out investigations both into suspected serious <u>or</u> systemic breaches of the code' http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.asp (p1805, emphasis added)

[66] All information here is derived from IPSO's Rules and Regulations: https://www.ipso.co.uk/media/1240/regulations.pdf

take issue with its findings, or to object to its conclusions. Only once these responses have been dealt with will the investigations panel reach a decision.

3. Fines can be appealed (and challenged)

The investigations panel will then pass on its report to the regulatory Board which will make a decision whether to impose a sanction, and if so, what sanction to impose. Should it decide to impose a fine, that too is open to review (and, subsequently, to legal challenge).

4. Investigations fund at the discretion of major news publishers

To fund an investigation, IPSO has to use the money contained within an investigations fund. The amount of money within this fund is determined by the publishers themselves, through the Regulatory Funding Company (RFC).[67] The RFC has, among its directors, representatives from each of the major newspaper groups – Telegraph Group, DMG Media, News UK, and Northern and Shell. An investigation into a major newspaper group is, therefore, like to rely for its funding on the discretion of one of the same major newspaper group it is investigating.

While IPSO ostensibly has the power to conduct standards investigations, in reality it is structurally and financially impeded from doing so successfully. The only instance in which IPSO can conceivably complete an investigation and levy a significant fine is against a smaller news organisation that did not have the legal or financial capacity to obstruct an investigation.

Why is IPSO only able to levy a fine after the successful conclusion of a standards investigation?

If IPSO is able to overcome the hurdles to commencing an investigation, navigate the multiple complexities of the process, and manage to fund the investigations team sufficiently over the duration of an investigation, then it would – theoretically – be in a position to levy a fine. However, at this point it would be constrained by rules about the scale of the fine – the rules for which were originally written by the major publishers themselves[68] – and any fine it imposed would then be open to appeal.

It is not clear why imposing a fine should be so difficult. Leveson saw fines as something the regulator could impose in addition to an adjudication, not just in highly exceptional circumstances, after a prolonged investigation:

> Fines would be in addition to the publication of the companion adjudication. In the appropriate case, the editor could be required to pay an individual fine (whether or not his paper would defray the cost on his behalf would be another matter); and, in any event, a substantial fine imposed on a company would mark the seriousness of the breach and impact on the reputation of the editor.[69]

---

[67] https://www.ipso.co.uk/media/1292/ipso-scheme-membership-agreement-2016-for-website.pdf (Section 10)

[68] Prior to February 2016 (https://www.ipso.co.uk/news-press-releases/press-releases/ipso-announces-new-rules-and-regulations/https:/www.ipso.co.uk/news-press-releases/press-releases/ipso-announces-new-rules-and-regulations/), the RFC set the financial sanctions guidance. The new Financial Sanctions Guidance document published by IPSO (https://www.ipso.co.uk/media/1042/financial-sanctions-guidance.docx) is currently identical to the original RFC version published in October 2013.

[69] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1554)

Low Cost Arbitration

Legal proceedings on media matters have to be resolved in the High Court. This means that they are very expensive both to start and to pursue, preventing all but wealthy claimants from taking legal action, and means the costs of legal action can be difficult or even ruinous for publishers.

Lord Justice Leveson therefore proposed that any new system of press self-regulation ought to provide a system of low cost arbitration that enables ordinary members of the public to take legal action without risking bankruptcy, and protects publishers from aggressive legal action by corporations or wealthy individuals.

Yet IPSO is unable to ensure accessible low cost arbitration to ordinary members of the public. If it offers arbitration, which will be decided following a pilot (and after obtaining the agreement of the RFC), then the scheme will be optional for publishers to join and optional on a case-by-case basis. An IPSO member will therefore be able to deny low cost arbitration to an ordinary member of the public, knowing that s/he cannot afford to go to the High Court.

Even if IPSO should go ahead with an arbitration scheme, and if all of its members choose to join, and an IPSO member agrees to let a member of the public take them to arbitration rather than the high court, then it will still cost a claimant over £3,000 to gain a final ruling – not including any legal costs they may have incurred.[70]

IPSO Requirement that Complainants go to News Outlets first

There are many similarities to the way in which complaints are dealt with at IPSO to the way complaints were dealt with by the PCC – as set out in the previous section. There are also differences. One of the differences is that members of the public are required to go to the offending newspaper first, before the complaint can be dealt with by IPSO.

From the perspective of the public this can have benefits. The complaint can be dealt with more quickly and at source. However, if the complaint is not straightforward, or the news outlet disagrees with the complainant, this can lengthen and complicate the process. If the outlet is part of a larger media corporation then the complaint is generally dealt with by internal lawyers. If the complainant is not a qualified lawyer and is not familiar with the details of the Code, then they will be at a disadvantage throughout the process. This process can involve extensive correspondence, and allows for a further opportunity for complainants to be rejected or worn down.

This internal process remains, for the most part, opaque. Although IPSO members are obliged to provide annual reports, most of these contain little, if any, detail about specific complaints to individual outlets. Even an organisation that receives hundreds of complaints – such as Associated Newspapers – does not provide details about most complaints beyond the category of the code that they raised. When the complainant is offered redress they do not have comparable offers from which they can gauge whether the offer made to them is fair. If the complaint escalates to IPSO, IPSO re-starts the mediation process.

IPSO and its members argue that the requirement to go to the publication allows for complaints to be dealt with quickly and pragmatically. If the internal processes are consistent and transparent, and the regulator closely monitors the way each complaint is dealt with, then such a claim is justified. However, with exceptions, the internal processes are neither consistent nor transparent, nor are the outcomes (over and above the headline statistics as reported in the parent organisations' annual report). Moreover, though going to the offending outlet is likely to be the most effective way to deal

---

[70] https://www.ipso.co.uk/media/1263/ipso-pilot-arbitration-scheme-summary-july-2016.pdf

with clear-cut complaints where the newspaper acknowledges fault, it will not be quicker for less straightforward ones. Equally, for complaints where the response is considered unfair or insufficient, then the process will inevitably last longer, especially given that IPSO re-starts the process of mediation after taking on the complaint.

The Pilling Review

IPSO commissioned Sir Joseph Pilling to conduct an 'external review' of IPSO, beginning in February 2016. Sir Joseph published his review in October 2016.

As Sir Joseph states in the review, his purpose was 'much more limited than Lord Justice Leveson's.'[71] The Leveson Inquiry was announced in July 2011, held more than 70 days of hearings with more than 300 witnesses, and published a report of over 2,000 pages in length in November 2012. Sir Joseph worked on his review part-time for eight months, with part-time help a lawyer from 11KBW.[72] Both were asked to do the work, and paid for their work, by IPSO. The Leveson Inquiry was, therefore, by many orders of magnitude, a different process than Sir Joseph Pilling's and does not bear serious comparison.

Sir Joseph based his findings chiefly on interviews. He spoke to 63 people in total. 53 of these 63 (84%) worked either for IPSO itself or for a news organisation.[73] Of the ten other people Pilling interviewed who did not work for IPSO or a news organisation, four were from the Press Recognition Panel, two were Peers, one was representing the National Union of Journalists, one was an academic, and two were from the campaign group Hacked Off. Sir Joseph did not speak to any complainants. It is hard to see how Sir Joseph could make balanced conclusions about IPSO's independence and effectiveness by speaking almost exclusively to IPSO and the industry itself.

Regarding the three most important differences between IPSO and the PCC – investigations, fines and arbitration – Sir Joseph acknowledged that he was unable to make a judgment. Regarding standards investigations; 'in circumstances where one [a standards investigation] has not yet taken place,' Pilling wrote, 'it is not possible for me to say one way or the other whether it will be effective and independent.'[74] With respect to fines, Sir Joseph did not make any finding, presumably because no fines had been levied since IPSO started, and therefore that aspect of the system remained untested. With arbitration, Sir Joseph again stated that 'Given the very early stage of the arbitration pilot it is not possible for this review to reach any conclusions on its effectiveness.'[75]

Absent from Sir Joseph's review is any examination of the roles of the Regulatory Funding Company (RFC) or its relationship with IPSO. This despite it being contained within his terms of reference).[76] The only substantive references to the RFC are in found in Chapter 2 of the review, in which Sir Joseph outlines the RFC's basic functions in financing the system (though without going into any detail about how it works).[77] As explained in this submission, funding is only one aspect of the RFC's powers with regards to IPSO. The RFC's powers extend to the Code, to the regulations, appointments, sanctions, arbitration, voting, and representation of IPSO members. It is therefore not possible to assess IPSO's independence without assessing its relationship with the RFC.

---

[71] http://www.ipsoreview.co.uk/s/IPSO_REVIEW-39fb.pdf (Paragraph 6)

[72] https://www.theguardian.com/media/greenslade/2016/feb/24/former-civil-servant-appointed-to-review-independence-of-ipso

[73] http://www.ipsoreview.co.uk/s/IPSO_REVIEW-39fb.pdf (pp45-46)

[74] Ibid. (Paragraph 118)

[75] Ibid. (Paragraph 132)

[76] http://www.ipsoreview.co.uk/terms-of-reference: '4. [The review will consider:] the relationship [of IPSO] with the Regulatory Funding Company'

[77] http://www.ipsoreview.co.uk/s/IPSO_REVIEW-39fb.pdf (Paragraphs 29-32)

The Pilling Review should best be read not as an external review, and not as an evaluation of IPSO's independence and effectiveness, but as a gentle encouragement towards further evolutionary reform. In this respect the Pilling Review addressed even less than the PCC's Governance Review of 2010, of which Leveson said: 'None of these changes addressed the fundamental weaknesses of the self-regulatory system. Nor did the reforms make the PCC, or the wider self-regulatory system, more independent of the press.'[78]

[78] http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf (p1537)

Supplementary Submission: The Question of Size

This submission proposes a change to the current plans for implementation of Leveson, though not one put forward in the consultation. This change could allow the government to address concerns raised about the potential impact of the commencement of Section 40 on small publishers, while ensuring that large publishers – who by definition possess the legal resources to obstruct access to justice to individual claimants – are incentivized to participate in independent and effective self-regulation.

Who should self-regulation apply to?

One of the questions left unanswered by the Leveson report was with respect to whom the recommended system of regulation should apply. Most notably, who should be better protected by the legal incentives for publishers and who should be more exposed?

The Department for Culture, Media and Sport subsequently developed a definition – contained in the Crime and Courts Act 2013, Section 41 and Schedule 15.[79] This definition is, however, complex, open to misinterpretation, and contains multiple exemptions. For these reasons, this submission suggests, it is not helpful and could even be damaging. Should the government revise this definition according to the lines set out in this addendum then – the authors submit – independent self-regulation ought to be fairer, more comprehensive and more sustainable.

The fundamental purpose of regulation should be to resolve imbalances in power. It ought to help ordinary people who have been wronged by large media corporations, at the same time as helping small publishers who are threatened by wealthy individuals or corporations. Regulation should therefore, if properly structured, give ordinary people the opportunity to hold powerful corporations accountable, and give publishers the ability to defend themselves against legal threats from corporations, governments and wealthy individuals.

For this reason, individuals and small publishers ought to be under no obligation to participate in a self-regulatory system. There should be no external accountability for them beyond the law itself. Any obligation for individuals or small organisations to participate in a self-regulatory system would be unnecessarily onerous and liable to constrain free speech.

At the same time, there should be nothing to stop a small publisher from joining a system of self-regulation and, should it join, from enjoying the extra protections that go with participation (such as protection from court costs). Yet, they should not be exposed to additional costs should they decide, for whatever reason, to remain outside.

Large media corporations, who already enjoy special privileges within the law and have much greater power of voice than individuals or small publishers, should not enjoy exactly the same rights as individuals and small publishers. As the philosopher and cross-bench peer Baroness O'Neill said in her Reuters Institute lecture in 2011:

> Powerful institutions, including media organisations, are not in the business of self-expression, and should not go into that business. An argument that speech should be free because it generally does not affect, a fortiori can't harm, others can't stretch to cover the speech of governments or large corporations, of News International or the BBC.[80]

---

[79] http://www.legislation.gov.uk/ukpga/2013/22/contents/enacted

[80] https://reutersinstitute.politics.ox.ac.uk/ckfinder/userfiles/files/1254-The-Rights-of-Journalism-and-Needs-of-Audiences.pdf

Large news publishers have voices far louder, with significantly greater impact, than any individual. They have the power to frame and influence opinion and public understanding. They have the power to seriously harm private citizens through their influence, authority and reach. Moreover, there is evidence – some of which led to the Leveson Inquiry itself – that certain large media have caused significant harm.

It is also much harder to hold large media corporations to account than individuals or small publishers. The latter cannot reach the same number of people, nor do they have the same influence or authority, nor do they have in-house lawyers to deal with complaints or legal threats.

It is therefore both rational and justifiable that large media corporations, which have the capacity to cause clear and identifiable harm, should have some responsibility to participate in a system of independent and effective self-regulation. Without any such responsibility there will, necessarily, be a significant inequality of arms between the corporation and the individual, and the media corporation will be unaccountable to all by the wealthiest. Regulatory responsibility should help provide a greater equality of arms between ordinary people's freedom of expression and that of powerful media organisations.

Large publishers that deliberately choose not to participate in a system of independent and effective self-regulation are choosing to remain unaccountable except to the wealthiest. As such they are stopping ordinary people from gaining fair redress. This is inequitable and, if allowed to persist, is liable to lead once again to the types of abuses of power that were revealed by the Leveson Inquiry.

Those large publishers that choose to remain outside a system of independent and effective self-regulation, which includes the provision of low cost arbitration, should be exposed to the costs of those who would otherwise be denied access to legal redress. Should these large publishers participate in a system of independent and effective self-regulation then they too should be able to benefit from greater protection.

How to determine what is a large versus a small news publisher?

We already have existing, established definitions within the law to distinguish between small and large organisations. The Companies Act 2006 sets out the definition of a small company. Section 382 of the Companies Act (2006) states that: 'The qualifying conditions [of a 'small company'] are met by a company in a year in which it satisfies two or more of the following requirements: turnover [being] not more than £6.5m; balance sheet total not more than £3.26m; number of employees not more than 50.'[81]

Any news publisher at the upper threshold of 'small company' or below should have no regulatory obligation beyond the law. By contrast, large news publishers, who fall above this threshold, should be exposed to legal costs should they prevent ordinary people gaining access to fair legal redress.

Based on this threshold the large news publishers who would be exposed to costs should they decide not to join a recognized regulator would include: *The Daily Telegraph*, part of Telegraph Media Group; *The Daily Mail* – as part of DMGT; *The Guardian* – part of Guardian Media.

Those publishers who would not be exposed to costs should they decide not to join recognized regulator since they fall below the size threshold, but would enjoy greater legal protection should

[81] http://www.legislation.gov.uk/ukpga/2006/46/section/382

they choose to join, would include, for example: *Private Eye* (Pressdram Ltd[82]); *The Barnsley Chronicle* (Barnsley Chronicle Ltd[83]), Isle of Wight County Press Group Ltd[84]; Baylis Media Ltd[85]; and other smaller publishers.

Accordingly, we propose that the definition of a relevant publisher should be changed such that individuals or publishers with turnover of £6.5m or less a year should not be exposed to legal costs (but should be able to gain protections) while news publishers above this threshold should be exposed (as well as being able to benefit from protections should they participate in independent and effective self-regulation).

[82] Based on 2015 annual accounts: https://beta.companieshouse.gov.uk/company/00708923/filing-history/MzE1MjEyOTYzNGFkaXF6a2N4/document?format=pdf&download=0

[83] 2015 annual accounts: https://beta.companieshouse.gov.uk/company/00029043/filing-history/MzE1MzE5NDIyOWFkaXF6a2N4/document?format=pdf&download=0

[84] 2016 annual accounts: https://beta.companieshouse.gov.uk/company/00023788/filing-history/MzE2MTY3Nzk5NGFkaXF6a2N4/document?format=pdf&download=0

[85] 2016 annual accounts: https://beta.companieshouse.gov.uk/company/00382741/filing-history/MzE1NTI5NzE0NWFkaXF6a2N4/document?format=pdf&download=0

Appendix 1: Relevant Publications

All of these publications were written by one or both of the authors of this submission

Media Standards Trust (2009) *A More Accountable Press*, http://mediastandardstrust.org/wp-content/uploads/downloads/2010/07/A-More-Accountable-Press-Part-1.pdf

Media Standards Trust (2010) *Can Independent Self-Regulation Keep Standards High and Preserve Press Freedom?* http://mediastandardstrust.org/wp-content/uploads/downloads/2010/08/Reforming-independent-self-regulation.pdf

Media Standards Trust (2012) *A Free and Accountable Media: Media Standards Trust Submission to the Leveson Inquiry*, http://mediastandardstrust.org/wp-content/uploads/downloads/2012/06/MST-A-Free-and-Accountable-Media-21-06-12.pdf

Media Standards Trust (March 2013) *Could the Black/Hunt Proposals for a New Self-Regulator Pass the Draft Royal Charter Test?* http://mediastandardstrust.org/wp-content/uploads/2013/02/Could-Hunt-Black-pass-Royal-Charter-test-1-3-13.pdf

Media Standards Trust (March 2013) *The Story of Eight Charters*, http://mediastandardstrust.org/mst-news/the-story-of-eight-charters/

Media Standards Trust (May 2013) *Analysis: Press Coverage of Leveson, Part 1: The Inquiry*, http://mediastandardstrust.org/wp-content/uploads/downloads/2013/05/MST-Leveson-Analysis-090513-v2.pdf

Media Standards Trust (May 2013) *Submission to DCMS Consultation on PressBoF Petition for a Royal Charter*, http://mediastandardstrust.org/wp-content/uploads/downloads/2013/10/MST-submission-re-PressBoF-Charter-24-5-13-PDF.pdf

Media Standards Trust (May 2013) *The Cross-Party Royal Charter vs the PressBoF Royal Charter*, http://mediastandardstrust.org/wp-content/uploads/downloads/2013/06/Charter-vs-Charter-23-05-13-PDF.pdf

Media Standards Trust (July 2013) *MST Analysis of Proposals for the Independent Press Standards Organisation (IPSO)*, http://mediastandardstrust.org/wp-content/downloads/2013/07/IPSO-a-short-analysis.pdf

Media Standards Trust (November 2013) *The Independent Press Standards Organisation (IPSO): An Assessment*, http://mediastandardstrust.org/wp-content/uploads/downloads/2013/11/MST-IPSO-Analysis-15-11-13.pdf

Media Standards Trust (September 2014) *How Newspapers Covered Press Regulation after Leveson*, http://mediastandardstrust.org/wp-content/uploads/2014/09/Final-Draft-v1-040914.pdf