

Leveson Round-Up: The Legitimacy Challenge

Lord Justice **Leveson** was thrown what in rugby is called a 'hospital pass'. This is one that you receive just as several large, powerful – and ruthless – bodies are bearing down on you from different directions. So far, Leveson is proving adept at avoiding serious damage as he negotiates the politics and procedure. But as he does so it is worth standing back from the cut and thrust to ask where the Inquiry is in procedural terms, where it is going, and whether the inquiry itself is likely to end up as a casualty.

Parallel processes means Leveson is one of many

Medialand is digging in for a long, complex battle on many fronts. Culture Minister Jeremy Hunt has **deferred** to Leveson, indicating that government legislation will wait for Leveson before addressing media plurality and ownership issues. This could lead to serious delays: Leveson himself has hinted that he may not be able to deliver a report within 12 months. With Ofcom and the Culture, Media and Sport Committee now both doing separate consultations on media plurality, the Lords Communication Committee looking at investigative journalism, as well as the ongoing inquiry by the **Joint Committee** on Privacy and Injunctions and the government's **Communications Review**, the growing complexity of the **policy process** is in itself a challenge. Leveson has the additional challenge of bringing the Press with him – something he must do if he might want newspapers to fund any kind of voluntary scheme.

Buried in all this is the question of how all these various consultations and inquiries relate to one another. The truth is that this could result in an unseemly scrum, sometime towards the end of 2012.

For historical parallels to the current process we would have to return to the 1970s. Then, in parallel and over several years, the separate processes of the Annan Committee Inquiry into Broadcasting and the Royal Commission on the Press conducted a similar degree of soul searching and debate. One of the interesting parallels with this process is that whilst these inquiries were conducted in the rather paternalist 'wise men' model of post-war policymaking they were open and exhaustive processes, conducted over a reasonable period of time, giving ample opportunity not only to 'interested parties' or 'core participants' but to all citizens and experts that wanted to submit evidence.

Enabling participation means more than inviting

So Leveson needs buy-in from the public and from the press. It is surprising then that the public consultation conducted by Leveson, has so far been haphazard and somewhat hit and miss. The initial call for evidence was not effectively communicated. The seminars, as we have **pointed out**, were invitation only and skewed to interested parties such as the media themselves. The Core Participants giving evidence are, for the most part, victims and perpetrators. Given the circumstances, the wide range of **civil society** and **academic** organisations that wish to respond find it hard to have their voices included.

Lord Justice Leveson himself seems to have a clear sense of purpose. He has sent a **shot across the bows** of the press, warning them that they should not, in their coverage, go after phone hacking 'victims' as they testify. He said that any evidence that they do so will only confirm impressions that something is amiss, and could therefore influence his report. If he wants to strengthen his hand for the real endgame of this process, he would be well advised to open this process and set out now some detailed timelines and deadlines for the **remaining 'modules'**. In order to get full and useful input from experts, citizens groups and others, Leveson's apparent attitude of openness needs to be matched with an organised plan for how people can get involved.

Academic and civil society organisations are starting to respond to questions and make recommendations, but they are hard pressed to do so in a space of days or weeks and according to shifting deadlines. The Inquiry should develop a public consultation plan relating to its three remaining modules and publish questions and deadlines before Christmas, leaving several months for organisations to respond. It should also consider redefining 'core participant'. Core participants in Module 3 in particular should include an equal weighting of citizens representatives in civil society organisations. They should be the leading constituency in any discussion of the relationship between press and politicians, not an optional extra

Legitimacy may require broader terms

Justice Leveson is conducting the inquiry within the restricted terms of the [Inquiries Act](#). If Jeremy Hunt was running a government consultation on Media Plurality, he would have to conduct it within clearly [delineated rules](#) on openness and process, according to which: "Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible."

Lord Justice Leveson can reasonably argue that the government's code of conduct on consultation does not apply to judicial inquiries such as his, but he might also acknowledge that due to the unusually broad scope of the Leveson Inquiry and the broad public interest in its proceedings, it should not shrink from public involvement.

Ultimately the end of this process will involve the government and other potential implementers of recommendations considering Leveson's findings along with Parliamentary committee reports, stakeholder statements and other voices. The Leveson Inquiry will only be part of the process. If it cannot claim to have been fully representative of all voices and not captured by any single interested constituency, its position will be undermined.

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