

## The Risks of Abandoning Leveson



*Theresa May's government should carefully consider the risks of diluting or abandoning Leveson once its consultation closes on Tuesday, argues **Martin Moore**, director of the Centre for the Study of Media, Communication and Power at King's College London. The points made in this post are explained at more length in the Centre's submission to the DCMS/Home Office consultation on the implementation of Leveson.*

How will Theresa May's government decide whether to implement Leveson after the current **consultation** closes? It appears to be inclined to dilute or abandon the court costs incentives and Leveson Part Two – otherwise why launch the consultation in the first place? The government already had the recommendations of an independent judge, the democratic mandate from Parliament (which passed the **amendments to the Crime and Courts Act** by 530 votes to 13 in March 2013), and the support of the public (**based on at least 24 different polls** run from 2012 to 2014) to commence the incentives and Leveson 2.

If this is indeed the government's inclination, before it goes ahead and compromises or cancels Leveson, it may want to consider the risks in doing so. Here are just five:

1. **Groundhog Day:** should the government accede to industry demands to dilute or abandon then it will be repeating a cycle that has perpetuated for eight decades. 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). After each the press made 'cosmetic reform' (in the words of Leveson) which was accepted by the government of the day, but then failed to lead to substantive change or greater accountability, and then resulted in another commission/inquiry within 10-15 years.
2. **Endorsement of unsatisfactory status quo:** to justify not implementing Leveson or Leveson Part Two, the government will necessarily endorse IPSO, a self-regulatory organisation that is very similar to its failed predecessor, the PCC. IPSO suffers from the same lack of independence from the industry as the PCC, for many of the same reasons. Most notably, the IPSO system is controlled by the industry funding body, the Regulatory Funding Company (RFC), just as the PCC system was controlled by its funding body, PressBoF. In addition, IPSO – like the PCC before it – mediates but does not regulate. Since it was established in 2014 it has launched no standards investigations, nor has it levied a single fine. Nor does IPSO cover all major news publishers. IMPRESS, though recognized as independent and effective by the PRP, currently covers a relatively small number of news publishers. From the perspective of the public, endorsement of the status quo will be deeply unsatisfactory.
3. **An unsustainable system:** in a digital era independent and effective self-regulation becomes increasingly difficult to sustain without incentives. In such an environment the commercial challenges to participation are more acute. A number of countries have come to this same conclusion (see Lara Fielden's 2012 study '**Regulating the Press**'). Leveson proposed that there be court costs incentives that give news publishers within a recognized system of self-regulation more protection, and leave those outside more exposed. This was one of the key differences between the Leveson system and those recommended by previous inquiries. Since it is an innovation it is not certain whether or not it will work. If it is abandoned now we will never know. Moreover, without legal, financial or other incentives to participate, any system of press self-regulation will decay and fragment.
4. **Justice denied:** 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, be of benefit both to ordinary people who are unable to gain access to justice otherwise, and to news publishers who are at risk from litigation by wealthy individuals or corporations. Diluting or abandoning Leveson will deny ordinary people this redress. 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 following agreement of its industry funding body), 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.

5. **Who guards the guardians?:** to dilute or abandon the implementation of Leveson will be to accept the prerogative of large media organisations to make their own rules – even in spite of the will of Parliament. To cancel Leveson Part Two would be to fail to investigate corporate responsibility for the systematic abuse of power by News International and other organisations. This at a time when governments face the challenge of dealing with even larger transnational media companies like Google and Facebook.

Given that May's government have chosen to reconsider the recommendations of Lord Justice Leveson and to ignore the 2013 Parliamentary vote by launching this consultation, then presumably it will make a decision on the basis of responses to it. Since these responses will inevitably contain arguments both for and against implementation, its eventual decision will be political. When considering the politics, the government ought to consider the long-term risks of diluting or abandoning Leveson against the furious demands of parts of the press.

*This post gives the views of the author and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics and Political Science.*

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