

## Leveson Round-Up: A New Compact for the Press?

Push came to shove this week in Court 73. The UK newspaper industry outlined to the **Leveson Inquiry** the initial proposals of its last-ditch pitch for reform of self-regulation. The press, understandably, want to retain some control over their regulation, and **Lord Hunt**, as chair of the Press Complaints Commission revealed that newspaper publishers offered him a ‘blank sheet of paper’ on which to develop proposals to save self-regulation. Since he was appointed last October, discussions have been going on behind the scenes to develop a beefed-up framework including a ‘contractual’ basis for an “Authority” to replace the PCC, and his proposals have the support of the press industry.

Former PCC director and current chair of the funding body for the PCC **Guy Black** underlined the importance of the Hunt proposals on Wednesday. He reported that they have the support of all the trade associations and – it seems – the editors. But they are as yet just outline proposals, and as Leveson was quick to point out after hearing them: the devil will be in the detail.

### The Right Medicine?

Leveson has isolated some of the symptoms of the current malaise of the UK self-regulatory scheme: a lack of sanctions, a lack of compulsion for publishers to join (the ‘Desmond problem’) and a perception of a lack of independence from industry. The Hunt proposals attempt to deal with these, but as the evidence sessions unfolded, the Inquiry is in no way convinced that it will do so satisfactorily.

The centre of the proposals tabled this week will be to develop a commercial contract between publishers and The Authority. The contract will cover funding, handing of complaints and would commit the newspaper publisher to cooperate fully including providing papers and witnesses and paying for any investigation. The contract will make it difficult to leave The Authority. In terms of the Desmond problem, it seems a number of incentives to join are under consideration. Tax breaks have been much discussed, and Lord Black mentioned that a proposal to develop alternative dispute resolution for defamation and/or access to certain public interest defences could be conditional on membership of the self-regulatory body. On sanctions, Lord Black said that he now believes “that some form of fining element would be appropriate” and that “the very real lack of powers within the self-regulatory system to conduct investigations” needs urgently to be addressed.” Whilst it would be easy to dismiss the predictable mood music: “we are looking at fundamental change. Starting from scratch.” These are genuinely new territories for the PCC.

### The Sword of Damocles

Will it be enough? Leveson is quite clear in indicating that his first preference is for the press itself to come up with a solution, but he knows that a credible threat of statutory regulation must be held over them if they are to come up with anything convincing. He clearly has his doubts that they will do so, and wants to retain the initiative. He was careful to underline that the remit given to Hunt was a narrow one, – the reform of self-regulation which is quite different to his own.

That Leveson is not sitting back and waiting for the press to come up with their own solutions was underlined by a Wednesday afternoon examining statutory regulation in the form of Ed Richards and **Colette Bowe of Ofcom**. The PCC problem is that it is perceived as being too captured by industry, whilst Ofcom’s is there is a perception of capture by government or the political establishment.

If at times the Leveson inquiry seemed recently like a 'live' negotiation about the reform of the PCC, that is because this is what it was. Hunt and Black set out some proposals, and Leveson and co. indicated their broad requirements. These negotiations could be unfolding a new compact for a self-regulating press, or if it does not work, they could go down in history as the end of a genuinely independent self-regulatory system. So it is worth reflecting on what Leveson and the counsel to the inquiry outlined as potential sticking points.

- Fines – How much and who, precisely will adjudicate on them and set the tariffs?
- Revising the code – e.g. the issue of the Public Interest. Will there be lay representation? Guy Black seemed open to having some lay members, whilst the Inquiry was interested to hear why not a majority of non-journalists
- Adjudicating on the code – Who does it and how are they appointed? How can their independence be guaranteed?
- Initiating complaints – Will the Authority be able to do so?
- Appointments of the board and the chair – Will the editors still control it? Will there be a public appointments procedure.
- Content of the contract – Leveson made it quite clear that *"it would not be possible to proceed without the language of the contract and the arrangements being well known"*.

Whether the publishers, and Lord Hunt can come up with a solution that satisfies Leveson on these points will determine whether the press continues to be self-regulated in the UK. We can expect to see revised proposals in coming weeks: as Leveson noted in thanking Lord Black for his evidence: 'Time is becoming of the essence'.

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