

Max Mosley

c/o Collyer Bristow LLP

Ms Rowena Collins Rice
The Leveson Inquiry

8 June 2012

Dear Ms Collins Rice

Thank you for your letter of 24 April. I am very grateful to Lord Justice Leveson for the opportunity to expand on the proposals I submitted on 16 January.

The enclosed proposal sets out to answer the "what" and the "how". I believe it meets the Inquiry's criteria attached to your letter but, for completeness, I have very briefly set out each point below.

The only thing I would add to the criteria is that, for the reasons set out in the proposal, I believe that enforcement should be at no cost to those involved.

Yours sincerely,


Max Mosley

Compliance with the Inquiry's Criteria for a Regulatory Solution

1. **Effectiveness**

1.1 Any solution must be perceived as effective and credible both by the press as an industry and by the public:

- a) It must strike a balance, capable of being accepted as reasonable, legitimate and in the public interest by all.

The system I have proposed consists of a rule making body The Press Commission and a separate dispute resolution and investigatory body The Press Tribunal.

The proposed system would be balanced, coming from a body evolved from the current PCC but with greater input from outside the industry. Mediation and, if necessary, adjudication by an entirely separate and independent body would ensure fairness. The dispute resolution process would be at no cost to complainant or defendant, so the current potential for oppression through cost would be eliminated.

- b) It must recognise the importance for the public interest of a free press in a democracy, freedom of expression and investigative journalism, the rule of law, personal privacy and

other private rights, and a press which acts responsibly and in the public interest.

The two greatest threats to press freedom and the rights of the individual are want of plurality and the enormous cost of litigation. Eliminating the risk of massive costs would encourage investigative journalism. It would also allow the rule of law to apply to the majority of the population who are currently excluded from the courts. A requirement for prior notification in relation to the publication of private information would ensure that press freedom was not abused.

- c) It must promote a clear understanding of 'the public interest' which would be accepted as reasonable by press, industry and public alike.

A precise definition of "public interest" to fit all circumstances is probably not possible. The proposal offers a broad definition coupled with a list of subjects which are presumed to be in the public interest together with a list of those presumed not to be. Both presumptions would be rebuttable.

- d) It must be durable and sufficiently flexible to work for future markets and technology, and be capable of universal application.

The proposal would work equally well for the internet and solve the difficulty of localised on-line abuse which is already a problem and likely to increase.

2. **Fairness and objectivity of Standards**

- 2.1 There must be a statement of ethical standards which is recognised as reasonable by the industry and credible by the public. This statement must identify enforceable minimum standards as well as articulating good practice that should be aimed for.

The proposal does not attempt to provide a comprehensive statement of ethical standards but rather creates a structure in which such standards can be agreed upon by those with the necessary experience and expertise. The new rule-making body (evolved from the current PCC) would produce a definitive statement of ethical standards after wide-ranging consultations, particularly with media academics.

- 2.2 All standards for good practice in journalism should be driven by the public interest and must be benchmarked in a clear objective way to the public interest.

In this proposal these standards would also be incorporated into the rules.

- 2.3 The setting of standards must be independent of government and Parliament, and sufficiently independent of media interests, in order to command public respect.

The proposed new rule-making body would have input from the media but would not be controlled or unduly influenced by the media. It is essential that the rule-making body protect the interests of the public but it should also take full account of representations from the media.

3. **Independence and transparency of enforcement and compliance**

- 3.1 Enforcement of ethical standards, by whatever mechanism, must be operationally independent of government and Parliament, and sufficiently independent of media interests, in order to command public respect.

The proposed nationwide network of adjudicators would be wholly independent of both government and media in the same way as the magistrature and judiciary.

- 3.2 In particular all relevant appointments processes must be sufficiently independent of government, Parliament and media interests to command public support.

Appointments would similarly be independent.

- 3.3 Compliance must be the responsibility of editors and transparent and demonstrable to the public.

Editors would be responsible for their publications but the public would have the reassurance of a proper mechanism to sanction non-compliance. Equally, in the case of the internet, where there will often be no editor, the proposal provides the means to ensure compliance (subject in some cases to the necessary laws and conventions being in place).

4. **Powers and remedies**

- 4.1 The system must provide credible remedies, both in respect of aggrieved individuals and in respect of issues affecting wider groups in society.

It is proposed that the new Tribunal should possess similar powers to those of the courts plus some alternative powers. It would enforce both the law and the rules.

- 4.2 The regulatory regime must have effective investigatory and advisory powers.

Pre-publication advice would be available on request and would safeguard an editor in the event of a subsequent complaint. The Tribunal could investigate of its own motion and also safeguard the interests of groups. Accuracy would be one of the requirements of the rules.

- 4.3 The system should also actively support and promote compliance by the industry, both directly (for example by providing confidential pre-publication advice) and indirectly (for example by kitemarking titles' own internal systems).

Pre-publication advice, for example as to whether notice should be given before an actual or potential invasion of privacy, is an important part of the proposal. Advice on internal systems would be readily available.

- 4.4 The system should be a good fit with other relevant regulatory and law enforcement functions.

It would operate in parallel with the High Court and have almost the same powers. But access to the High Court would be available only in very limited circumstances. The new system would apply both the law and the relevant rules and thus fit into the UK regulatory structure.

5. **Cost**

- 5.1 The solution must be sufficiently reliably financed to allow for reasonable operational independence and appropriate scope, but without placing a disproportionate burden on either the industry, complainants or the taxpayer.

Apart from being free to those using it (both public and publishers), the proposed system would itself be efficient and inexpensive. It would be financed by a levy of less than 1p per

copy distributed, payable by print publications with a circulation exceeding 30,000 (I have suggested this figure so as to limit the problem of collecting from a myriad of small circulation publishers – but it may be that a smaller figure would be appropriate). The levy would be supplemented by any fines imposed by the adjudicators.



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