

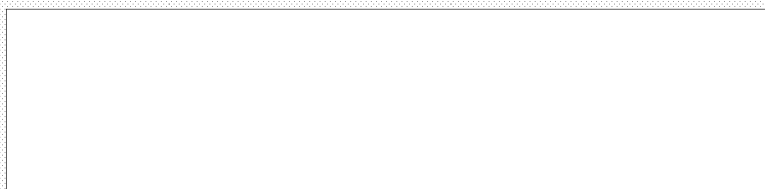
THE LEVESON INQUIRY:  
THE CULTURE, PRACTICES AND ETHICS OF THE PRESS

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EXHIBIT "CIP"

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This is the exhibit "CIP" referred to in my witness statement dated 23 December 2011.



CHRISTOPHER IAN PARKER

23 December 2011

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**Microsoft**

## MEMORANDUM

To: Leveson Inquiry

23 December 2011

From: Microsoft Corporation

Subject: Matters raised in s21 Notice to Microsoft Limited

Microsoft Limited has informed us that the *Leveson Inquiry* (the "Inquiry") is examining the culture, practices and ethics of the media in the UK and has sought from Microsoft Limited information relating to the Bing search engine and about the operator of that search engine. As Microsoft Limited has informed you, it is one of our subsidiaries, responsible for certain sales and marketing operations in the UK. It does not operate or control the Bing search engine and consequently is not best-placed to respond to the questions you raise. Microsoft Corporation ("Microsoft") is the company within the Microsoft corporate group best able to address all issues concerning Bing.

We note that in your opening remarks to the Inquiry, you stated it was possible for anyone to provide information to the Inquiry. We would like to take up that opportunity here. Microsoft Limited will exhibit this memorandum to its witness statement to the Inquiry. Before we address the matters you raised with Microsoft Limited we have provided some additional material on the position of search engines in the Internet ecosystem.

### **A search engine's position in the Internet ecosystem**

In considering how to address effectively the important problem of preventing access to libelous, defamatory, or privacy-invading material, it is critical to understand where search engines fit in the ecosystem of internet-based information. Search engines merely provide links to information that has already been made publicly available on the Internet by third-parties. Equally, once that underlying material is rendered unavailable, a user will not be able to view that material by selecting a link from a search engine. Removing a link from a search engine does not and cannot affect the problematic material itself. The problematic material will remain available whether or not the search engine links to that content.

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There are, however, other effective, robust, and efficient means to remove problematic material. First, the material can be removed through a request directed to the creator of the website that publishes the material. Second, the material can be removed through a request directed to the hosting service provider who is making that material available to the public on behalf of the publisher. Third, the material can also be made unavailable if internet service providers refuse to connect end-users to the web location of the problematic material. It is important to understand that all three of these actions do not involve search engines. Again, if the problematic material is inaccessible, it will naturally stop being available from search engines.

Despite this technical background, Microsoft appreciates that countries maintain laws or regulations that apply to search service providers that require that Microsoft remove links to certain information from Bing's search engine index.

#### **Microsoft Corporation, from Washington USA, operates Bing**

Microsoft Corporation is a company established under the laws of the State of Washington, USA. It controls and operates the Bing search engine from its headquarters in Redmond, Washington, USA with assistance from other Microsoft companies. The main servers used to operate the Bing search engine are also located in the USA.

#### **Bing users can tailor results for particular territories**

Bing is configured to offer the user options to choose a search experience tailored to a particular country or geographic market. Bing.co.uk is the search engine targeted to users in the UK. This version is the default based on those users with an IP address indicating they are located in the UK. However, Bing users anywhere in the world can also choose a version tailored to their interests; for example, a US visitor to London can choose to search Bing in a version tailored to their home country, rather than the Bing.co.uk version tailored to the United Kingdom.

#### **Microsoft does not control the websites to which Bing links**

Microsoft does not display third party websites when its users search on Bing. What Bing does is respond to a request by a user with the names and web addresses of websites that are likely to be relevant to that request. To assist the user in selecting the appropriate website, Bing also displays a snippet of text from the website and/or a representative image from the website, but does not display a third party's entire site. This snippet and image is

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selected by a computer algorithm. Microsoft does not visit or check the contents of any website that can be accessed through Bing. If the user chooses to select a link to navigate to that website, the resulting content is provided not by Bing, but by the website publisher.

#### **Bing's removal of links to libelous, defamatory or privacy-invasive material**

Microsoft believes that freedom of expression is a basic human right and is committed to protecting that right for users of its online services, including Bing. To that end, Microsoft has also fully committed to implementing the Global Network Initiative Principles on Freedom of Expression. <http://www.microsoft.com/about/corporatecitizenship/en-us/reporting/working-responsibly/privacy-safety/freedom-of-expression/>. There are however circumstances when Microsoft receives valid requests from third parties, regulators or courts to remove links to material from the Bing search engine.

For example, Bing has a practice, under appropriate circumstances, to remove links from Bing search results to material which are libelous, defamatory or an invasion of privacy. (See <http://onlinehelp.microsoft.com/en-us/bing/f1608447.aspx>). Indeed, Bing has removed links to problematic content from its search engine in the past. However, because such allegedly problematic material is controlled by third-party publishers, and not Microsoft, Bing is unable to "remove availability to such pages." For example, the user can manually type the URL for the content and access it directly.

#### **Bing news**

Bing provides a variety of search results, one of which focuses on news material. As with other results provided by Bing, Bing News utilizes a computer algorithm—and not a manual process—to generate and rank news search results for various topics including "Top Stories" "Sports" "Entertainment" and "Business." As a search engine indexing the web and displaying specific search results, Bing does not and cannot determine the accuracy of the underlying content hosted by the publisher. This is because there is no human review by Microsoft of the publisher's content; it is selected by the computer-based algorithm.

#### **Microsoft's compliance with local regulation**

We note that one of the questions you put to Microsoft Limited is "*How do you consider yourself to be regulated?*" We believe it will be constructive before answering this question to explain how we have construed it. We have understood this to refer to Microsoft's activities relating only to the search engine available at Bing.co.uk. This search engine is one of the

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many products and services from Microsoft Corporation that are available in the UK. We have also understood that you are referring not to the general laws and regulations that apply to every entity doing business in the United Kingdom, but rather are referring to any laws and regulations applying to the particular business of operating a search engine in the UK. Finally, we have assumed that when you refer to "regulation" you are referring to those laws and statutes that are enforced by regulators, as opposed, to common law or statutory rights exercisable by people and companies.

Given the above, Microsoft does not consider that it needs *prior authorisation* or needs to be *authorised* to operate a search engine in the UK, unlike perhaps a bank must. This said, Microsoft does consider that the results on Bing.co.uk should comply, at a minimum, with the relevant regulations and rulings promulgated by certain UK regulators. These include, but are not limited to, the:

- Advertising Standards Association particularly as it relates to advertising on Bing.co.uk;
- Office of Fair Trading particularly as it relates to the terms and conditions binding UK users;
- Internet Watch Foundation particularly as it relates to links to certain illegal images.

Additionally, the contract to which the advertisers on Bing.co.uk agree requires them to comply with relevant laws and regulations. (See <https://adcenter.microsoft.com/TC.aspx> ).

We trust that this information is helpful to the inquiry. If we have incorrectly construed any question, or you wish to hear more or other details about Bing, please do let us know.