

Editors' Code of Practice Committee

Private and confidential

Minutes of the Editors' Code Committee meeting held at the offices of the Newspaper Society, 74-76 Great Russell Street, London, on 29 September, 2005

Present:

Chairman: Leslie Hinton (NPA)

Paul Potts (NPA)	Neil Benson (NS)	Lindsay Nicholson (PPA)
Neil Wallis (NPA)	Mike Gilson (NS)	Harriet Wilson (PPA)
John Witherow (NPA)	Douglas Melloy (NS)	
Peter Wright (NPA)		

Attending:

Sir Christopher Meyer (PCC Chairman); Ian Beales (*Secretary*).

Apologies:

Perry Austin-Clarke (NS); Ian Murray (NS); Alan Rusbridger (NPA). Derek Tucker (SDNS); Tim Toulmin (PCC).

Minutes:

Minutes of the meeting held on 10 February 2005 were approved and signed.

Matters arising:

Transgender issues: The secretary said the organisation Press For Change had thanked the committee for including transgender individuals within the Code's Discrimination clause.

The Editors' Codebook: PressBof had a surplus of copies of the book, which it was anxious to move, and the secretary invited suggestions. Committee members felt the Society of Editors' conference would be a good selling venue, as would a sales pitch aimed at journalism training courses. Sir Christopher Meyer said there was a regular demand for the books at the PCC. It was agreed to pass the suggestions to Pressbof.

PCC guidance notes on Editorial Co-operation and Financial Reporting, both previously circulated, were noted without further comment.

Television Without Frontiers

The committee discussed a briefing from the secretary on developments following the European directive, and said Pressbof was setting up a sub-committee to consider the industry's response. Leslie Hinton (Chairman) stressed that the issue had far-reaching consequences, if the current proposals were adopted.

Sir Christopher Meyer (PCC) said that tactically it was essential for the self-regulatory process that measures demonstrating that audio-visual material was already within the PCC's remit were in place before the European proposals went to a vote. He asked the committee to confirm his view that audio-visual images, which appeared in online versions of publications, were already covered by the existing Code. *The committee was unanimous that they were, and that the PCC was already empowered to adjudicate on complaints about them.* On the Chairman's suggestion, the committee decided no further action should be taken until the situation had clarified and the industry's wishes were known.

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Viral marketing

The secretary reported on industry fears that the Advertising Standards Authority's proposals to include viral advertising (marcoms) within its remit might threaten editorial matter covered in promotions or other web-based activities. Peter Wright (NPA) said there had already been problems with the ASA over website promotions that were editorially led.

Committee members felt this was a legitimate concern, and that all editorial matter should be excluded. The situation should be closely monitored and any intervention made privately in the first instance to avoid the possibility of a public clash between self-regulators.

Representations on the Code (summaries circulated)

Intrusion Into Grief: [redacted]

- ❖ [redacted] suggested the current Code qualification protecting the press's right to report legal proceedings could mislead potential complainants into believing the PCC could not adjudicate on insensitive reports of inquests. However, the Secretary explained that the qualification was added only after editors reported that families routinely used the previous clause to try to prevent legitimate inquest reports. Doug Melloy (NS) said there was no shortage of complaints about inquests, and Sir Christopher Meyer confirmed that was also the PCC's experience. The Chairman warned against tinkering with the Code unnecessarily. *It was agreed that while insensitive reports of inquests could breach the Code, there was no evidence that people were being misled, and no change was necessary.*

Privacy: [redacted]

- ❖ [redacted] called for the Code to state explicitly that complainants could compromise their right to privacy by speaking publicly of private matters, or by failing to object to previous publication in similar vein. She suggested that this would greatly assist newspapers facing privacy actions, as judges - although legally bound to take into account the Editors' Code - were discouraged from taking into account PCC jurisprudence. Incorporating such jurisprudence into the Code would oblige judges to consider it.

Neil Benson (NS) said there was a pressing need for change. Since the committee discussed this in 2004, [redacted] had experienced more Saturday injunctions in eight months than in the previous eight years. The law of privacy was evolving quickly and the Code needed to respond: if the PCC jurisprudence was balanced (to take account of people invading their own privacy), the Code should be similarly balanced.

The Chairman again warned of the dangers of tinkering with the Code. It was understandable that lawyers would support any change that might assist them, but they were divided on whether the changes would have the desired effect and he did not feel the gains were worthwhile. Peter Wright agreed with a note from Alan Rusbridger (NPA) who could not be present, which said [redacted] suggested wording would encourage public reticence. Neil Wallis (NPA) said he had sympathies on both sides - especially after his experience in the A versus B and C case, where a judge had refused to entertain the Editors' Code. He was also worried at the chilling effect on regional papers that did not have the legal resources of the nationals.

Mr Rusbridger's note questioned the pressing need for the change, and said PCC jurisprudence was more nuanced than [redacted] suggested. Sir Christopher Meyer said PCC jurisprudence was increasingly sensitive to context. Unless there was unanimity that the wording should be changed, it would be better to leave it alone, and concentrate on trying to change the judiciary's approach. The secretary said he was concerned that [redacted] lawyers, and possibly others, appeared to be interpreting the Public Interest defence more narrowly than the Code Committee had intended. The committee would need to establish whether that was a common view. If so, the Public Interest panel could be altered in the annual Code Review.

It was agreed, on the Chairman's suggestion, that *there should be no change to the Code at present, and there should be lobbying with the judiciary and others to ensure that judges took into account the issues raised. The matter could be revisited if necessary.*

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Jigsaw Identification of sex victims:

- ❖ The committee agreed with suggestion that there was the potential for jigsaw identification in sex cases involving adults, not covered by Clause 7. *It suggested the matter be remitted to the secretary to propose redrafting – possibly combining clauses 7 and 11 - for consideration in the annual Code Review.*

Protection of Children:

- ❖ said that the fact that the PCC had rejected his complaint that pictures of his eight-year-old twin girls, taken at random, without consent, were an intrusion proved that the Code was inadequate to protect children and should be changed. Committee members expressed great sympathy with especially because the caption referred to paedophilia. However, the Code would already allow the PCC to find a breach if there was a negative effect on the children's welfare. *The Code could not make it mandatory to find such a breach, which would depend on all the circumstances. The PCC was the proper body to judge those circumstances.*

Intrusion Into Grief:

- ❖ believed the Code was misleading and should be rewritten to make clear that enquiries and approaches if made should be carried out with sympathy and discretion. *The suggestion was rejected, as the committee felt this might appear to discourage reporters from making appropriate inquiries where necessary.*

Discrimination:

- ❖ request that the Discrimination clause be changed to cover ageism was declined as it would be impossibly restrictive, given that age was routinely used as a pertinent descriptive feature, even if not strictly relevant to the story.

Cover displays of Lads Mags: from

- ❖ said that while she was having success in persuading retailers to display the magazines so that they did not cause offence to women or influence children, she would rather that the Code gave guidance to editors that stopped short of censorship. The secretary said the Home Office had been gently persuading retailers and the independent sector generally to adopt best practice on this, apparently with some success. However there might be a problem if, at some stage in the future, retailers tried to codify a form of best practice with which the industry did not agree. *The committee decided this had traditionally been an area for retailers' discretion and no change was necessary at this stage.*

Inconvenience to contacts: from

- ❖ The Committee rejected proposal that the Code should cover inconvenience caused to contacts by publications.

Inflammatory reporting: from

- ❖ suggested newspapers were unintentionally heightening community tensions by their reporting of issues such as gypsies, refugees and Muslims. The Chairman said the responsibility on newspapers in reporting sensitive issues was always great, and was well understood by editors. *It was agreed no change to the Code was necessary, but that the secretary should offer to meet the Forum to discuss its concerns.*

Code Review

The secretary invited members' suggestions for consideration in the annual Code Review. It was agreed to invite the PCC to comment, and to post a public invitation for suggestions on the PCC website and in Press Gazette.

Next meeting

It was left to the Chairman and secretary to call the next meeting, provisionally in January.