PRESS COMPLAINTS COMMISSION

From the Chairman

Anthony Salz Esq
Media Standards Trust
Discovery House
28-42 Banner Street
London
EC1Y 8QE

19 February 2009

Dear Mr. Salz,

Thank you for your letter of 6 February, which enclosed part 1 of your report "A More Accountable Press". You asked if you, and two of your colleagues, could meet me to discuss part 2 of your review.

I will certainly consider the possibility of a meeting. But, it is hard to see what this might achieve unless part 2 acknowledges and corrects the innumerable inaccuracies and flawed analysis of part 1. The PCC must also give priority to the forthcoming hearing of the Commons Select Committee on Culture, Media and Sport (see below). You no doubt will wish to digest its analysis and recommendations before moving to your next stage.

I am afraid that we also require some reassurance about the credentials of those carrying out the inquiry. In addition to the inaccuracies – some as basic as the false claim that the ASA was modelled on the PCC – the report does not appear to have been written by anyone with much understanding of self-regulation or the relationship between the PCC and the law. More fundamentally, we have to ask whether this enterprise is being undertaken in good faith. We were dismayed that the Trust should be willing to allow publication of a strident report that is, by virtue of your failure to offer us any opportunity to contribute, both unbalanced and misleading.

Your director has compounded suspicions of bad faith by publicly suggesting that there was consultation with the PCC in the preparation of

Halton House, 20/23 Holborn, London EC1N 2JD
T: 020 7831 0022 F: 020 7831 0025 E: complaints@pcc.org.uk
Textphone for deaf or hard of hearing: 020 7831 0123
www.pcc.org.uk

the report: this is a grave falsehood, for which I understand he has now apologised following the intervention of Sir David Bell.

In short, your report may be only "diagnostic". But, if the diagnosis is flawed, how can the prescription be any better?

The brevity of my exchange with Sir David Bell on the *Today* programme of 9 February did not allow me to set out in detail the report's weaknesses. Here in summary are some of the most egregious. The list is far from exhaustive.

The report (and subsequently Sir David Bell and Dame Helena Kennedy) fundamentally misinterpret the PCC's statistics, which are set out in detail on our website and in our annual report. The allegation that only "1 in 250" complaints is upheld is wholly misleading. If one were to follow this eccentric statistical interpretation, it would be equally justifiable to say – and equally misleading – that only 1 in 250 complaints is rejected. You have presumably based your calculation on the ratio of formal adjudications to the gross number of complaints. This methodology is flawed for three reasons.

Firstly, and in line with other similar bodies, only about a third of the gross number of complaints fall under our jurisdiction.

Secondly, we receive duplicated complaints that are counted individually in the total statistics, but only as one formal ruling, because they relate to only one article.

Thirdly, and most importantly, you appear to confuse adjudications with rulings. All adjudications are rulings; but not all rulings are adjudications. This should be obvious from our website and annual reports. In 2008, 1420 complaints fell for consideration under the Code. About half of these cases involved a potential breach of the Code. Most of these were successfully mediated following our intervention. Mediation is, of course, increasingly recommended – including by Lord Woolf and Alan Rusbridger in his recent *New York Review of Books* piece on the Tesco libel affair– as the best way of settling disputes, where possible. As a result, we had to adjudicate formally in only 45 cases where it had proved impossible to resolve the complaint, or where there was an important issue of principle at stake. Of these, half were upheld. This underlines the success of our mediation service, which last year resolved 552 complaints to the customer's satisfaction, an all time record. Incidentally, our

customer satisfaction figures – independently audited and available for inspection – have been going up year-on-year.

This is by no means a full record of our activity. Many issues are now sorted out before publication, so that no complaint is necessary. By definition, these approaches for help are not classified as formal complaints, even though they are sorted out to the satisfaction of the person contacting us. Our pre-publication work and anti-harassment service are growth areas. Your report virtually ignores this activity.

Nor, bizarrely, does your report make any mention of the most recent detailed enquiry into self-regulation, namely that of the Select Committee on Culture, Media and Sport, published in 2007. The failure to take its analysis and recommendations into account is inexcusable, especially as the MST cites the far less relevant 2008 House of Lords enquiry into media ownership, where self-regulation was not the primary focus.

Given that self-regulation will later this year be the subject of a further Select Committee hearing – the third such in 6 years – it is hard to understand how the MST can conclude that the PCC is not accountable. The Select Committee, which will look at many of the issues that apparently concern the MST, has already properly set out the scope of its inquiry without prejudging its findings by an attack on the PCC. Furthermore, the Chairman and some of his colleagues will visit the PCC before the hearings open, as they did in 2007. By comparison with the Select Committee, the MST is guilty of very poor practice.

Unlike the MST, the Select Committee appears to recognise that the regulation of media content raises a number of complex factors; and that the debate cannot be confined to the merits or otherwise of "reforming" the PCC. For example, I understand that the Committee will want to look at whether the law has got the balance right on matters of privacy and freedom of the press. This takes us into territory where consideration will have to be given to the adequacy of Section 12 of the Human Rights Act in protecting free speech; the impact of Conditional Fee Arrangements on free expression; the growth of libel tourism; and many other structural issues affecting the way that editorial content is regulated.

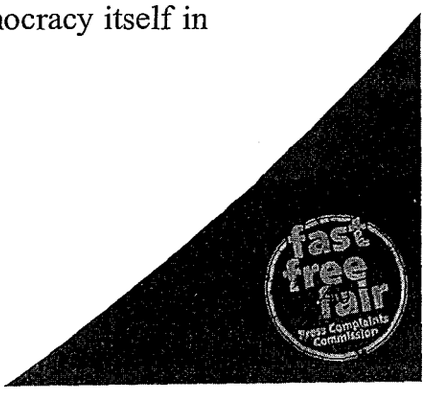
There is no hint of these issues in your supposedly 'diagnostic' report. Instead, the MST baldly asserts that on matters of privacy the PCC is being increasingly by-passed by the courts. How can that be when in 2008 we ruled on 329 separate privacy complaints under the Code, a 35% increase on the previous year and far more than those handled by the

courts? The public have a clear preference for our system, which is free, fast and does not force them to repeat in open court embarrassing details of their private life.

The assertion that the PCC has failed to make changes like other regulatory systems is astonishing in its ignorance. There is an unwarranted, underlying assumption that there is a common template for all regulatory systems. No one in their right mind would deny that the newspaper and magazine industry has unique properties. By definition so does its system of regulation. This point of principle aside, since 2003 the PCC has undergone profound changes in a process of "permanent evolution". We have created a Charter Commissioner to take complaints from those who think their cases have been badly handled; and a Charter Compliance Panel to run quality control on the way we handle cases. Both are independent bodies and write public reports each year. We have also: a) increased the lay majority on the Commission; b) introduced public advertising for new Commissioners; c) introduced annual reviews of the Code of Practice, inviting the public to put forward recommendations for change; d) put in place a 24/7 helpline to protect people from media harassment through "desist" notices (a power not available to OfCom); e) enormously expanded our pre-publication pro-activity; f) instituted Open Days in the towns and cities of the UK; and g) extended our competence to cover audio/visual content on publication's websites.

The assertion that we are trailing behind the radical structural and technological change affecting the industry is similarly perplexing. To the contrary, for several years now we have been at the forefront of the debate in any number of seminars and public events, and in discussions with politicians, other regulators and our international opposite numbers. Self-regulatory solutions are increasingly being relied on by officials and legislators across Europe as the web-based globalisation of media undermines formal systems of regulation. I have myself frequently said that the current regulatory architecture cannot endure; and that I would expect this to mean a greater reliance on self-regulation, not less.

We recognise that there is always room for improvement at the PCC; and we welcome debate on how to achieve this. But the points above are a serious indictment of the quality and integrity of your report. It strikes me as a terrible shame that you have wasted the opportunity to make a sensible contribution at a time when a free press and democracy itself in Britain are facing unprecedented challenge.



I look forward to your comments.

Yours sincerely,

Christopher Meyer

Sir Christopher Meyer