THE LEVESON INQUIRY

INTO THE CULTURE PRACTICES AND ETHICS OF THE PRESS

Part I : Module 3

WITNESS STATEMENT OF MAX RUFUS MOSLEY

I, MAX RUFUS MOSLEY, c/o Collyer Bristow LLP, 4 Bedford Row, London, WC1R 4DF WILL SAY AS FOLLOWS:

1. I make this short statement in respect of Module 3 of the Leveson Inquiry. This statement is made in addition to the statement I submitted in Module 1 of the Leveson Inquiry as a Core Participant. I have not sought and do not seek now Core Participant status in Module 3 of the Inquiry however I thought it may be perhaps useful to provide the below information.

2. In paragraphs 69 to 90 of my Module 1 witness statement I set out evidence to the Inquiry as to the importance of prior notification. I have sought to demonstrate to the Inquiry and in other forums that damages, no matter what the amount, cannot be an effective remedy for breach of privacy. The only effective remedy is to keep the information private which can only be achieved if the article is never published in the first place. If the newspaper refuses to agree not to publish, the only option is to obtain an injunction. But you cannot seek an injunction from the court if you are unaware of a possible story prior to publication. This is my argument in a nutshell, but as I say, it is set out more fully in my Module 1 witness statement (and more fully still in my submissions to the European Court of Human Rights pages 227 to 327 of **Exhibit MM2** and David Sherborne's written submissions to this Inquiry).

3. The experience of the News of the World publication concerning me in 2008, which was without notice, and the subsequent trial of my privacy claim left me in no doubt that the law needed to change. Whilst a number of lawyers and other victims of privacy intrusion had highlighted the need for prior notification I felt that I had a responsibility to pursue this point and the resources to do so. The power of the press, and in particular the power of the Murdoch press was so great that no government would introduce legislation to make prior notification compulsory even if privately they could see that the case against it was unarguable. It was this

recognition of the deference of politicians towards the media that compelled me to pursue my complaint against the UK by way of an application to the European Court of Human Rights ("ECtHR") in Strasbourg. Obviously this was a lengthy and expensive process and should not have been necessary. It was also of no benefit to me other than in having the satisfaction that the law would be changed to help others in the future. I sought no financial remedy for the breach in my claim. Furthermore throughout this time I was having to expend enormous sums attempting to remove material from the internet disseminated by News Group Newspapers across the world (and I am still doing so). The fact of this continuing cost and damage illustrates quite how futile an award of damages is and the need to prevent the publication in the first place; hence the need for prior notification.

4. As I explained in my first statement, the European Court of Human Rights eventually decided in favour of the UK government who had fought my application. The fact that they (under both the Labour government and current Conservative government) chose to resist my application was predictable for the reasons I have already described. It should also be seen in the context of the constant attacks in the media as to the emerging application of the law of privacy. In the run-up to the judgment in my case in Strasbourg the Ryan Giggs injunction application was being attacked in the press and in parliament and there had been numerous other hysterical outcries at the perceived impact of privacy rulings. It may also be notable that there were numerous attacks on the legitimacy of the jurisdiction of the European Court of Human Rights.

5. Aside from the above application, and despite my scepticism of the will of politicians at the time, I also sought to make my arguments to parliament. On 10 March 2009 I gave evidence to the Culture Media & Sport Select Committee. A few days before I have evidence to the Culture Media & Sport Committee I met a member of the Committee to whom I said "it's very kind of you to invite me to give evidence but I know it's a bit of a waste of time because you are all terrified of Murdoch and Dacre". His reply was "well there is an element of don't even go there". I understood this to mean that there was a view that it could be dangerous for them to scrutinise the conduct of newspapers because of their fear of the powerful individuals at the head of the big newspaper groups. This did not surprise me at all at the time, it confirmed what I thought, and I think it is an honest reflection of the view of the political establishment. We now know something of the extent to which that Committee, which deserves much credit for the work it has since done in exposing the conduct of the News of the World its executives and proprietor, was targeted and put under surveillance by News Group Newspapers. It is easy to see why the politicians within the Committee and elsewhere should have been scared.

6. It was also of no surprise to me that in its report of 24 February 2010 the Committee fudged the issue of prior notification. As to making prior notification compulsory, the Committee said "*We have concluded that a legal or unconditional requirement to pre-notify would be ineffective, due to what we accept is the need for a 'public interest' exception*". As I have already tried to explain this confuses two entirely separate public interest exceptions. First the public interest (if any) in not notifying; second the (possible) public interest in the material the newspaper wishes to publish. Of these, only the first is relevant. The Committee also made recommendations to the PCC, which was inevitably an empty gesture to a completely compromised organization.

7. My experience of arguing the case for prior notification is an example of the extent to which the newspaper industry, in particular News International and its proprietor, had an unhealthy impact upon on our democracy. In my view our politicians were unable to take an impartial view of my campaign or other media issues because they knew of the potential for adverse personal consequences. It is my conclusion that this fear can only be overcome with a properly regulated press (with regulations effectively enforced) and by tackling the problem of media organisations becoming too large and powerful. I have argued that (i) no one should be allowed to own both a newspaper and a television network, (ii) the percentage of the UK newspaper market owned by any one company should be severely limited and (iii) newspapers with a significant circulation should be compelled to demonstrate editorial independence backed by an independent board. If these measures were in place then politicians would be free to fulfil their democratic function and in particular in relation to media policy issues or where their views may run contrary to the view of media executives or owners.

Statement of Truth

I believe the facts stated in this witness statement are true.

Signe

Max Rufus Mosley

Dated: 26 May 2012