

The Leveson Inquiry: Witness Statement

From:

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Lady Eccles of Moulton: Member of the House of Lords, UK Delegate to the Council of Europe, Director of Opera North.

Lord Marlesford, Member of the House of Lords since 1991. Adviser to financial institutions (USA & Hong Kong) on worldwide political and economic developments. 1974-1991 journalist on *The Economist*.

Sir Robin Mountfield, former Permanent Secretary, Cabinet Office.

Rupert Pennant-Rea, Chairman of The Economist Group.

Veronica Wadley, Chair of Arts Council, London and former editor of the *Evening Standard*.

We are the six Independent National Directors (INDs) of Times Newspapers Holdings Limited, and we make this brief submission to the Committee of Inquiry. We have restricted ourselves to two topics: a description of the IND arrangements at Times Newspapers, and a discussion of whether they might be adapted to have a wider relevance.

How the IND model works

The arrangements for appointing INDs were established in 1981, when News International was about to buy the Times titles, with the purpose of protecting editorial freedom from interference by the proprietor. The title of Independent National Director might more accurately have been described as Trustee, as our real role is to ensure that the editors of *The Times* and *Sunday Times* are able to run the newspapers according to their own judgements and with resources that are adequate for the task. Our locus is most obvious in the appointment of a new editor, whose nomination requires our approval – and we could of course reject it. The same applies to any proposal by the management of Times Newspapers to dismiss an editor. That too would not

be possible without the approval of the INDs, who would take full account of all the circumstances involved in any decision. There is also provision for the INDs to adjudicate on any appeal by the editors against interference by the proprietor, though this has never been used.

The limits of these functions should be understood: it is implausible that a proprietor with strong views would propose for approval a candidate with very different views. Similarly the removal of an editor may be achieved by means other than dismissal. Nevertheless, as recent experience over the phone-hacking at the *News of the World* has shown, the editors of *The Times* and *Sunday Times* have been able to report and comment freely on matters directly affecting other titles owned by the proprietor.

The 1981 arrangements were largely silent on what qualities the INDs should have, though they did stipulate that at least two of the six INDs should be "distinguished journalists or persons having particular knowledge or experience of journalism". The format for appointing INDs was set out in the Articles of Association of Times Newspapers Holdings Ltd (TNHL), and specified that when an IND vacancy occurred, the INDs themselves would nominate a replacement to (in effect) the TNHL Chairman. The Chairman has the right to reject a nomination, though if a mutually acceptable name is not found within four months, the INDs' nominee would automatically join their ranks. In practice – and we can speak only of our own experience – we have chosen to have an open discussion of a list of possible candidates with the TNHL Chairman, and both we and he have rejected some of the other's nominees.

It is worth noting that the INDs, in addition to their special responsibilities defined in the Articles under the 1981 arrangements, retain the normal responsibilities of directors under the Companies Act, for example the fiduciary obligations under company law. This was to some extent a historical accident, as it was in part inherited from a similar arrangement under the previous owner of the titles, the Thompson Organisation.

Beyond that, the particular role and responsibilities of the INDs were defined quite narrowly in the various statements, undertakings and agreements coming from the government and News International in 1981. These documents were silent on matters like the protection or promotion of editorial quality; they made no mention of monitoring the methods that journalists might use to obtain information; they had nothing to say on the protection of sources, or how the IND arrangement might fit into a broader framework of press freedom and self-regulation.

The INDs have accordingly played only a limited part in the governance of both *The Times* and *Sunday Times*. We see our presence as the editorial equivalent of a nuclear weapon – a deterrent to possible proprietorial interference, and therefore reassuring for the two editors. Though we have six-monthly meetings with each editor, we emphasise to them that we are available at any time for consultation and (if justified) support. It is for them to say how much they value our role, but we believe we are doing the job envisaged by Ministers in 1981.

A model for others?

The establishment of your Committee has led us to ponder whether, as part of any new arrangements, the IND model at Times Newspapers could be developed into a paradigm for other media groups (indeed similar arrangements have long existed at the *Guardian* and *The Economist*.)

Part of our answer to that question is that the IND arrangements were a child of the particular circumstances of 1981, and the takeover by News International of two titles regarded as having disproportionate significance in the country's political and social life. As such, the details of the IND model do not seem particularly relevant to the rest of the media.

However, in our view there is a fundamental truth at the heart of the IND model: that the interests of a pluralist, open and democratic society are best served by a free press, and that "free" involves giving autonomy to editors of

publications to report and comment as they and their staff see fit. Of course, this assertion should carry some caveats:

- (a) Apart from subjects that are essentially entertainment rather than serious commentary or enquiry, the content of newspapers, and how it is acquired, should be guided by what is in the public interest and not just what interests the public. This distinction is fraught, but the current guidelines of the Press Complaints Commission (PCC) include a reasonable working definition of the public interest. Properly construed, it allows for the kind of investigative journalism that in the recent past has uncovered several issues whose exposure was clearly in the public interest.
- (b) There is a balance to be drawn between different concepts of freedom, notably between privacy and freedom of expression. This is implicit in the PCC guidelines and, for example, the European Convention on Human Rights and the Human Rights Act. The law and the courts are always likely to have some influence on how that balance is drawn.
- (c) Journalists should not break the law; if they do, they or their titles should expect to be prosecuted or sued.
- (d) The commercial viability of newspapers is increasingly under pressure, so journalists cannot expect to have the resources they once enjoyed to do their jobs. With rare exceptions, financial constraints are already restricting the freedom of editors, and there is no longer a queue of rich people keen to buy titles as trophies.

These qualifications aside, we believe law-makers should not introduce laws aimed at restricting editorial freedom; and they should be extremely hesitant to introduce rules that, however well intentioned, might have that effect. If this country had had a written constitution for as long as, say, the United States, press freedom would surely have been given an equally prominent place.

This brings us back to the question of whether Independent Trustees can play a part in protecting such a vital freedom. Without wishing to exaggerate the importance of our own role, we suspect that editors welcome protection against arbitrary pressure – whether that pressure comes from a powerful proprietor, the commercial interests of advertisers, an overheated public, disgruntled colleagues or a knee-jerk government. In that sense, Independent Trustees might also act as a useful sounding-board for an editor in the tricky decisions of taste and relevance he or she often has to make; and their presence might reassure politicians and the public that a crusading editor was not pursuing a purely personal agenda, but one that had been through a dispassionate filter.

It is therefore not fanciful to imagine that, as part of any wider revisions that your committee might propose, media organisations could be encouraged (or even required?) to introduce a group of Trustees into their editorial structures. This change might then become a form of decentralised press oversight, with the Trustees having a role in encouraging editors to recognise the need for integrity as a quid pro quo for freedom. Editors are used to being treated with the extremes of sycophancy or contempt; they seldom get candid advice from supportive friends.

In effect, such Trustees might come to act as mini-PCCs in each individual media organisation: without statutory powers, but with a brief to patrol the borders where press freedom, privacy and the public interest meet. Trustees of that kind would have to earn the respect of their editor – and the reverse would also be true.

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