

MEDIA REGULATION OLD AND NEW

Former *News of the World* former editor Andy Coulson has begun the 18 month prison sentence imposed upon him for conspiracy to intercept voicemails after what probably ranks as one of the most expensive criminal trials in English legal history. For Mr Coulson, who went on to become the Prime Minister's director of communications, the legal process has yet to run its course, as he faces a retrial with former *News of the World* royal editor Clive Goodman after the jury failed to reach a verdict over accusations that the two conspired to commit misconduct in public office by paying police officers in order to obtain royal telephone directories. He was one of seven defendants at the Old Bailey of whom five were cleared of all charges, including Rebekah Brooks, the former chief executive officer of News International. Sentenced with Mr Coulson were three former journalists at the *News of the World* who had previously admitted phone hacking, and the private detective Glenn Mulcaire who has already served a prison term for hacking phones on behalf of the newspaper.

An inquest into the implications of the eight-month trial and its findings for future press conduct has already begun, with phrases such as "the end of an era" being used to describe events in the years leading up to the closure of the *News of the World* in July 2011. There is a belief that although the criminal proceedings brought against Mr Coulson and his ex-newspaper colleagues constituted a major news story of international significance, they were also old news in the sense that phone hacking and the working practices that supported it have been consigned to the past in the same way as the *News of the World* itself. The major issue facing publishers of Fleet Street titles post-Leveson is economic survival rather than the possible impact of future regulation on press freedom or any potential threat posed by the misconduct of journalists on some of the more aggressive newspapers.

In contrast the operators of social networking sites and internet search engines are being confronted with significant legal and regulatory issues arising from complaints made by those accessing their services which impact directly on the future operation of their businesses. For example, some startling statistics were delivered recently by Chief Constable Alex Marshall, head of the College of Policing. He told BBC Radio 4's Law in Action programme that complaints originating from social media such as Twitter and Facebook make up "at least half" of a front-line police officer's work. Calls typically involve antisocial behaviour, abuse or threats of assault. Mr Marshall added that police and public are still trying to understand when online insults become a crime.

Internet users and the operators of search engines are struggling to come to terms with the implications of the European Court

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of Justice decision in case C-131/12, *Google Spain v AEPD and Mario Costeja Gonzalez*. The plaintiff complained that a Google internet search using his name brought up a link to a Spanish newspaper containing a piece about attachment proceedings taken against him for the recovery of social security debts. These had been fully resolved for a number of years, and the plaintiff claimed any current reference to them was irrelevant. The ECJ decided inter alia in its judgment published on May 13, 2014 that a limited right existed under the EU Data Protection Directive (95/46/EC) for search engines to delete material from search results, although when exercising this right a fair balance must be struck between the rights of individuals to delete links and the interests of others to have access to the information complained about. This "right to be forgotten" law applies even if the relevant information is accurate and has been posted legally. Mr Gonzalez won his case and the link to the text he complained about was removed by Google.

The judgment created a major headache for Google, which deals with more than 90 per cent of Europe's online searches and has had to set up a new service to deal with requests for personal data to be removed from search results. By the beginning of July it had received over 70,000 such requests from Europeans to remove links to more than 276,000 web pages. Google has faced criticism for its approach, including the decision to remove the link to a six-year old article in a blog by the BBC's economics editor, Robert Peston, after a complaint was received from an unknown person. Just to complicate matters further, it appears the request related to reader comments appearing under the piece rather than the article itself.

Although the article no longer appears in Google search results, someone making the same search outside Europe can access it in full. Fears have been voiced that the right to be forgotten will result in the censorship of articles written in the public interest.

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