

COMPROMISING ON THE LEVESON REFORMS

The influential House of Commons Culture, Media and Sport Committee has suggested newspapers and magazines should not be compelled to accept regulation under the terms of the Royal Charter if a regulator which meets the “spirit” of the Leveson reforms can be created by the press.

On February 23, 2017 the DCMS Committee published its submission to the government’s consultation announced on November 1, 2016 by Culture Secretary Karen Bradley (*Consultation on the Leveson Inquiry and its implementation: Section 40 of the Crime and Courts Act and part 2 of the Leveson Inquiry*). The consultation sought views on two main issues.

The first was whether section 40 of the Crime and Courts Act 2013 should be brought into force. Section 40(2) prevents courts from awarding costs (subject to certain conditions) against a defendant publisher where a claim has been made against it concerning the publication of news-related material if the defendant was a member of an approved regulator when the claim was brought. Section 40(3) strips this protection from publishers (subject to the same conditions as s 40(2)), stating that the courts must award costs against a defendant publisher if it was not a member of an approved regulator. On the second issue responses were sought on whether the inquiry required by Part 2 of Leveson into relationships between some sections of the press and corrupt payments and the police should go ahead.

Most newspapers and magazines have chosen to accept regulation by the Independent Press Standards Organisation (Ipsos) and refuse to join IMPRESS, the officially approved press regulator, which has little industry support. Addressing this impasse, Damian Collins, the Conservative MP who chairs the DCMS Committee, said:

It is over four years since Lord Leveson published his report into the culture, practices, and ethics of the press. In that time we have yet to see established a system of independent self-regulation for print media that is credible both to the public and the press.

If the vast majority of newspapers continue to refuse, on principle, to accept regulation under the terms of the Royal Charter, then the government should create an alternative path that would allow Ipsos to become established as the preferred body to take responsibility for the self-regulation of the press.

However, for this to be achieved, the committee believes that Ipsos needs to make substantial progress in establishing a low cost arbitration scheme to consider complaints against the press, to increase the resources at its disposal to launch investigations, and to fund a campaign to inform the public about how and where to make complaints to Ipsos.

If Ipsos can make the necessary reforms to become compliant with the spirit of the Leveson recommendations, then the government should repeal the provisions within section 40 that relate to the awarding of costs in court cases taken up against the press.

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The committee supports the full implementation of section 40 in one year’s time if Ipsos fails to make the necessary reforms to make it compliant with the “spirit” of Leveson. A one year pilot arbitration scheme was introduced by Ipsos in July last year, but the committee feels that it is too expensive and is concerned that so far no-one has taken advantage of it. Ipsos has £100,000 in its budget to conduct investigations and the committee believes that a more substantial fund is required (the organisation is empowered to launch standards investigations and levy fines of £1m but has yet to launch a probe). The committee also wants Ipsos rulings to be capable of challenge because they are wrong (as is the case with the Advertising Standards Authority) rather than on purely process grounds as at present. Ipsos should expand its publicity activities, for example by newspaper owners funding advertising campaigns.

The committee acknowledges that acceptance of the Royal Charter on press regulation is an anathema to significant parts of the press. A compromise is suggested whereby the government should investigate whether the industry could be offered an alternative route of subscribing to a system of low-cost arbitration provided under the Arbitration Act 1996 rather than by a regulator appointed under the Royal Charter. Then if the press could reform Ipsos in other areas to bring it in line with Leveson’s recommendations, the government could consider repealing section 40(3).

The DCMS Committee queries why broadcasters should have to adhere to the Broadcasters’ Code and regulation by Ofcom while the press is allowed to conduct its relationship with the public on its own terms. But it also admits that since Leveson the way people consume news has changed with the growth of social media and online news sources which operate in an unregulated environment.

Some will see the committee’s analysis as providing the basis for a modified system of Leveson press control acceptable to government and the industry, while to others it will signal a return to self-regulation and the shortcomings of the Press Complaints Commission. On Leveson 2, the committee’s view is that revised terms of reference should be drawn up to prevent the inquiry from duplicating ground already dealt with by Leveson itself and the courts.

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