Media Standards Trust

The Lord Black plan for reform of press self-regulation: *a short critique*

Martin Moore
November 2012

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Introduction

Newspapers have, in the weeks before Leveson reports, started to circle their wagons around the 'Black Plan'. This is the plan of Lord Black of Brentwood to develop a revised system of press self-regulation based on a system of commercial contracts. Black, and others within the press, have indicated that whatever Lord Justice Leveson reports, they would like to implement it.

This plan proposes a continuation of press self-regulation, strengthened through the use of contracts. These contracts will detail the regulations themselves, the structure and composition of the new system, and the processes and sanctions. The proposed system has been outlined by Lord Black in a number of submissions to the Leveson Inquiry (see summary in Appendix 1).

Lord Black and Lord Hunt (chair of the PCC) have both indicated the plan has widespread support within the industry. Some victims of phone hacking and other press abuses have rejected this plan, saying it is 'an insufficiently clean break with the current PCC and the failings associated with that organisation' (CPV Submission to Module 4). 26 senior media academics have rejected this plan, saying the scheme 'is an attempt to perpetuate self-regulation by editors' (in a letter to the *FT*, 1st November).

Yet there has been very little actual public scrutiny of the plan, beyond oral evidence at the Inquiry itself, and two unreported submissions from *The Guardian* and *Express* newspapers.* No newspapers, for example, have questioned why, despite having to perform more functions and employ a larger number of people, the plan is predicted to cost only 2% more than the discredited old system. No newspapers, beyond *The Guardian*, have raised concerns about the role of the new Industry Funding Body (IFB), which replaces the most powerful element of the old system, the Press Standards Board of Finance. Almost no newspapers have questioned the proposed accreditation scheme for journalists, which appears to be indistinguishable from a closed shop system of licensing.**

*Hugh Whittow, Second Witness Statement to the Leveson Inquiry, 5th July 2012. Alan Rusbridger, Third Witness Statement to the Leveson Inquiry, 10th July 2012. See Appendix 2 and Appendix 3.

***The Guardian* published a leader column in which it commented on the powers of the Industry Funding Body. Roy Greenslade, Dan Sabbagh and James Ball have commented on the accreditation plan, also in *The Guardian*

A lengthy private consultation took place with newspapers during the first half of 2012, co-ordinated by the Press Standards Board of Finance. It is clear that a significant amount of work was put into the proposals during that time. The correspondence and comments made within that consultation have not been made public.

This short report starts to address this virtual vacuum of accountability. It assumes that all news organisations will decide to sign the contract (itself much in doubt). It also takes on trust that the system would be set up as proposed.

The plan does contain helpful proposals that would improve the current system. It has sought to address some of the failings of the PCC. It has sensibly proposed clarifying the relationship of the regulator and the regulated entities through a commercial contract. It has suggested a new investigative arm to oversee possible investigations into bad practice. It has explored ways in which to strengthen the powers of the regulator, and it has proposed a possible 'arbitral arm' that may give greater protection to news outlets and faster access to justice for ordinary people (though this would require statute).

However, there are significant problems with the plan. This analysis identifies 10 (each explained in detail below):

1. It is not a 'new system entirely'
2. It is not independent
3. It maintains the dominance of the key vested interests
4. The incentives to participate will damage journalistic freedom
5. A news organisation can effectively buy itself out of the contract
6. It is unwieldy, bureaucratic, and significantly under-costed
7. Its powers of sanction are limited and unspecific
8. Third parties will find it as hard, if not harder, to complain
9. It remains mediation not regulation
10. It has a five year sell-by date

The analysis is based on an assessment of: Lord Black's Third and Fourth Witness statements; the proposed contractual framework; the Articles of Association; the Regulations; and submissions made on behalf of the Press Standards Board of Finance, all as submitted to the Leveson Inquiry.

1. **It is not a ‘new system entirely’** as called for by the Prime Minister

The plan is an evolution of the old PCC self-regulatory system. The three chief elements are the same: a Complaints Commission, an Editors’ Code of Practice Committee, and a funding body (whose name is changed from the Press Standards Board of Finance to the Industry Funding Body). The functions of the first two remain as they were. The composition of the Commission is tweaked, as is the Editors’ Code Committee (though working editors remain central to both). The functions of the renamed Press Standards Board of Finance remain similar. No changes are proposed to its composition.

There are four new elements, each of whose effectiveness is questioned below;

- The Trust Board, though this is partly controlled by the IFB (see below and Third Witness Statement of Lord Black, paragraph 38)
- The investigations arm, though this is highly limited in its role unless an investigation is authorised
- Fines, though these remain unspecified (beyond an upper limit)
- Incentives, which – as set out – appear likely to damage journalistic freedom

There is nothing in the structure to prevent the same people populating the new regulatory body as populated the old one. The system maintains the power of the leading vested interests via the Industry Funding Body, the Code Committee, and the Commission itself.

2. It is not independent

To call it 'independently-led self-regulation' as Black does, is not an accurate description.

- The rules are drafted by the industry and amended by senior figures within the industry
- Working editors and senior executives are still central to most of the regulatory elements: three industry figures on Trust Board (appointed by the IFB), five serving editors on the complaints commission (out of 13 members), 12 editors/execs on editorial code committee and 'up to' five public members. The funding body (IFB) will be entirely composed of senior industry figures
- There is no explicit provision for journalists within the system (such that, as constituted, it is unlikely working journalists will be represented anywhere within the regulator)
- The funding will be defined and controlled by the industry, and who pays what will remain opaque
- The funding body remains at the centre of power (see below)

The plan has been developed by the industry for the industry. It has been drawn up by the Executive Director of the Telegraph Media Group, who is also the Chairman of the Press Standards Board of Finance, working closely with lawyers, editors and senior executives.

There was no consultation with the National Union of Journalists (NUJ) in the development of this plan.* Nor was there any consultation with the public.

*Leveson Inquiry, oral evidence, Lord Black, 9th July 2012

3. It maintains the dominance of the key vested interests

Senior figures in the press now admit that the Press Standards Board of Finance (PressBoF) essentially controlled the old system of press self-regulation (see evidence of ex-PCC Chair Baroness Buscombe and Appendix 1 of Lord Black submission).* In the new system, PressBoF is replaced with an Industry Funding Body (IFB), which is ostensibly far less powerful. However, when the new contract system is examined in detail, the IFB – or PressBoF's successor – still remains the centre of power. Included in its powers are:

- Deciding who is in or out of the system (overview to Proposed Contractual Framework [PCF])
- Defining and approving amendments to the regulations (PCF 5.1.4 & 6.1)
- Determining the sanctions (PCF 5.1.4)
- Responsibility for and approval of amendments to the Editors' Code (PCF 6.2)
- Agreeing an annual figure for expenditure (Third Witness Statement, paragraph 91)
- Working out what should be paid, by whom and when (PCF 9.1)
- Deciding which news organisations should make a loan to the enforcement fund (PCF 9.2)
- Pursuing those who do not pay (PCF 9.1)
- Appointing the three press members of the Trust Board (Article of Association, 20.6)
- Appointing two of the four members of the appointments panel (to appoint the chair). The other two members to be appointed by the Trust Board (Third Witness Statement, paragraph 76)
- Firing the Chair or the three press members of the Trust Board (AoA 21.1.8)
- Extending the term of the chair (the Trust Board and the IFB, AoA, 20.4)
- Fixing the pay of the directors of the Trust Board (AoA 22.2)

Moreover, the IFB will be composed entirely of industry members (presumably the same editors and chief executives in PressBoF). The IFB will appoint its own chair.

If the proposed incentives are put into place, then the IFB could become more powerful still.

* Baroness Buscombe, oral evidence to the Leveson Inquiry, 7-2-12. Lord Black, 3rd Witness statement, Appendix 1

4. The incentives to participate will damage journalistic freedom

Northern and Shell, publishers of the *Daily* and *Sunday Express* and *Daily Star*, left the PCC in part because they could not see any real value in participating. For this reason the system proposed by Lord Black and Paul Dacre, editor-in-chief of Mail Group titles, includes incentives to encourage participation. Two of these, press cards and denial of newsfeeds, would severely limit journalistic freedom. Together it is hard to see how they can be distinguished from a licensing system run by the big news organisations.

- **Press cards**, which, as proposed 'should in future only be issued to journalists working for publishers subscribing to the new regulatory body. The courts, Parliament, local councils, Police, sports and entertainment bodies would agree only to deal with journalists accredited with the new press cards. In my view, any newspaper would struggle to operate if its journalists were denied access to such bodies' (from Paul Dacre's submission to the Inquiry)
- **Denying PA newsfeeds** to non-members and those who refuse to comply with a Code of Practice. 'There are significant steps afoot at the moment' Dacre wrote 'to examine how PA's service could be denied to publishers who chose to remain outside the new regulatory body'. This would, as he said 'be a devastating blow to them' (from Paul Dacre's submission)

Two other incentives have been proposed; restricting advertising by big firms to members of the system and kitemarks. The first of these has been found to be impractical and, in the words of Lord Black, "very difficult" to implement. In the case of kitemarks, it is not clear why, given how few publications display the PCC kitemark, they should choose to act differently with its successor.

Lord Black has sought to distance himself from these recently, but they are included with his submission to the Leveson Inquiry (Third Witness Statement, paragraphs 65-69), and the first has already been explored by the UK Press Cards Authority.* Black refers to Dacre's submission to the Inquiry for more detail. Black also referred to the incentives in his oral evidence, and rather than diminishing, said he thought they would grow: "I suspect [the incentives] will probably have increased over the years.' (Oral evidence, p.44)

Without the material incentives, the only reasons for participating in the Black scheme are goodwill and as a way of avoiding any legislative intervention. If the scheme were to be accepted, the second reason would disappear.

*UK Press Cards Authority, submission to the Leveson Inquiry

5. A news organisation can effectively buy itself out of the contract

Most organisations that sign up to regulatory contracts do so because, if they did not, they could not do business. In the case of the Premier League, for example, signing up to the league is very lucrative and allows a team to compete in the league. Breaching the contract can lead to points deductions or fines. A club that failed to pay could be thrown out of the league.

None of this applies in relation to the Lord Black proposal. If, as Lord Black has recently suggested, the system of press cards and denial of PA feeds does not go ahead, then there are no strong incentives for joining the new self-regulatory system. The regulated entities do not gain any financial or legal advantage, nor any privileged access to information. Exclusion or expulsion from the system would not, in other words, disadvantage them.

Even for those who willingly participate in the system, the regulator will have practical problems enforcing the contractual obligations. If a regulated news organisation disagrees with the regulator's findings or sanctions, then it can launch a legal challenge.

Once this happens, the regulator can either cave in, and lose its authority, or pursue legal action. Yet it stands little chance of sustaining a lengthy legal battle with any of the major news organisations. The regulator's legal costs are supposed to come out of the regulator's £100,000 enforcement fund, but then so is the cost of investigations. *

There is every chance that a news organisation could use this lack of resources as leverage over the regulator. Indeed Lord Justice Leveson raised these concerns at the Inquiry:

> 'Is there a risk that a newspaper might take the view that it's got rather more power than the enforcement fund and so can adopt an attitude which is not unknown in litigation, that you fight every single decision, you appeal every decision that you possibly can until everybody gets exhausted by the process or runs out of money? (Oral Evidence session, 9-7-12, p.102-103).

*This fund is meant to grow, on the proceeds of fines and cost contributions. This assumes news organisations will be fined which, based on this analysis, is unlikely

Even if the regulator successfully defends the contractual provisions in court it has a problem of enforcement. In the legal opinion that Lord Black provided to the Leveson Inquiry, it is suggested that the regulator could enforce the contractual obligations by bringing a claim in debt or for specific performance.*

The regulator might be able to enforce contractual fines as debts but it cannot compel a news organization to participate in the regulatory process. The courts will not "specifically enforce" contracts of this kind – ones requiring "constant supervision". The only sanction left would be expulsion – which would be no sanction at all. In other words, a news organization can, at any stage, refuse to participate any further and in effect, buy its way out of the contract.

*Submission on behalf of the Press Standards Board of Finance Ltd, following evidence of 9th July 2012

6. It is unwieldy, bureaucratic, and significantly under-costed

The system proposed by Lord Black and others has, in addition to the elements of the old PCC system (complaints function, the editorial code committee and an amended PressBof), a Trust Board, an investigations arm, up to five public members of the Code Committee, an Independent Assessor who can accept appeals on substance (unlike previously), plus additional responsibilities (e.g. monitoring and annual certification process).

There will therefore be extra costs of personnel, extra costs of process (e.g. to assess and respond to appeals, to run investigations and to administer sanctions), and extra costs of responsibilities (for example to review and respond to the statements of editorial practices from all regulated entities).

Yet the budget for this system has been estimated at £2.25m, a 2% increase on the current spend of £2.2m (based on 2012 figures submitted to the Inquiry). *

Investigations are supposed to be funded separately from an enforcement fund (although there will be a core standards and compliance staff). Yet even here, the process by which investigations are run, and fines imposed, is bureaucratic and is liable to be time-consuming and costly (see 'Regulations', standards and compliance section, paragraphs 22-56). An investigation, for example, includes the opportunity for multiple representations by the news organisation being investigated before coming to any conclusions.

This is likely to discourage investigations, and make the imposition of fines very complex. As Robert Jay QC said at the Inquiry: "Isn't that creating a degree of bureaucracy and such an opportunity to make representations that it would either take a very long time to reach an adverse decision against a regulated entity or it won't happen at all?"

The budget of this proposed regulator is, therefore, unrealistic given its proposed responsibilities. In practice, if it takes on these responsibilities and personnel, it will cost more.

* Fourth witness statement of Lord Black, paragraph 6, financial year 2012, £2.2m

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7. Its powers of sanction are limited and unspecified

Although much has been made of the power of this regulator to impose fines of up to £1m, there appears, based on the proposals put forward, to be little likelihood of fines being successfully imposed.

Fines are unlikely to be imposed because:

- The hurdle for imposition of a fine is set very high. There has to be evidence of a serious or systemic breach before the Trust Board can consider a fine.
- The process of imposing a fine is lengthy and allows for multiple representations and potential objections by the news organisation concerned
- There is no ladder of tariffs for fines below the upper limit of £1m (or 1% turnover this is left entirely to the guidance of the IFB). The 'fines and penalties would be flexible in amount and would be as determined and imposed in accordance with the Regulations and the Sanctions Guidance issued by the Industry Funding Body' (Proposed Contractual Framework 5.1.4)
- Representations and potential objections by the news organisation concerned a fine of any significant value is almost certain to be challenged by the news organisation, given that the exact nature of any future breach is impossible to predict. Therefore any court will find it extremely difficult to establish the financial cost to the regulator of a breach of contract, and therefore award damages. There is no obvious way how this might be resolved

Outside fines the range of sanctions is very similar to those available to the PCC – in other words very limited. It would not be able to award compensation. It would not be able to take disciplinary action. It would not even be able to direct the prominence of an apology or correction. This would – as now – require an agreement reached with the news organisation as to prominence.

8. Third parties will find it as hard, if not harder, to complain

The regulations determine that, for the complaints body to accept a complaint from a third party, there has to be evidence of a significant breach of the code and a substantial public interest (Regulation 9). This encourages the regulator to decide not to investigate claims. It is insufficiently responsive to the damage that might have been suffered.

As Lord Justice Leveson said at the Inquiry:

> '[B]ut with respect [to take a third party complaint from a group] there has to be a significant breach of the code, not just a breach. There has to be a substantial public interest -- not merely a public interest -- and even then, that's in the discretion of the head of complaints. I'm not sure how different that is from the present system, which merely says, "We normally accept complaints only from those who are directly affected by matters about which they are complaining", but which obviously admits of the possibility that you're prepared to go further. And indeed, it's been said that the PCC is prepared to go further. I'm not sure you've changed anything'
> (Lord Justice Levesen, oral evidence, 9-7-12, p.12).

It is also important to note that the contract gives no rights to third parties. Therefore the victim of abuse has no rights – beyond public law – to challenge aspects of the contract or make representations during an investigation (unlike the newspaper organisations themselves). Their only recourse will be to judicial review. By contrast, a news organisation has multiple opportunities to make representations before, during and after an investigation – in addition to judicial review.

9. It remains mediation not regulation

The primary role of this proposed system is mediation and conciliation, not regulation. As the regulations state: 'If it still appears that there may have been a breach of the Editors' Code, the Regulator's primary aim shall be to a find a satisfactory resolution to the complaint, by facilitating mediation' (15.4).

There will be no obligation on the 'regulator' to record a breach of the code, however egregious, as long as it is resolved by the news outlet concerned through a process of mediation and conciliation.

Mediation clearly ought to play a central role in the new system, but unless the regulator has an obligation to record breaches of the code, then the system will remain weighted in favour of the news organisation.

This is a continuation of how the current system works, and has at least six significant shortcomings:

- **It is used by news organisations to their own advantage.** This process of 'brokered negotiation' (the term used by Lord Hunt) relies on the complainant making the case, often against the legal department of the news organisation concerned, and often over the course of months of correspondence. Contrast this to other regulators, like the ASA, which acts on behalf of the complainant.
- **It fails to record the majority of breaches of the code.** In 2010 there over 7,000 written complaints and 1,687 rulings, yet in only 18 cases did the Commission formally rule that there had been a breach of the code.
- **It gives a false impression of adherence to the code.** It enables a news organisation to appear to have an unblemished record even when it breaches the code on a weekly basis. There were, for example, 63 substantive complaints accepted by the PCC against the *Daily Mail* in 2010. In 47 of these cases the *Daily Mail* appeared to accept a code breach, yet in the whole of 2010 there was not one upheld complaint against the paper.
- **It does not incentivise resolution at the news outlet concerned.** If, once a complaint is escalated to the regulator, the regulator has to record whether or not it represented a breach of the code, there is a good incentive to resolve the complaint at the newspaper before it is escalated.
- **It does not enable intelligence-led regulation.** Without a clear record of code breaches it is more difficult for a regulator to take action to address repeated and cumulative inaccuracy or to justify investigations based on evidence of poor standards.

- **It does not adequately inform the public as to the behaviour of news outlets.** It deprives the public of evidence of which news outlets keep within the code and those that do not (e.g. by league tables).

A system based on the continued premise of 'brokered negotiation' will perpetuate a form of mediation that has already been shown not to work.

10. It has a five year sell-by date

At the end of five years anyone is free to give notice of termination. After this point the news organisations will revert to a rolling 12 month contract, meaning they can renegotiate or leave every year after the first five years.

At the very least this means that there will be a re-negotiation of the current contract in five years' time. Given there is unlikely to be anything comparable to the Leveson Inquiry at that point it is hard to see the contracts being made more stringent. In reality there is every chance they will be watered down considerably. Yet even if diluted, there is every likelihood that one or more member of the system will decide to leave, once the threat of tougher regulation - underpinned by statute - is gone.

There is no mechanism by which to ensure that this system continues beyond its five year sell-by date.

Appendix 1: Summary of Lord Black Plan

Lord Black's plan for a revised model of self-regulation based on a system of commercial contracts is outlined in 7 documents submitted to the Leveson Inquiry and supplemented by oral evidence given on Monday 9th July (all available at www.levesoninquiry.org.uk):

1. Third witness statement of Lord Black of Brentwood: This 52-page document contains the main body of the proposed model, in Annex A: 'Towards a new and effective system of independent self-regulation'. This document:

- Sets out the origins and justifications for a new model following the failure of the previous system of self-regulation, including the need for – and mechanisms to achieve – further sanctions
- Outlines the structure and funding of the new regulator, the main components of which will consist of: a new Trust Board, overseeing a Complaints Committee and ad hoc Compliance and Investigation Panels; a Code Committee; and an Industry Funding Body (IFB)
- Underpins the system via commercial contracts between each 'Regulated Entity' (print and online news publishers who sign up) and the regulator.

2. Annex B: 'Proposed contractual framework for a new system of self-regulation for the press'. As per the title, this document outlines the general nature of the contractual framework.

3. Annex C: 'Regulations'. In this, the remit and functions of the Regulator are listed, including the operation of its complaints and mediation, and standards and compliance arms.

4. **Annex D: 'Articles of Association of [Newco CIC]'.** This defines the constitution of the Regulator, specified as a Community Interest Company Limited by Guarantee.

5. Fourth witness statement of Lord Black of Brentwood. This outlines the differences between the Industry Funding Body (IFB) and the Press Standards Board of Finance (PressBoF), though makes clear that 'No decisions have been made about how the IFB will be structured with the caveat that it is likely that membership will continue to be based on the industry's trade associations'.

6. Submission on behalf of the Press Standards Board of Finance. This outlines the position of PressBoF with respect to four questions asked by the Inquiry regarding enforcement, third parties, compulsion and compatibility with competition law.

7. Second submission on behalf of the Press Standards Board of Finance. The legal advice submitted to the Inquiry regarding competition law, variations to the terms of contract, post-termination obligations, the possible arbitral arm and the responsibilities of the Trust Board.

Appendix 2: Northern and Shell

Extracts referring to the proposed contract from letter of March 2012, published with Second Witness Statement of Hugh Whittow to the Leveson Inquiry, 5th July 2012

2 Duration of the Contract

We are concerned that a period of at least five years from the date of inception of the new regulatory scheme has been inserted whilst there is no opportunity and no specific rights for a Regulated Entity to terminate its contract with the Regulator (Clause 10.1).

We consider that the period of at least five years is too long in such circumstances and there must be provision for a Regulated Entity to review its position.

3.1 Obligations of the Regulated Entity

3.1.1 Compliance with the Editor's Code: we do not believe that PressBoF is an appropriate body to supervise the operation of the Editor's Code. A new Code Committee within the Regulator should be appointed who will supervise any amendment and up-date with full consultation with Regulated Entities and other relevant industry bodies: (Clause 6.2)

3.1.2 Compliance with the Regulations: we do not believe that PressBof is an appropriate body to supervise or amend the Regulations. That task should be the responsibility of a newly constituted Board, independent of the Regulator and of PressBof. (Clause 5 of the Regulations)

3.1.3 Reporting: we do not believe that it should be the responsibility of the Regulated Entity to disclose matters relating to the Regulated Entity including, without limitation, notifying the regulator of any significant breaches of the Editor's Code, nor do we believe that the Regulator should reasonably expect notice of those matters. The contractual framework is tautological in construction, requiring such notice which, if not given, would constitute a breach for which the Regulated Entity could be expelled. This negates the whole purpose of the contractual framework of a new Regulator.

3.1.4 Co-operation: we do not believe that a Regulated Entity should be required to provide access to premises, persons, records and information at the absolute

discretion of the Regulator. These powers are draconian and go well beyond what is acceptable in any form of contractual endeavor. They are akin to the powers exercised by the Police, SFO, FSA and HMRC without any of the statutory backing and accountability or remedies in the event of a breach of any law by the Regulator.

5 Contractual powers of the Regulator

5.1.3 We do not believe that the Regulator should have the power to audit, monitor and investigate a Regulated Entities' compliance with the Editor's Code and the regulations together with a general right to audit the Regulated Entity's compliance with the terms of the contract in the manner envisaged by Clause 3.1.4.

5.1.4 We do not believe that PressBof is the appropriate body to determine and impose fines, penalties or sanctions (the difference is unclear in the drafting) or issue guidance in relation thereto.

9 Membership fee and enforcement fund

9.1 We do not believe that PressBof is the appropriate body with the discretion to determine the amount and frequency of the fee paid by each regulated Entity. We believe that the enforcement of the membership fee needs to be determined in greater detail, as does the consequence of non-payment.

Appendix 3: Guardian News and Media

Extracts referring to the proposed contract from Third Witness Statement of Alan Rusbridger to the Leveson Inquiry, 10th July 2012

30. The ultimate goal of the process of reform should be to ensure that the board of any new regulatory body cannot be unduly influenced by those which it regulates. With that in mind, we believe that PressBof (or any similar entity such as the so-called Industry Funding Body or IFB in Pressbof's proposal) should be abolished and the tie between funding and control as it exists today should be ended. The regulator's responsibilities for regulated entities should instead be incorporated into its contract with the publishers, which would specify the fees payable (or other funding formula) for participation. Some publishers have expressed concern that such a system would mean that they lose the visibility inherent in the Pressbof model by which they are able to ensure that their fees are managed and spent appropriately. On balance, however, we believe that the better course to address this concern is to ensure that specific auditing arrangements are made within the contract or the articles of the new regulator with a view to providing for such oversight.

31. There are a number of roles provided for the IFB in the proposal from Pressbof, all of which we believe are superfluous or can be fulfilled by the Regulator itself. For instance, while we agree with Pressbofs recommendation that an independent appointments process should be established to appoint both the regulator's board and to select its various committees, we do not see the need for the IFB to play a role in any appointment. The appointment body to manage the appointment of an independent Chair and the proposal for unanimity in appointment between press and lay representatives is very welcome. Such measures would appear vital in order to overcome both real and perceived problems arising from the industry appointing its own representatives in a non-transparent manner.

32. Generally, we are of the view that it is appropriate for the regulator's committees to comprise a majority of lay appointees. These lay appointees would be supplemented by experienced and respected journalists - including, but by no means limited to, current editors - who should be encouraged to join the regulator's key committees. Their appointment should be based on criteria formulated and published by the same independent process. In that way, the relevant committees of the new body would maintain sufficient independence from the industry to command public confidence, while still ensuring that the relevant committees hold

sufficient expertise to sustain the industry's confidence. The ultimate aim of press membership would be to add experience and knowledge, rather than to effect balanced voting. This would appear to be consistent with best practice in public appointments.

33. The one exception to this rule that we would suggest would be in, respect of an Editors' Code Committee, a body on which we consider it is important to maintain an editors' majority as well as additional lay appointees, Such a Committee ensures the commitment of editors to standards and places editorial judgment at the heart of content regulation. However, the work of this Committee must be complemented by and take account of an ongoing process of research and consultation with the public on the terms and operation of the Code, Unlike Pressbof's proposal, we believe appointments to the Editors Code Committee should likewise be made via an independent and transparent process, not by industry bodies.

34. Except where the need to protect privacy or natural justice arises, the regulator should strive to be as transparent and as open as possible in its workings at all times, including by way of publishing minutes of meetings as well as judgements and ultimately an annual report. […]

37. GNM believes that the current PCC sanctions should remain in place and be supplemented by a more robust regime which, for example, would allow the regulator to rule on the prominence to be given to any correction and apology […]