

# In Support of a Right of Reply

Submission from

**MediaWise (The PressWise Trust)**

to the

Department of Culture, Media & Sport Consultation on the  
Recommendation of the European Parliament and the Council of Europe  
on protection of minors and human dignity and the right of reply across all media.

**October 2004**

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**1. MediaWise (The PressWise Trust)**

- 1.01 MediaWise is a registered charity. Its objects are to:
- provide free, confidential advice and assistance for members of the public affected by inaccurate, intrusive, or sensational media coverage;
  - deliver use-of-the-media training for members of the public;
  - devise and deliver training on ethical issues for media professionals;
  - conduct and publish research about media law, policy and practice;
  - contribute to public debate about the role and impact of the mass media.
- 1.02 MediaWise began as PressWise - set up as a voluntary organisation in 1993 by 'victims of media abuse', supported by concerned journalists, media lawyers and Clive Soley MP, who had sought to establish an independent body to defend press freedom and adjudicate on complaints against the press.
- 1.03 PressWise registered as a charity (The PressWise Trust) in 1999, and is funded by donations, grants and commissions. The Trust's registered objects and activities can be viewed at [www.presswise.org.uk/about](http://www.presswise.org.uk/about). The Trustees and patrons include respected journalists, academics and members of the public who have experience of the media. The Trust is currently chaired by Sir Louis Blom-Cooper QC, the last Chairman of the Press Council before it was replaced by the Press Complaints Commission (PCC).
- 1.04 On average the Trust receives two enquiries from potential complainants and journalists each day, and similar number of approaches from journalism and media students or academics.
- 1.05 The Trust changed its operating name to MediaWise in 2003, reaffirming its commitment to dialogue between the public and media professionals, but remains primarily concerned with ethical issues in all forms of mass media.
- 1.06 The Trust has offices in Bristol and London, and currently has four full-time and six part-time staff, including experienced journalists and trainers who have worked in all sectors of the media. The Trust also employs working journalists to conduct research and deliver training.
- 1.07 The Trust has devised and delivered a wide range of training packages for media professionals and non-governmental organisations in over 25 countries, working with the National Union of Journalists (UK & Ireland), the International Federation of Journalists, UNICEF, UNHCR and WHO.
- 1.08 The Trust has organised events to encourage dialogue between media professionals and the public on problematic issues of coverage, including:
- Child Exploitation and the Media Forum (London, 1997)
  - Ethnic Minorities and the Media Forum (London, 1997)
  - Access to the Information Society (InfoCity@Bristol'98, for EC InfoSec, Bristol, 1998)
  - Refugees, Asylum seekers and the Media Forum (London, 2001)
- 1.09 It has also developed guidelines on a variety of problematic aspects of media coverage, including:
- Health communications (adopted by the WHO European Health Communication Network);
  - Reporting about children (with the EC Daphne Initiative, the International Federation of Journalists and UNICEF);

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- Reporting Suicide (with Befrienders International, the IFJ and the NUJ).
  - Reporting on Refugee and Asylum issues (with UNHCR, NUJ and refugee community organisations).
- 1.10 The Trust has established an international reputation for its work of children and the media, including:
- working with the IFJ on promoting of guidelines and training for media professionals, especially about sexual exploitation of children;
  - contributing to The Oslo Challenge on the 10<sup>th</sup> anniversary of the UN Convention on the Rights of the Child;
  - working with the EC Daphne Programme on Children, Violence and the Media in an Expanding Europe;
  - devising a website devoted to promoting children's participation in media [www.unicef.org/magic](http://www.unicef.org/magic);
  - delivering training for children, journalists and NGOs in Eastern Europe, Africa, Asia, and South America, sponsored by the Diana, Princess of Wales Memorial Trust.
- 1.11 Trust publications include:
- *Child Exploitation and the Media* (1997)
  - *Ethnic Minorities and the Media* (1998)
  - *The Media and Children's Rights* (UNICEF, 1999)
  - *The Directory of Exiled Journalists* (2003)
  - *On the Receiving End: Exiled journalists speak out* (video, 2003)
  - *Satisfaction Guaranteed? Press complaints systems under scrutiny* (2004)
  - *Working with the media, a handbook for health communicators* (2004)
- 1.12 The Trust regularly contributes to public debates about media ethics and regulation. We believe that press freedom is a responsibility exercised by journalists and editors on behalf of the public. The most important role of journalists in a democracy is to inform the public about events, issues and opinions which might influence the decisions people take about their lives and the society in which they live. For that reason we assert the public's right to know when the mass media disseminate inaccurate information.
- 1.13 The Trust is currently working with the NUJ Ethics Council on a conference about Journalism and Public Trust (London, 4 Dec 2004)

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**2. The Right of Reply**

- 2.01 We entirely support the recommendation of the Council of the European Parliament and the Council of Europe that members of the public should be guaranteed a right of reply when the mass media publish inaccurate or misleading material about them. It is incontrovertible that many individuals, with little knowledge of media processes, who get caught in the media spotlight, suffer harm and have inadequate remedies in law or via the regulatory systems.
- 2.02 In our experience of twelve years in dealing with members of the public with complaints about abuse of media powers, most complainants simply want a prompt and prominent correction when an inaccuracy has been published. We welcome the fact that in the UK some newspapers now have a regular set place where corrections are to be found. However, that may not always be the most appropriate position or format for apologies and corrections, especially for serious inaccuracies or front page stories with sensational headlines. It is unfortunate that the new broadcast regulator Ofcom is not empowered to require broadcasters to publish corrections and apologies.
- 2.03 The solution favoured by many complainants, would be to follow the model recommended by the Younger Committee in 1973, that adjudications, apologies and corrections should be given prominence equal to that of the offending article.
- 2.04 The most satisfactory solution, however, would be an automatic right of reply. That is, after all, what most complainants want – to be allowed to present their side of the story or their point of view, unmediated, after the public have been presented with an inaccurate version of events.
- 2.05 An automatic 'right of reply' is not a recipe for removing control from the editor; it is a very practical way of demonstrating a commitment to accuracy. Those who argue that newspapers would then be 'full of corrections' ignore the fact that if that were to be the case it would only be as a result of them having first been unfair or 'full of errors'.
- 2.06 It would greatly help the confidence of complainants if they knew that they could claim a right of reply if they were able to supply evidence that information published about them was inaccurate. It would also reduce the need for recourse to law, an expensive and unsatisfactory option for both sides.
- 2.07 An automatic right of reply should also result in appropriate modification of cuttings files and databanks. Existing regulation in the UK contains no specific requirement to ensure that cuttings files and news/feature databases are tagged with corrections to ensure that inaccurate information is not constantly regurgitated. As a result, inaccurate information constantly resurfaces.
- 2.08 That is one of the reasons MediaWise is considering, at the suggestion of a variety of aggrieved parties, the launch of a website onto which complainants can post their objections to erroneous stories so that print and broadcast journalists and members of the public could have direct access to an alternative version of events. However it is entirely unsatisfactory that an inadequately funded voluntary organisation should have to provide a remedy for abuses of media power.
- 2.09 The media play a vital role in the democratic process, but democracy is ill-served if the public cannot determine whether the information they are receiving is accurate.
- 2.10 As the philosopher Onora O'Neill pointed out in her 2002 Reith Lecture:  
*"If powerful institutions are allowed to publish, circulate and promote material without indicating what is known and what is rumour; what is derived from a reputable source and what is invented, what is standard analysis and what is speculation; which sources may be*

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*knowledgeable and which are probably not, they damage our public culture and all our lives.*

*“Good public debate must not only be accessible to but also assessable by its audiences. The press are skilled at making material accessible, but erratic about making it assessable. This may be why opinion polls and social surveys now show that the public in the UK claim that they trust newspaper journalists less than any other profession.”<sup>1</sup>*

- 2.11 At present freedom of expression in the UK media is in effect a question of ‘force majeure’ – those who own the media are free to publish, while those without access to such power are forced to become supplicants to those who have maligned them.
- 2.12 The media industries have a pervasive influence on people’s lives and public discourse, but as they grow and ownership transfers to trans-national conglomerates and competition increases they become less accountable to listeners, readers and viewers.
- 2.13 An automatic right of reply is a proper extension of freedom of expression, and is recognised as such by many perfectly healthy democracies like France, Germany, Belgium, Norway, Sweden, Greece, Austria and Switzerland.
- 2.14 It has been resisted in the UK, especially in the print media which has campaigned against several attempts in the 1980s to introduce a statutory right of reply.
- 2.15 A common argument against it has been that it is inimical to ‘freedom of the press’ – yet freedom of the press is after all a responsibility exercised by the journalists on behalf of the public, not a licence to ride roughshod over the rights of the citizen.
- 2.16 Another now equally spurious argument is that it might be appropriate for the more tightly regulated broadcast media, but the press operate under different conditions. The argument holds even less water today when regulation of broadcasting is now less stringent because spectrum scarcity is no longer an issue in the digital era of satellite and cable delivery. Furthermore, increased concentration of cross-media ownership, together with technological convergence, mean that those who own and control one medium are just as likely to own and control others – thereby increasing their powerful role in society...
- 2.17 Similar standards of conduct and regulation should apply to the print, broadcast and online media, to the ultimate benefit of the public - and media professionals. An automatic right of reply across all media would provide the safeguard the public deserve, especially given that in a highly competitive market media abuse of power has become more rather than less likely.
- 2.18 In our view the public should feel confident that journalists and media institutions will inform them accurately about current events and to defend their rights against abuses of power, rather than abuse their trust by refusing to provide a right of reply when false or misleading information is published.
- 2.19 Issues remain about how the right of reply will be introduced. In the UK media regulators might be the most appropriate supervisory bodies, but the Press Complaints Commission is in effect tied to the purse strings of the industry which sets its own Code, and has been notoriously resistant to the idea of a right of reply. It may be more appropriate that the right should be one of the issues handled by the proposed Human Rights Commission which could become an effective champion of citizens’ rights and a guarantor for the public that serious abuses of power by the media will always be challenged.

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<sup>1</sup> From *A Question of Trust* Lecture No.5, Reith Lectures 2002: Licence to Deceive. Onora O’Neill, 1 May 2002

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**3. Protection of Minors and Human Dignity**

- 3.01 As a contribution to debate about the broader issues covered the Recommendation of the European Parliament and the Council of Europe we are attaching three appendices outlining the relevant articles of the UNCRC that apply to media; guidelines about reporting children originally devised with our assistance and since adopted by the International Federation of Journalists; and the Bristol Declaration on equal opportunities issued by those attending an international Information Society Forum conference we organised in 1998.
- 3.02 We would also commend study of material about children and media to be found in the 'Children' section of our website [www.presswise.org.uk/children](http://www.presswise.org.uk/children), and the website [www.unicef.org/magic](http://www.unicef.org/magic) we devised that examines many of the issues and activities connected to children's representation and participation in the media.
- 3.03 We note with regret that the Department of Culture, Media and Sport only chose to write to media industry bodies for their views about these proposals which concern citizens' rights. In our view civil society organisations, including youth organisations, should have been approached for their views. Since the Recommendation represents a challenge to the power of the media, and support for the rights of the citizen, it may be seem rather strange that a government department has not made more strenuous efforts to alert the public to what could be a welcome and important extension of their right to freedom of expression.

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**Relevant Articles from the UN Convention on the Rights of the Child**

**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

**Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order, or of public health or morals.

**Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

**Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

**Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

**International Federation of Journalists - Children's Rights & Media: Guidelines & principles for reporting on issues involving children**

*These guidelines were launched at the world's first international consultative conference on journalism and child rights, attended by journalists' from 70 countries, in Recife, Brazil, on 2 May 1998, and were revised through consultation with journalists organisations around the world before being adopted at the IFJ Seoul Congress in 2001.*

All journalists and media professionals have a duty to maintain the highest ethical and professional standards and should promote within the industry the widest possible dissemination of information about the International Convention on the Rights of the Child and its implications for the exercise of independent journalism.

Media organisations should regard violation of the rights of children and issues related to children's safety, privacy, security, their education, health and social welfare and all forms of exploitation as important questions for investigation and public debate. Children have an absolute right to privacy, the only exceptions being those explicitly set out in these guidelines.

Journalistic activity which touches on the lives and welfare of children should always be carried out with appreciation of the vulnerable situation of children.

Journalists and media organisations shall strive to maintain the highest standards of ethical conduct in reporting children's affairs and, in particular, they shall:

- ◆ strive for standards of excellence in terms of accuracy and sensitivity when reporting on issues involving children;
- ◆ avoid programming and publication of images which intrude upon the media space of children with information which is damaging to them;
- ◆ avoid the use of stereotypes and sensational presentation to promote journalistic material involving children;
- ◆ consider carefully the consequences of publication of any material concerning children and shall minimise harm to children;
- ◆ guard against visually or otherwise identifying children unless it is demonstrably in the public interest;
- ◆ give children, where possible, the right of access to media to express their own opinions without inducement of any kind;
- ◆ ensure independent verification of information provided by children and take special care to ensure that verification takes place without putting child informants at risk;
- ◆ avoid the use of sexualised images of children;
- ◆ use fair, open and straight forward methods for obtaining pictures and, where possible, obtain them with the knowledge and consent of children or a responsible adult, guardian or carer;
- ◆ verify the credentials of any organisation purporting to speak for or to represent the interests of children.
- ◆ not make payment to children for material involving the welfare of children or to parents or guardians of children unless it is demonstrably in the interest of the child.

Journalists should put to critical examination the reports submitted and the claims made by Governments on implementation of the UN Convention on the Rights of the Child in their respective countries.

Media should not consider and report the conditions of children only as events but should continuously report the process likely to lead or leading to the occurrence of these events.

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**The Bristol Declaration, 1998**

Members of the Information Society Forum, together with participants at InfoCity@Bristol'98 assert that the principles of accessibility, affordability, cultural diversity, empowerment, equality, freedom of expression, open democracy, public service and especially freedom of information, must be at the heart of development and promotion of the Information Society.

The key to active citizenship is ACCESS - regardless of age, ability, gender, sexuality, ethnic origin, social status, income, and religious or political beliefs - to the information each person considers is needed to participate fully in society, and to opportunities to express freely ideas and opinions.

For information and communications technologies (ICT) to play an effective role in reducing the democratic deficit and creating an open, informed and informing society, everyone has to have the opportunity to share in the benefits through:

- access to awareness of the potential of the technology;
- access to appropriate training in its use;
- affordable access to the technology;
- access to the decision-making process about the ways in which the technology is applied;
- access by individuals to personal information held about themselves;
- access to systems of redress if such information is inaccurate or is used improperly.

To facilitate democratic participation:

- local and national administrations need to devise and implement coherent strategies, incorporating public consultation, to create a user-friendly infrastructure for the Information Society and, in particular, frameworks for inter-agency co-operation to simplify and improve access to public services;
- educational institutions need to develop accessible systems of service delivery which encourage everyone to make use of opportunities to gain skills and continue education throughout their lives;
- hardware and software manufacturers and information service suppliers must be encouraged to develop comprehensive, harmonised systems that are genuinely accessible by adopting design-for-all policies through the active participation of user groups. Recognising that the market approach cannot of itself guarantee social inclusion, and that many of the most innovative information and communications products come from small companies, the production and distribution of harmonised design guidelines would assist in combating some forms of social exclusion.

With the convergence of ICT it is vital that coherent and harmonised codes of ethical conduct be established, alongside provisions for copyright and data protection and protocols and technical means of assuring the reliability of information reaching the Internet.

These values and aspirations which echo those outlined in the EC Report People First, The Next Steps (1997), should rank alongside the final principle of the Bonn Ministerial Conference Declaration (July 1997) that 'opportunities for becoming computer literate should be available to people of all ages and from across the social spectrum', and the principle of lifelong learning described in the ISF Newark Declaration (May 1998) that 'education and training is essential for the use of global information networks'.

*Bristol, Saturday 12 September 1998*