

The MediaWise view on a Right of Reply

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1. 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. 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.
3. 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.
4. 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.
5. 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'.
6. 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.
7. 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.
8. 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.
9. 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.
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 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.”¹

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.
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.
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.
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.
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.
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...
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.
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.
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.

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