

Time to look again at the role of the press and its regulation

Sir Louis Blom-Cooper QC
Chair, MediaWise (The PressWise Trust)

This is the introduction to the MediaWise publication *Satisfaction Guaranteed?*

In the months since we initiated our own investigation into satisfaction levels among complainants to the Press Complaint Commission, many fresh milestones have been added to the chequered history of press self-regulation.

The new Chairman of the PCC, Sir Christopher Meyer, has set out his stall and begun to implement change; debate has raged about whether the new regulator Ofcom should have a role as an appeal body for dissatisfied press complainants or defendants; Lord Hutton has generated controversy around who should take responsibility about shortcomings in the journalistic integrity of the BBC; the House of Lords has tiptoed towards a law of privacy; the Beckams have endured unseemly intrusions into their own private lives; and the *Daily Mirror* has fallen foul of a crude hoax that has put British soldiers lives at risk.

Meanwhile The PressWise Trust, set up by 'victims of media abuse' over ten years ago, has begun to transform itself into MediaWise, a vehicle that will encourage more public dialogue between media professionals and those whom they serve.

This collection of studies examines some of the difficult problems that media regulation faces in the new communications era, especially when citizens have greater access, not just to more sources of information through the internet but to opportunities to contribute their own versions of reality.

In offering this material for public debate, we are seeking to develop new, more transparent and accountable approaches to dealing with the responsibilities of media personnel in an open democratic society. Some of the material may be contentious, but it offers a compelling argument for a more substantial investigation into the vexed question of the role of journalism and the responsibilities of media organisations to society.

There have been three Royal Commissions on the Press since the Second World War – in 1949, 1962 and 1977. Is the time ripe for a fourth, at a moment when the print and electronic media are largely indistinguishable in ownership and function - the former self-regulated, the latter supervised by Ofcom under the Communications Act? The twin value of freedom of expression and media responsibility is the issue at heart.

When the Press Council was set up in 1953 by the newspaper industry it reflected the concerns of the first Royal Commission which had been concerned about the growth of monopolistic tendencies in newspaper ownership (not substantiated) and the freedom of the press, only just emerging from the impact of wartime rationing in the supply of newsprint. It found the press wanting in reporting the news accurately. From its origins, the Press Council embodied in its constitution the twin attributes of press freedom and responsibility. Any adjudication of complaints from the public about newspaper reporting was almost an afterthought, although the function developed exponentially and achieved dominance in the latter part of the twentieth century, to the point where some commentators thought that the two functions were mutually incompatible.

The result was that in setting up the Press Complaints Commission in 1991, press freedom was notably absent from the concept of self-regulation; the ensuing period was devoted exclusively to adjudication of complaints, with occasional obeisance to the pursuit of press freedom.

After the second Royal Commission in 1962 the Press Council ceased to be composed exclusively of representatives from the newspaper industry and contained at a later stage an equal membership from the public. Its first independent chairman, Lord Devlin, brought to the Council a distinctive brand of prestigious supervision, focused primarily on complaints. In inaugurating the annual conference of the Commonwealth Press Union in June 1966, Lord Devlin named six factors which he deemed essential to the creation and proper working of a self-regulating body for the

press. The sixth factor was for the organisation to stand up for the freedom and rights of the press as well as to censure misconduct.

“To censure misconduct effectively,” he asserted, “It needs the support and respect of the press and it will obtain that much more readily if, in the words of its constitution, it seeks to preserve the established freedom of the British press and work as to maintain its character in accordance with the highest professional standards.”

He added, prophetically, that the organisation “must never allow itself to become mostly a tribunal which convicts or acquits”.

That is what has happened. The Press Complaints Commission has pronounced, with variable conviction, on the guilt or innocence of the editors and journalists on specific complaints. Other than exceptionally, it has not conducted inquiries into specific issues relating to perceived deficiencies in responsibility. Is there any sign that the latest behaviour of Piers Morgan and *The Mirror* will come under scrutiny by the self-regulatory body? If not, why not?

The issue whether Parliament or the courts should establish a law of privacy remains unresolved, although it had been subjected to an official inquiry in 1972 which recommended, by a majority, against a statutory right of privacy, on the basis that there was no compelling evidence of a substantial wrong to be tackled. Since then there has been a spate of pleas for a privacy law. There is now such a body of evidence. The courts, while extending the law of confidentiality (which covers some aspects of protecting individuals from invasions into their private lives) has drawn back from a full-blown civil remedy. Some gathering together of the threads of the rival arguments is urgently needed.

There are some more general issues that have not so far been fully aired. The education and training of journalists in this country lags behind the requirements of other countries, notably the United States of America. The industry would claim, with some justification, that its Code of Practice, formulated in 1990 and revised in 1999 and again this year, is its standard bearer. The Code, framed exclusively by the industry, does not carry conviction, either in its provenance or in its ability to enforce standards. Only a Code defined by the public can hope to achieve public acceptability. And it needs proper enforcement, conceivably by appropriate sanctions, although therein lies a dilemma.

Enforcement is the hallmark of intervention in editorial freedom and journalistic enterprise. Any Royal Commission must face that conundrum. Rather like the system of ombudsmen in public affairs, the regulators (self or imposed) can supervise by authoritative pronouncements without the power to inflict a penalty.

The many issues raised in this collection of studies echo the concerns expressed by others within the newspaper industry, like Harold Evans and Martin Kettle, who have called for a fourth Royal Commission. And they above all should know what is needed to deal with the malaise within the media. It is our hope that their call will be heeded.

London, June 2004