

Press self-regulation in britain



Introduction

Since the emergence of the daily press in the sixteenth century regulation has been an issue. Until the nineteenth century various governments tried an array of ways to control the content of newspapers, before eventually moving to a stance which officially renounced any authority over press output (O'Malley and Soley, 2000, p. 1). This notion of a free press has become an important facet of democratic society which values freedom of speech and widespread access to information. The problem is the press have gained a not unfounded reputation for misrepresenting facts, exaggeration, lies, and general inaccuracies printed often at the price of an individual's right to privacy. The answer to this situation has most enduringly resided in the notion of self-regulation. This is 'the right of the newspaper industry to regulate itself on matters of standards' (O'Malley and Soley, p. 3). However, this method has repeatedly had its failures highlighted, no more so than in the ongoing phone hacking scandal which is centred upon the News Of The World (NoW) and its owners News International. This essay will use the fallout from this scandal to argue that current debate is leaning towards the implementation of some sort of statutory enforcement of self-regulation. It will begin by outlining the debate around self-regulation since World War Two, before moving on to discuss the failures of self-regulation with particular reference to the NoW and the nature of contemporary debate on the topic. It will conclude by considering the way forward for press regulation.

History of self-regulation

Following the cessation of World War Two and the end of wartime press controls, the regulation of the press emerged as a key point of debate and contention (O'Malley and Soley, p. 18). In 1947 the Royal Commission on the Press was convened to consider the possibility of a body charged with the regulation of standards. The outcome was the recommendation for a voluntary and non-statutory General Council of the Press. It was to protect the freedom of the press and promote public responsibility. At the core of this remit was the creation of a code which would uphold the highest professional standards and the hearing of complaints (O'Malley and Soley, pp. 54-55). When it came into being in 1953 the actual organisation was far weaker than the Commission intended. It made no attempt to draw up a set of codes and carried little weight. The upshot of this was another commission on the subject of regulation in the early 1960s and a change of name from the General Council to the Press Council. Reform was slow and a code of conduct was still not forthcoming.

By this stage the lack of commitment from the press for effective self-regulation was attracting increased criticism. It was evident by the 1980s that the Press Council 'had not adjudicated public complaints speedily or effectively, its principles of cheque-book journalism, privacy and right of reply had been continually flouted' (O'Malley and Soley, p. 82). These failures led some MPs to call for statutory intervention and several private member bills were introduced in the House of Commons calling for press legislation. Ultimately these bills were defeated by a government wary of angering newspaper proprietors (O'Malley and Soley, p. 79-81; 85-87). To placate backbenchers in 1989 the Thatcher government instigated the

Calcutt Inquiry. This condemned the Press Council for its continued lack of effectiveness, its delay and selectiveness in handling complaints and its weak range of sanctions (O'Malley and Soley, p. 88). As a result in 1991 the Press Council was dismantled and the Press Complaints Commission inaugurated alongside a code of conduct. This body continued to form the primary self-regulatory institution for the press until March 2012.

The failure of self-regulation

Perhaps the most significant condemnation of self-regulation stems from the current unethical (and illegal) practices which some journalists choose to engage in. Leading the way in underhand investigatory techniques was the tabloid paper NoW. Described by its owner James Murdoch as a crime fighter, it had a reputation for celebrity scoops and check-book journalism (08. 07. 11, BBC News). It was the desire to satiate its readership's interest in this type of story which ultimately pushed it to commit serious violations of privacy. The first indications that it was engaging in phone hacking emerged in 2005 when the newspaper printed a story about a knee injury incurred by Prince William. Suspicions were raised as to how this information had been obtained and eventually the author of the article and an investigator from the paper were arrested and imprisoned for illegal phone hacking. To date the police have identified potentially 6, 000 victims demonstrating the widespread extent of this crime (28. 02. 12, BBC News). Unable to sustain credibility the NoW closed in July 2011 under a torrent of allegations. The paper has had to pay out millions in damages to those whose privacy they compromised, including ? 2million to the parents of Milly Dowler after it emerged that one of its journalists had tapped into the missing girl's

voicemails 28. 02. 12, BBC News). The inability of the Press Complaints Commission to prevent this type of journalistic behaviour, which reaches beyond the NoW, stems from a variety of factors. Unpacking current debate on self-regulation gets to the heart of these.

Current debate over self-regulation

In consequence of this scandal in November 2011 David Cameron convened the Leveson Inquiry to investigate the culture, practice and ethics of the press (24. 04. 12, BBC News). One of the findings that has emerged from the inquiry is that the Press Complaints Commission needs reforming. Lord Black, chairman of the body which funds it, told the inquiry that phone hacking has demonstrated that this institution lacks the investigative powers and the leverage needed to enforce editors to uphold their Code of Practice and apply punitive sanctions (01. 02. 12, BBC News). In a move which pre-empted the inquiry report the Press Complaints Commission announced in March 2012 that it would be closing and an interim body would take over until a new framework for a regulatory power can be put into place.

This apparent failure of self-regulation has reignited the familiar debate as to how exactly the press should be regulated; can they be relied upon to implement it themselves or should some form of statutory regulation be resorted to? Cameron has indicated that the latter situation is not one he favours given that government regulation of the media does not lead to a free media (06. 09. 11, BBC News). He has not ruled out the idea however that independent regulation might function better if it was inaugurated through statute but kept removed from the government (06. 09. 11, BBC

News). This would produce a body that is not dissimilar to Ofcom, which was created through statute and charged with overseeing the compliance of TV and radio to a code of practice. It is also an institution which firmly believes self-regulation can work for the press providing its governing council has 'effective powers of enforcement and sanction' and 'genuine powers of investigation' (O'Carroll, The Guardian, 2012). Ofcom too believes that if self-regulation is to be viable then some aspects of it, particularly the rules governing membership, may have to be upheld by statute (O'Carroll).

Other contributors to the ongoing debate about self-regulation have identified alternative aspects of the regulatory process which might be more effective if enforced by law. For instance O'Malley and Soley have argued that there is no reason why there should not be laws that guarantee the right to correction of factual inaccuracies in the press (O'Malley and Soley, p. 2). Conservative MP George Eustice has come forward to say that a clearer privacy law which unequivocally balances the right to privacy against the right to freedom of expression would benefit both the public and the press (Eustice, The Guardian, 2012).

Not everyone sees the phone hacking scandal as a failure of self-regulation. The Guardian's Gill Phillip points the blame at internal management and the police for not investigating evidence they first obtained in 2006 (Phillips, 2012). The Press Complaints Commission, Phillips argues, was not designed to address criminal conduct (Phillips). If this situation was to be dealt with through more top-down regulation the result would be heightened complexity which would do no more than obscure the public's rights and the press' responsibilities (Phillips).

Belsey certainly concurs with this standpoint arguing in Britain the media are already curtailed by the criminal laws of, to name a few, official secrets and sedition, by the civil laws of libel and breach of confidence, and as well as through the use of interlocutory or ‘gagging’ injunctions (Belsey, 1992, p. 6). Adding privacy to this list would have a damaging effect on journalism whilst in all likelihood having no impact on the gossip of tabloids. Furthermore legal restriction on the press will not only curb its democratic role but will also increase the instances when a journalist is faced with the dilemma of acting either legally or ethically (Belsey, p. 8; Harriss, 1992, p. 68).

Conclusion – the way forward for self-regulation

Self-regulation has been and continues to be undeniably flawed and this is typified by the activity of the NoW. This has been recognised and a significant overhaul of the system is on the agenda. Lord Hunt has proposed that the successor to the Press Complaints Commission should have two arms; the first should address complaints and mediation, the second should operate as an auditor which enforces standards and adherence to the editors’ code. Additionally a more pronounced effort should be made by newspapers internally to self-regulate through the appointment of individuals responsible for compliance (Greenslade, The Guardian, 2012). This would create a regulatory body which has the ability to demand a continued and unwavering commitment to ethical journalism. Ofcom too are confident that if this new body has a robust framework and the authority to impose sanctions on wayward newspapers, effectual self-regulation could at last be overseeing the activity of the press (O’Carroll). The case of the Press Complaints Commission illustrates that voluntary self-regulation has been

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little more than a token effort at control over the industry. The blame for this, Tunstall suggests and events corroborate, is with the government for not finding the courage to insist on a compulsory system (Tunstall, 1996, p. 391). In all likelihood the press may have to reconcile themselves with the idea that their membership to this yet undecided regulator will be made obligatory by law. Arguably it would be this new system which differentiates the upcoming regulator from those which have fallen in its wake, and differentiation is certainly needed if the same failures of the past are not to be repeated.

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