

News Publishing in the Digital Age: What Role for Regulation?

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Introduction

Thank you very much. It's a pleasure to be here at City, with so many great journalists of the past, present and future. This place gives me great hope for the future of journalism.

I hugely valued my time as a young freelance trade journalist covering the legal scene telling my readers what was going on in the Lord Chancellors Department, Home Office, the Law Society, and the Bar Council. The Law Society finally got fed up with my critical exposures of their incompetence. I discovered that they had sacked their communications director but had said he had left voluntarily. Then I found out they were about to give the job to a former MP who had been mixed up in a local government scandal, and when I published the story they withdrew the offer. When I told them I was about to run the fact that as no one would apply for the job, they were about to hire head-hunters, they stopped and hired me instead to lead an internal change agenda. That led on to a career in complaint handling and regulation. Don't let anyone tell you trade journalism isn't a great sector to work in.

So when I saw that IMPRESS was being set up as a voluntary press regulator to uphold high standards of journalism, committed to the principles in the Leveson report, I jumped at the chance to be involved. IMPRESS as you may know has been recognised as the first and so far the only officially approved independent press regulator in the UK.

However, there are many reasons to feel concerned about the future of journalism, and the future of news more generally. I've been involved with IMPRESS now for over three years and I work with a remarkably experienced, talented and thoughtful set of board and staff colleagues including our CEO Jonathan Heawood, IMPRESS's founder. As more and more news publishers seek to be regulated by us, inevitably we find ourselves discussing what is happening to UK journalism and news distribution.

The digital revolution that has affected so many parts of our personal and business lives has revolutionised the business of news. I want to talk about that revolution, and about the steps we can take in order to protect the news for future generations.

I am not talking about the future of particular publishers or publications, or about the future of print. I am talking about the news ecosystem as a whole.

The internet, it's said, is disrupting the professional creative industries: you-tubers threatening film-making and broadcasting; tweeters and instagrammers threatening professional photography. Social media is certainly disrupting journalism and the news chain.

A healthy news chain depends on a huge number of related elements, from local reporters, investigative journalists, trade journalists, bloggers, whistle-blowers and their sources, through publishers and distributors, to audiences who put all of this together to form a meaningful picture of the world around them.

A healthy news ecosystem depends, above all, on an environment which values and rewards great journalism. Because journalism, as opposed to blogging, tweeting or the random exchange of ideas, contributes to an informed society and serves an important public interest.

Just as news content flows through the chain in one direction, so value must flow back through the chain in the other direction. Working journalists must earn a living. Publishers must be financially viable. Distributors mustn't hog the value

chain. And audiences must be willing to pay to receive news – either by parting with money or being prepared to see news surrounded by ads.

At present, all of those links in the news chain are under threat of disruption.

News innovators

Now, disruption isn't all bad. Disruption drives innovation.

At IMPRESS, some of the UK's most innovative news publishers have asked to join us. We are growing at the rate of four or five new publishers every month. Our 51 publisher members are responsible for 89 publications, reaching something like 7 million people every month. Another 40 publishers have applied to become regulated by us and we are processing their applications.

Most of our members have turnover of less than £1m. They are a small but vital part of the news ecosystem.

Companies at this scale have the freedom to experiment, and the confidence to try a wide range of new business models. Crowdfunding. Micropayments. Community share offers. Co-operatives. Franchises. Philanthropic funding. Events. Membership. Subscriptions. Sponsored content. Web design and printing services.

There are almost as many business models as there are publishers in our membership. We even have a number of print publications which are still successfully funded through advertising.

Unlike their corporate counterparts, these independent publishers don't have in-house legal departments. There is no-one to read their content before publication, or to face down wealthy litigants when the writs start flying in.

On the other hand, they don't have shareholders and they carry no debt. They can run sustainable businesses, on little or no profit, without being bothered by demands for dividends or interest payments.

It's neither right nor sensible for the big beasts of the ecosystem to mock or disparage these innovators, for they are part of the great tradition of British news publishing that stretches back to the pamphleteers of the seventeenth century.

You could say that some of our members have more in common with those early pamphleteers than they do with parts of today's national or regional press. They are vigorous, political and satirical. They take no prisoners. And yes, they sometimes get things wrong.

Regulating the innovators

The most complained-about article in IMPRESS's short history was published last year in The Canary. The Canary is an influential left-leaning website that claimed to have reached 8 million readers during the last general election. Far from wanting to be unaccountable, it stated its reasons for joining us: "*We believe that press regulation is a core part of democracy and IMPRESS offers truly independent regulation.*"

The complained about headline read: '*We need to talk about Laura. She's listed as a speaker at Tory party conference.*' 'Laura' was Laura Kuenssberg, the BBC's political editor. Almost immediately, social media users pointed out how much of this headline was wrong.

Yes, Laura Kuenssberg was listed in the programme for a Conservative party conference event – but she was listed as an *invited* speaker, for a fringe event hosted by a think tank, and she had turned down the invitation.

50 complainants came to IMPRESS. We required The Canary to consider and answer their complaints. One complainant returned to IMPRESS, dissatisfied with the Canary's response.

We investigated and ruled that The Canary had indeed breached our standards code because it hadn't taken sufficient steps to verify the accuracy of the article before publishing.

The Canary, to its credit, took this on the chin. They made the correction and published the adjudication as requested. I was interested in the Guardian's Martin Belam's tweet: *"Lots of people knocking the Canary story today, but tell you what, when was the last time you saw a website lead their homepage with a correction?"*

We have had similar exchanges with other members who have been subject to complaints, investigations, adjudications or arbitration. And in our short life we have been responsible for five front-page/home-page corrections. When was the last time you saw a front-page correction in a national newspaper?

Their journalism and their business models may vary, but our members are united in one thing: they believe in the role of journalism in society.

For them, regulation doesn't get in the way of journalism. It enhances and amplifies their journalism. The Ferret is an award-winning Scottish investigative journalism cooperative that says it *"noses up the trousers of power"*. It recently posted an article about the crisis of failing trust in the news media, and cited its membership of IMPRESS among the ways it was responding to the crisis.

These innovators are responding positively to the digital revolution. They are trying things out. They'll have to keep evolving if they are to keep publishing.

The impact of social media

In the last few months, everyone has suddenly begun to talk about regulating social media. A year ago, this idea would have been mocked or ignored. It was impossible to regulate social media, we were told. Companies like Facebook and Google were too big, too American and just too downright *free* to be regulated.

Up to a point, old media went along with this assessment. And then the music changed. Old media noticed that it was being cannibalised by social media. Facebook had brought the world's publishers onto its platform, captured their audiences, and then – with a simple tweak of the algorithm – thrown the publishers off again. Facebook and Google had already acquired the lion's share of media advertising.

Around the same time that old media woke up to the economic threat posed by Google and Facebook, the pages of their newspapers began to fill with the dark deeds of these companies. The Russian money. The artificial accounts. The terrorist videos. The child exploitation. The fake news.

The conclusion was clear. Social media must be regulated.

This is an unusual turnaround. These newspapers are normally opposed to media regulation, as we well know at IMPRESS. They normally say state regulation of the media, in any form, is anathema. They use the phrase “state-backed” as a term of abuse when referring to IMPRESS.

But it seems that the threat posed by social media outweighs all of those concerns and that, in this instance, market forces are not enough to protect the public interest. Something must be done.

Social media is certainly having a massive and irreversible impact on the business of news. This impact is not merely financial. It goes to the heart of journalism’s role in our society and in our democracy. This is a problem not just for individual publishers and publications, but for the news ecosystem as a whole.

Social media has torpedoed the business model for news producers. It has created countless opportunities for malign forces to use and abuse the format of news to spread misinformation and disinformation.

Government finally responds

Finally in massive flurry of activity since the New Year, the government has been paying attention. Should social media be regulated? The Culture Secretary Matt Hancock sounded cautious: *“If you tried to bring in a new regulator you’d end up having to regulate everything,”* he said. *“But that doesn’t mean that we don’t need to make sure that the regulations ensure that markets work properly and people are protected.”*

In January the Government published its Digital Charter. Its main initial priorities are to make the digital economy thrive, protect people from harmful content,

address platforms' legal liability for content, and ensure the ethical use of data and artificial intelligence. Really encouraging.

On the other hand there's the government's *'fake news response unit'*. This 'dedicated national security communications unit' will flag up fake news to social media companies, or carry out rapid response rebuttals to close stories down. Surely this initiative is a mistake. It's not government's job to produce the news, to regulate the news or to rebut the news. This response unit is likely to tie itself into knots venturing into this territory.

A more promising set of announcements which could be a game changer was made by the Prime Minister two weeks ago, - the development of a social media code, a request for the Law Commission to consider where the criminal law should fit in, and a review of press sustainability.

A cautious welcome

It's hard not to applaud this latter initiative, and I indeed do. But I'm afraid those of us who have watched this government's approach towards press issues have developed a weary cynicism. It has been excessively deferential to the corporate news groups, for instance accepting their demand in its election manifesto to undermine the Royal Charter on Press Self Regulation by abolishing any incentives to make it work.

Now, the government's previous effort at supporting local news was to pressurise the BBC into handing over £8million of licence payers' money in a deal with the News Media Association (the trade body of the national and regional press) into its so-called Local Democracy Reporter scheme. This scheme was trumpeted as supporting local reporting. But it effectively excluded small community based news publishers from even applying for help. (You had to have more than one salaried journalist; the 'ability to handle payroll, overheads, holiday cover, sick leave', virtually an HR department). And who turned out to be the largest beneficiaries? The main corporate news groups responsible for closing down so many local titles.

So the cynics amongst us (you really must forgive me now) can see the elements of another deal potentially emerging here. The platform giants will be urged to release some of the vast profits they make by recycling news generated by journalists, relieving the pressure on them to be regulated. And where will the money go? If, in the name of supporting democracy and press sustainability, large subsidies just go into the hands of the same dominant commercial news groups, and none into the most vibrant, energetic and challenging digital news sector, an already depressing cloud of cynicism would grow. That is why, while welcoming the press sustainability review, we need to watch carefully how it is managed, who is managing it, what the outcomes are intended to be, and whether they are delivered.

But these are early days, the review hasn't started yet, and we will happily put aside our scepticism, looking forward to embracing this initiative and contributing our knowledge and experience to it. So how could the review help?

For a start, government could help support new business models for news. It could make finance and equity funding available for news innovators to stimulate the growth of a diverse and sustainable news sector.

Secondly, government could help create a level playing field for both digital and printed news producers. For that, we need a fair tax and subsidy regime. The platform distributor intermediaries take an enormous bite out of the news value chain. They should be taxed properly. The local digital publishers get no benefit from the out-dated requirement on local authorities to advertise with local print papers, or from the zero VAT rating of printed news.

Thirdly, government could help create incentives for true journalism. That takes time and expertise and it involves risks.

If the market could be relied upon to provide us all with great journalism, then there would be no need for public intervention. But the market can't be relied on. In the attention economy, clicks are worth more than quality.

So, we need incentives to act as a counterweight to these market forces. We need nudge factors, to encourage publishers to produce news that is not only financially but also socially valuable.

Regulation and incentives

Sir Brian Leveson understood that you can only apply incentives to news publishers if you have some way of confirming that they meet relevant standards. Otherwise, what's the point? As a society, why would we give special treatment to an industry that refuses to make any commitment to us in return?

At a time when anyone can launch a newspaper or a news website, we need to be able to recognise those publishers who are demonstrably committed to true journalism and to accountable values, and those who are not.

That is why, at IMPRESS, we see regulation as an important part of the solution to the social media puzzle. Regulation can help sort the wheat from the chaff, help audiences find their way to true journalism, and help policymakers apply positive incentives to the news. The Leveson framework with its built-in incentives for accountable self-regulation is in our view the best that has yet been devised, and it can be the cornerstone on which the defence of true news journalism in the digital age can be built. Critics of the Leveson framework claim the incentives would work unfairly, but they fail to identify what incentives would work better. Let them come up with ones that would be fair and effective to identify genuinely accountable publishers who are publishing true news journalism. The fact that they don't suggests that they just don't want to be accountable at all. And that would allow the purveyors of fake news to thrive, and the social media giants to remain unaccountable.

As I said earlier, a growing number of news innovators share our vision, and have signed up to IMPRESS in order to be part of the much needed trust response to the digital revolution.

Other parts of the industry have taken a different view of things. The News Media Association represents some of the biggest beasts of all. It has the experience

and the financial clout to build a consensus across the media and to engage with the public on how to respond to the social media puzzle. Perhaps it has tried and we haven't noticed, and that may be because for the last three years it's continuously attacked IMPRESS - running a campaign in its member papers, attacking the body that validated us, threatening us with a court action, all so far unsuccessfully. Entertaining no doubt for media commentators, but it's now clear that we are here to stay and have a part to play. And despite the war of words, all of us want to see a successful news industry, and there is far more that we share than divides us. That is why today I have written to David Dinsmore, chair of the NMA, suggesting that it's time we discussed together the common issues to be addressed among those who are concerned for the future of news journalism.

It's time we all examined our objectives, and worked out what we are really trying to achieve.

Conclusion

We are still living through the consequences of the media digital revolution and there is more to come. There is an urgent need for government to address the harms, both old and new, that the revolution has caused, whilst helping us to enjoy the benefits it has brought.

There should be support for new business models for news, creating a level playing field between old and new media through fair and effective taxation, and by creating incentives for proper, accountable journalism.

Government acknowledges it can't do this alone. It needs to see leadership from within and around the news industry.

We all need to get out of our bunkers, to dust ourselves down, shake off our preconceptions and look clearly at the challenges facing us. The old clichés, the old tribal divisions, the old circling of the wagons won't work.

This isn't about 'them and us'. Censorious celebrities versus roving reporters; or evil press barons versus courageous campaigners.

We will only find the way forwards by working together, with an approach that is both principled and pragmatic.

Principled about our shared commitment to news that is diverse, challenging, informative, entertaining, satirical, funny and ferocious. And pragmatic about how we achieve that.

At IMPRESS we would like everyone who shares this approach to join us in trying to reach a consensus to protect the future of news. With every day that we fight each other, we are wasting time and energy.

We could – and we should – be protecting the news for future generations.

Thank you.