



Department
for Culture
Media & Sport

Richard Tilbrook
Clerk of the Privy Council
Privy Council Office
2 Carlton Gardens
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8 October 2013

Dear Mr Tilbrook

PETITION FOR THE GRANT OF A ROYAL CHARTER SUBMITTED BY THE PRESS STANDARDS BOARD OF FINANCE LIMITED (PRESSBOF)

As joint Chairs of the Committee of the Privy Council to whom, on 10 July 2013, this Petition was referred for consideration and recommendation, we write to inform you of the Committee's recommendation.

The Committee is grateful to PressBoF for its Petition and for the important issues it raises, in relation to the setting up of an independent self-regulatory regime for the Press, following the Inquiry by Lord Justice Leveson. The Committee has examined the Petition and has concluded it contains areas which it finds acceptable but ultimately the Petition falls short of Government policy on the self-regulation of the press, based on the Leveson Report. As such, the Committee is unable to recommend the Petition be granted. This letter sets out the Committee's reasons for that decision.

This letter also sets out that the Committee reached views on issues raised by the Petition, specifically arbitration, as a new feature for the press industry, and the press standards code. Although these views do not directly affect the Committee's recommendation, the Committee considers they merit further consideration in the context of future press self-regulation.

Following the Leveson Report, which made recommendations after a full public inquiry, Government policy on self-regulation of the press was articulated publicly in the cross party agreement announced by the Prime Minister in Parliament on 18 March 2013 and reflected in the Cross Party Charter published on the same day. The Committee has concluded that the PressBoF Petition falls short of Government policy on the self-regulation of the press (see considerations at Annex A) for the following key reasons:

Independence: Following on from the Leveson Report, Government policy is



that there should be an independent verification body (a Recognition Panel) able to recognise a press self-regulator. The self-regulator should be independent of the press, of Parliament, and of the Government. Whilst there is much to be said for industry engagement in a system of industry self-regulation, the Committee was unable to satisfy itself that industry both funding and playing a significant role in appointments to the Recognition Panel are factors which could be consistent with Government policy. There were three areas which the Committee particularly noted:

- i. **Recognition Panel:** The Committee did not consider that the PressBoF Recognition Panel would be sufficiently independent for the following reasons: (i) a new Industry Funding Body would provide, and so control, the funding of the Recognition Panel; (ii) appointments to the Board of the Recognition Panel would be made by an Appointments Committee that would include one member who, in the opinion of the Industry Funding Body, represents the interests of relevant publishers, which would provide too strong an influence by the industry over the work of the Appointments Committee; (iii) persons who act in an editorial capacity (except those holding overall editorial responsibility) would be eligible to be members of the Appointments Committee and the Recognition Panel; and (iv) politically affiliated members of the House of Lords and MEPs would be eligible to be members of the Recognition Panel.
- ii. **Self-regulator:** The Committee was not satisfied that the proposed “recognition criteria” would deliver a sufficiently independent self-regulator for the following reasons: (i) the Petition states that appointments should be made without any direction from the industry. But it would allow the industry to have an influence on appointments. This might extend beyond what Government policy recognises as acceptable participation; (ii) persons who act in an editorial capacity (except those holding overall editorial responsibility) would be eligible to be members of the self-regulator; and (iii) members of the House of Lords and MEPs would be eligible to be members of the board of the self-regulator.
- iii. **Certainty:** The Committee welcomes PressBoF’s intent to impose constraint on future amendment of their Charter. However, the Committee considered that the specific proposals do not provide proper independence from the press, Parliament and Government. There would be nothing to stop the Government alone amending the Charter in the future. For example, it does not take advantage of the ‘Royal Charters requirements for Parliamentary approval’ provision in the Enterprise and Regulatory Reform Act 2013. That provides that no recommendation may be made to the Privy Council (to amend or dissolve the body’s Charter) unless any requirements included in the Charter, that Parliament must approve the amendment, have been met.

Arbitration: The Committee welcomes that the PressBoF Charter includes the option

for arbitration but is concerned that it does not make it a condition of recognition that a self-regulator must provide an arbitration service for complainants. This was an essential element of the Leveson Report. Without an arbitration service, the incentives introduced by legislation – through the Crime and Courts Act 2013 - would not be properly activated, as Parliament intended.

Standards Code: the PressBoF Charter establishes that the standards code must be adopted by the board of the self-regulator and written by a Code Committee, comprising independent members and serving editors. However, the Charter does not clarify the relationship of the Code Committee with the self-regulator’s board. Accordingly, following on from the Leveson Report, the Committee is not satisfied that the PressBoF Charter would deliver a robust standards code which is ultimately the responsibility of the self-regulator.

Apologies: the PressBoF Charter states that the self-regulator should have the power to “require remedial action” and the “power to require the nature, extent and placement of a remedy” but it does not make clear what this remedial action might include. Following on from the Leveson Report, the Committee is unable to satisfy itself that this wording would ensure that the self-regulator will have the necessary power to require a relevant publisher to direct apologies.

Third party complaints: the PressBoF Charter requires a self-regulator to have the power to hear complaints. In the case of third party complaints it is required only where the alleged breaches are significant and there is a substantial public interest in the self-regulator giving formal consideration to the complaints. In light of the Leveson Report, Government policy is that all such complaints should be considered if there is a public interest in so doing. The Committee is not satisfied that the higher thresholds in the PressBoF Charter are consistent with Government policy and would deliver an effective complaints mechanism.

The Committee considered other aspects of the PressBoF Petition but these were not material to its recommendation.

Following on from the Leveson Report, Government policy is that any solution must be perceived as credible by the public and supported by the press. The Prime Minister has said that “As Lord Justice Leveson recommended we need a system of tough, independent self-regulation that will deliver for victims and meet the principles set out in his report.” The responses to the Period of Openness¹ showed that (i) the PressBoF

¹ During this period approximately 19,400 responses were received on the PressBoF Charter. They were dominated by campaigns instigated by the Newspaper Society (an industry body) and Hacked Off (a pressure group). Some 19,000 responses (generated largely as a result of a campaign by Hacked Off) did not support the PressBoF Charter. The responses raised a range of issues including the need for independence from industry, lack of a mandatory arbitration scheme, limits on third party complaints, a lack of clarity on apologies and the complexity of investigations). The Newspaper Society campaign generated 136 responses, of which 74 were Editors or Group Editors of local and regional newspapers. All of these supported the PressBoF Charter. Respondents supporting the PressBoF Charter also included most

Petition was not seen to have credibility with the public, but (ii) was supported by the industry, with support coming from a number of regional press newspapers and groups and most national newspaper groups, following a campaign by the Newspaper Society.

Further views

In undertaking its consideration, the Committee has formed views, which while not directly relevant to the reasons for its recommendation, merit further consideration in the context of future press self-regulation. The Committee has noted that the main advantage of the PressBoF Petition is that it has the strong support of the majority of the newspaper industry.

The Committee recognised that the concerns on arbitration raised genuine issues, given that an arbitration service would be a new feature for the press industry as a way to handle complaints. It is, therefore, not possible to be clear about the potential take-up of the scheme nor to have certainty about the precise costs of such a scheme to the industry. The Committee is aware that there were widespread concerns, particularly among local and regional newspapers and newspaper groups, that these costs could be significant. Any system needs to be sustainable, not only for the industry but also for the public. The Committee considers that this issue should be given further consideration.

The Committee recognises that there is a need for the standards code to be drafted by practitioners drawn from the industry. But the code must ultimately be the responsibility of the Board. The Committee considers that there is merit in considering afresh the obligations placed upon the self-regulator in relation to the standards code.

I am arranging for this letter to be copied to the Petitioner, the President of the Privy Council and placed in the libraries of both Houses of Parliament.



Rt Hon Danny Alexander MP
Chief Secretary to the Treasury
Co-Chair



Rt Hon Maria Miller MP
Secretary of State for Culture, Media and Sport
Co-Chair

national newspaper groups, including News International, The Telegraph Group, Daily Mail Group, The Times, The Sun and The Independent. The Guardian did not express a preference for or against the PressBoF Charter. On 18 July the Financial Times said that the industry's proposals are the best option to deliver the Leveson vision.