



Department for
Digital, Culture,
Media & Sport



Home Office

**GOVERNMENT RESPONSE TO THE
CONSULTATION ON THE LEVESON INQUIRY AND
ITS IMPLEMENTATION**

**SECTION 40 OF THE CRIME AND COURTS ACT
2013 AND PART 2 OF THE LEVESON INQUIRY**

1 March 2018

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MINISTERIAL FOREWORD

The United Kingdom is a beacon of liberal democracy to the rest of the world.

A vibrant, independent, plural and free press that is able to hold the powerful to account is a cornerstone of this. High quality journalism, reporting without fear or favour, is a vital underpinning of our democracy and ultimately, our freedom as a nation. And, in an era of 'fake news', it is our strongest defence against any attempts to undermine our democratic processes.

It is therefore vital that we uphold the values of a free press, while ensuring that these freedoms are not abused. It was for this reason that in July 2011 the Coalition Government announced the establishment of the Leveson Inquiry to investigate the role of the press and police in the phone hacking scandal.

In the six years since the Inquiry published its report, much has changed. There have been three detailed police investigations into the activities of the media and 40 convictions, while great strides have been made towards a system of press self-regulation that is effective and also independent from both government and industry. Back then we could not have imagined the scale of the changes that have occurred since. The speed at which technology has continued to transform our everyday lives means that news media is now disseminated and consumed in a markedly different way.

This transformational shift in the media landscape has created new challenges for both the industry and us all as citizens. The local press is under severe pressure, with the number of journalists halved and around 200 titles having closed since 2005. These challenges demand that government take a new approach to safeguard the financial viability of high quality journalism and to protect consumers from harmful and inaccurate material online as well as offline.

Those in the press who were found culpable for the most egregious behaviour, and the police and other public servants who accepted corrupt payments, have been held to account. This has been accompanied by changes to police practices and a new form of self-regulation of the press, unforeseen when the inquiry began. We, therefore, consider that a repeat of the deplorable behaviour that led to the Leveson Inquiry being established is extremely unlikely.

This consultation elicited a huge public response, with there having been 174,000 direct responses to the consultation alongside two petitions which together gathered

over 200,000 signatures. We recognise the personal importance of the issues being debated to many individuals.

The Government has a duty to make decisions that are proportionate and in the public interest. In reaching our decisions on these matters we have listened to all views and representations, and will continue to do so as we face the challenges of today and beyond.

The work of the Leveson Inquiry, and the reforms since, have had a huge impact on public life. We are now on firmer ground from which to tackle some of the most pressing challenges facing our democracy today.



A handwritten signature in blue ink that reads "Amber Rudd".

Rt Hon Amber Rudd MP
Home Secretary



A handwritten signature in blue ink that reads "Matt Hancock".

Rt Hon Matt Hancock MP
Secretary of State for Digital, Culture,
Media and Sport

1. Overview

This document is the Government's response to the consultation paper *Consultation on the Leveson Inquiry and its implementation* published by the Department for Culture, Media and Sport and Home Office.

It covers:

- the background to the Leveson Inquiry, its implementation and the consultation;
- a summary of the responses received, and more detailed analysis of the responses to each question; and
- a summary of the next steps following this consultation response

The consultation launched on 1 November 2016 and ran for ten weeks.

We sought views and evidence through six questions relating to:

- whether to commence section 40 of the Crime and Courts Act 2013; and
- whether Part 2 of the Leveson Inquiry was still appropriate, proportionate and in the public interest.

We received 174,730 direct responses, as well as two petitions with 200,428 signatures in total. We are grateful for all of the responses provided by the individuals and organisations who engaged with this consultation.

This response has been delayed due to the considerable number of responses received, a judicial review of the consultation, and two periods of election purdah. It was also necessary to consult with Sir Brian Leveson as Chair of the Inquiry.

2. Executive Summary

It has been over six years since the Leveson Inquiry was established and over five years since the report on Part 1 was published. Since then we have seen the completion of three detailed police investigations, extensive reforms to policing practices and some of the most significant changes to press self-regulation in recent times.

Over this time we have also seen a transformational shift in the media landscape and how people consume news. The growth of online platforms and changes in the way journalistic content is accessed have both accentuated the need for high quality journalism, and placed unprecedented financial pressures on traditional media. Indeed we have seen the closure of over 200 local newspapers since 2005. The Government recognises that a vibrant and free press, at both a national and local level, plays an invaluable role in our cultural and democratic life, and we want to ensure that continues, with high journalistic standards, working in the public interest.

The Government remains committed to ensuring that the inexcusable practices that led to the Leveson Inquiry never happen again. Given all the changes that have occurred since the establishment of the Inquiry, the Government launched a consultation in November 2016 to seek views from all interested parties on the best course of action relating to two outstanding issues from the Inquiry:

- commencement of section 40 of the Crime and Courts Act 2013; and
- whether proceeding with Part 2 of the Inquiry is appropriate, proportionate, and in the public interest.

Since this consultation took place, the Conservative Party committed in its 2017 manifesto to repeal section 40 of the Crime and Courts Act 2013 (henceforth referred to as “section 40”) and not to proceed with Part 2 of the Leveson Inquiry (“Part 2”) . The Government has, however, carefully considered the responses and the views of stakeholders along with all other relevant evidence before coming to a final view on these two issues.

The consultation asked six questions focussing on these two issues. With 174,730 direct responses received and 200,428 signatories to petitions, it is one of the largest responses to a government consultation. This demonstrates the strength of feeling on all sides of the debate regarding the need for a robust self-regulatory framework which helps protect citizens’ privacy and also allows for the operation of a free and independent press. A number of groups on all sides of the debate organised and

encouraged responses to the consultation, with the press, campaign groups, and representative organisations providing a number of detailed responses.

The majority of direct responses (79 per cent) favoured full repeal of section 40, compared to 7 per cent who favoured full commencement. The most common reason given for repealing section 40 was concern about the ‘chilling effect’ it would have on the freedom of the press.

Press self-regulation has changed significantly in recent years with the establishment of IPSO, which follows the principles set out in the Leveson Report. As so few publishers have joined a regulator recognised under the Royal Charter, commencement of section 40 could have a chilling effect on investigative journalism.

How has press regulation changed since the Leveson Inquiry?

- ❑ In October 2013, the Royal Charter on Press Self-Regulation was granted that set out an independent body, the Press Recognition Panel (PRP), would be set up to receive applications from press regulators that meet the criteria and want to apply for recognition.
- ❑ In September 2014, the previous industry complaints handling body, the Press Complaints Commissions (PCC), which had been found not fit for purpose by Leveson, was shut down. The press established a new regulator of their own with wider powers, the Independent Press Standards Organisation (IPSO). IPSO handles complaints, and conducts its own investigations into editorial standards and compliance.
- ❑ IPSO regulates over 95 per cent of national newspapers by circulation and does not intend to seek recognition under the Royal Charter.
- ❑ In 2016, Sir Joseph Pilling’s review found IPSO to be an independent and effective self-regulator that already conforms with most of the Leveson principles, and it has made further improvements since then.
- ❑ The self-regulator IMPRESS became the first and only self-regulator to be recognised by the PRP in October 2016.

The media landscape has also changed. High-quality journalism is under threat from the rise of clickbait and fake news; from falling circulations and difficulties in generating revenue online; and from the the dramatic and continued rise of largely unregulated social media. Section 40, if implemented, could impose further financial burdens on already struggling local and national publishers.

How has the media landscape changed?

- ❑ The percentage of adults reading online news, newspapers or magazines has tripled from 20 per cent in 2007 to 64 per cent in 2017.¹
- ❑ The percentage of adults who read newspapers (excluding online versions) fell from 40 per cent in 2013 to 21 per cent in 2016.²
- ❑ UK newspaper circulation fell by 52.9 per cent from January 2001 to April 2017.³
- ❑ In 2015, for every £154 newspapers lost in print revenue they gained only £5 in digital revenue.⁴
- ❑ Print ad revenue is estimated to have declined 7.5 per cent between 2016 and 2017.⁵
- ❑ It has been estimated that national newspaper advertising revenue will fall from £1.5 billion in 2011 to £533 million by 2019.⁶
- ❑ 198 local papers closed between 2005 and 2016.⁷ 20 newspapers closed between November 2015 and March 2017 alone,⁸ and more have closed since.

A majority of direct responses to the consultation (66 per cent) thought that Part 2 should be terminated, compared to 12 per cent who thought it should continue. The main arguments given for termination were that the terms of reference for Part 2 have already been covered by Part 1 and subsequent police investigations, or that the Government should focus on other priorities.

The Government also consulted Sir Brian Leveson, as Chair of the Inquiry, who expressed the view that Part 2 should not continue on the same terms, but should continue with amended terms of references in certain specific areas. Sir Brian has also made it clear that he does not see himself chairing any future inquiry. Among the petitions we received, the petition from 38 degrees, comprising 130,120 signatures, was in favour of continuing with Part 2 of the Leveson Inquiry. The petition from Avaaz, comprising 70,308 signatures, was also in favour of continuing Part 2 in light of the proposed merger between 21st Century Fox and Sky plc.

Our analysis is clear that the terms of reference for Part 2 have been largely met. In light of the three detailed police investigations, extensive reforms to policing practices

¹<https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsozialmediausage/bulletins/internetaccesshouseholdsandindividuals/2017>

²https://www.ofcom.org.uk/_data/assets/pdf_file/0016/103570/news-consumption-uk-2016.pdf

³Based on figures for the Audit Bureau of Circulation

⁴Enders Analysis, News brands: Rise of membership as advertising stalls, February 2017

⁵<http://www.emarketer.com/Chart/UK-Total-Media-Ad-Spending-by-Media-2016-2018-millions-of-change/210349>

⁶Enders Analysis, News brands: Rise of membership as advertising stalls, February 2017

⁷<http://www.pressgazette.co.uk/new-research-some-198-uk-local-newspapers-have-closed-since-2005>

⁸<http://www.mediareform.org.uk/wp-content/uploads/2017/12/mapping-changes-in-local-news-2015-2017-interactive-research-report-march-2017.pdf>

and significant changes to press self-regulation, we consider the risk of the sort of behaviour that led to the establishment of the Inquiry and the need for a regulatory regime with cost-sharing incentives has been significantly mitigated.

How much has been spent on investigations into press abuse?

- ❑ Part 1 of the Leveson Inquiry cost £5.4 million. It is likely that holding Part 2 would cost at least a similar amount to the public purse.
- ❑ The cost of the three detailed police investigation (Operations Elveden, Tuleta and Weeting) which investigated a wide range of offences in relation to the phone hacking scandal cost £43.7 million.

Moreover, the changing nature of the media landscape means that while the Leveson Inquiry focused on the traditional press, the rise of digital and social media has transformed the way people consume news. The Government is working to address the challenges associated with this change, ensuring that we are focusing on the policy issues most relevant today. We are developing a Digital Charter to ensure new technologies work for the benefit of everyone. This includes undertaking a review to examine the sustainability of our national and local press, which will recommend whether industry or government-led solutions can help improve the sustainability of the sector for the future, and taking steps to protecting the reliability and objectivity of information online.

The Government has carefully considered all the evidence and responses, and consulted with key stakeholders. As a result, we believe that proceeding with Part 2 of the Inquiry is not in the public interest, and that section 40 is no longer necessary. We will therefore:

- find a legislative vehicle to repeal section 40 of the Crime and Courts Act 2013 at the first appropriate opportunity, without commencing it first; and
- end the Leveson Inquiry without undertaking Part 2.

The Government believes that this course of action is the most appropriate and proportionate way forward. We must address the most pressing issues now facing the future of the press in this country, ensuring a well-functioning, properly self-regulated media. This will help to protect the provision of high quality journalism which, at both a national and local level, is so vital for our society and democracy.

3. Introduction

Background

On 13 July 2011 the Coalition Government announced a statutory public Inquiry investigating the role of the press and police following the revelations of phone hacking by the now defunct *News of the World*. Sir Brian Leveson was appointed Chair of the Inquiry.

The Inquiry was split into two parts. Part 1 of the Inquiry examined the culture, practices and ethics of the press and, in particular, the relationship of the press with the public, police and politicians. Part 2 was designed to examine wrongdoing in the press and the police, including the apparent failings of the first police investigations into phone-hacking in 2005 - 2006 and the wider implications for police and press relations.

Sir Brian Leveson published his report on Part 1 in November 2012. A key part of the Coalition Government's response to the recommendations in his report was the establishment of a new system of voluntary press self-regulation enshrined in a Royal Charter.⁹ Two sets of incentives were put in place by Parliament to encourage publishers to join the new system voluntarily.

Exemplary damages provisions were included in sections 34-38 of the Crime and Courts Acts 2013, and were commenced on 3 November 2015. These provisions mean that publishers who are members of a recognised regulator will be exempt from paying exemplary damages (awarded as a punitive measure when a defendant's actions are deemed to be wilfully malicious, violent, oppressive, fraudulent, wanton or grossly reckless) in relevant media-related court cases.

Costs provisions were included in section 40 of the Crime and Courts Act 2013, but they remain uncommenced. These provisions would create a presumption that publishers which are members of a recognised self regulator would be exempt from paying legal costs, even if they lost a court case; and that newspapers outside a recognised self-regulator would have to pay legal costs, even if they won a court case.

The revelations about phone hacking also resulted in a number of police operations being set up to investigate illegal activity. In 2011 the decision was taken by Sir Brian Leveson that Part 2 of the Inquiry should not begin until all relevant police

⁹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254116/Final_Royal_Charter_25_October_2013_clean_Final_.pdf

investigations and prosecutions, including appeals, had concluded in order to avoid any prejudice to criminal proceedings. These trials have continued over the the intervening years, with the last concluding in October 2016.

The then government arranged a series of meetings with stakeholders from late 2015 to mid 2016 to gather their views on both the advantages and disadvantages of commencing section 40. Some argued it was vital to the new Charter based system, whilst others argued that it would have a ‘chilling effect’ on press freedom. The current Government therefore launched a formal consultation to better understand the different views to inform the its consideration of the issues.

With the last of the relevant criminal cases entering their final stages, and given the time elapsed since Part 1, the current Government believed, upon launching this consultation, that it was an appropriate time to look carefully at the future of Part 2 by inviting interested parties to make clear their views to help inform the government’s decision.

What we asked

The consultation asked six questions focusing on the two issues: whether to commence section 40 of the Crime and Courts Act 2013 and whether Part 2 of the Leveson Inquiry was still appropriate, proportionate and in the public interest. A list of consultation questions is at annex A.

The responses

On closure of the consultation, the Government had received 174,730 direct emails, letters and online survey responses. This total does not include petition signatures.

Number of Responses	Type of Response
174,730	Total number of emails, letters and online survey responses received by closing date.
Breakdown	
50,382	Online survey portal
62,054	Emails
62,294	Letters

A number of groups organised and encouraged responses to the consultation. In particular, a number of newspapers and the organisations encouraged a large

number of their readers or members to respond directly to the consultation. Whilst all responses have been treated equally, a summary of responses from key stakeholder categories can be found later in this document.

We also received two petitions whose arguments were considered. The petition from 38 degrees, comprising 130,120 signatures, was in favour of continuing with Part 2 of the Leveson Inquiry. The petition from Avaaz, comprising 70,308 signatures, was also in favour of continuing Part 2 in light of the proposed merger between 21st Century Fox and Sky plc.

As with the approach to other government consultations, including the consultations for same-sex marriage and BBC Charter Review, petitions have not been included in the quantitative analysis of direct respondents. This is because petition signatories did not respond directly to government, and because the petitions did not engage individually with the consultation questions in the same way as direct responses. Petition responses were considered carefully in relation to the specific questions that each petition related to. We also cannot control for the potential duplication of indirect and direct responses, with signatories to petitions also able to send direct responses to the consultation. Their views have therefore been set out separately and fully considered as part of the Government's deliberations on the issues.

The Government does not intend to publish any of the consultation responses it received. Many organisations who responded have independently published their respective responses.

Other feedback

A number of respondents commented on the nature of the consultation itself, suggesting that government should not be consulting on these matters.

The Government received a legal challenge regarding the decision to conduct a consultation and the content of the consultation document itself. In March 2017, the Court rejected the claimant's application for permission to bring a judicial review.

As set out in the consultation document, it is now over six years since the Inquiry was established and over five years since the report on Part 1 was published. Much has changed in that time and the Government believed it was an appropriate way to ensure all interested parties had the opportunity to give their views on such important matters.

Summary of responses

This document describes the views expressed in response to the questions contained within the consultation document. The figures in this report refer to those that responded directly to the consultation. They should not be treated as statistically representative of the public at large.

All percentages referenced in the report refer to the percentage of the total direct responses received, whether by email, letter or via the online portal. This includes those that provided views outside of the question and answer structure provided in the online portal. For example, if a respondent raised an issue pertinent to question 1 on section 40 when responding to question 4 on Part 2 their views were counted and considered under question 1. Moreover, it is important to note that many individual responses made multiple arguments in response to single questions.

When reviewing the 174,730 direct responses to the consultation, those that were deemed to be from key stakeholders were coded separately and their views are provided in more detail in each of the relevant sections of this document, alongside an overall analysis of all responses. Their views are also included in the overall quantitative results. We have categorised stakeholder responses in to the following groups:

- Victims of press abuse
- Media professionals and organisations (journalists, editors, publications and industry groups)
- Members of Parliament (MPs) and peers
- Legal professionals and law enforcement
- Charities
- Political parties
- Pressure groups
- Think tanks and academics
- Regulatory bodies

Note on Territorial Scope

Press regulation is devolved in Scotland and Northern Ireland. Publishers from across the UK are able to join a UK-wide recognised self-regulator, and the Royal Charter establishing the Press Recognition Panel (the Panel) did so on a UK-wide basis. The incentives in section 40 would only apply in England and Wales. This means that the Scottish Government and Northern Ireland Executive retain jurisdiction to develop their own incentives for publishers to join a recognised self-regulator, should they wish to. The Inquiry was set up on a UK-wide basis.

4. Section 40 of the Crime and Courts Act 2013

The first part of the consultation asked about the commencement of section 40 of the Crime and Courts Act 2013 - specifically inviting respondents to set out their views on whether section 40 should be commenced, to provide evidence in support of their view, and to explain to what extent it would incentivise publishers to join a recognised self-regulator.

Of the 174,730 direct responses received, 79 per cent favoured full repeal of section 40. 7 per cent favoured full commencement, while 2 per cent felt the Government should keep section 40 under review. 1 per cent favoured partial commencement. 11 per cent of respondents did not express an opinion on section 40.

Arguments in favour of repeal

The reasons provided by those favouring repeal were varied. The most common reason was concerns about the 'chilling effect' section 40 would have on freedom of the press (60 per cent), given that publications who were not a member of a recognised regulator would have to pay both sides' legal costs regardless of the outcome. Along with most publications stating their intention never to join a recognised regulator regardless of whether it was commenced, it was argued this would lead to publications refraining from publishing certain material, otherwise in the public interest, because of the threat of spurious litigation. A smaller proportion (14 per cent) felt that government should not interfere with press freedom, while 6 per cent of respondents argued that section 40 is contrary to natural justice and the 'loser pays' principle. 3 per cent of direct respondents had concerns about the self-regulator IMPRESS.

Victims of Press Abuse

Whilst the majority of victims of press abuse believed section 40 should be commenced, a minority of victims felt their experiences should not trump a commitment to a free press, and believed the Leveson model of press self-regulation was flawed, with one such individual arguing organisations like IMPRESS "not only tolerate but actively lower press standards."

Media Professionals and Organisations

Publications, journalists, editors and industry organisations were near unanimous in supporting the repeal of section 40. Most emphasis was placed on the 'chilling effect' that section 40 would have on investigative journalism if complainants could sue the press with a baseless claim and force publishers to pay the costs. When so many publishers are under financial strain due to the changing media landscape, it was felt

section 40 could be damaging to the industry, and would also discourage journalists and editors from undertaking legitimate investigative journalism in fear of the economic cost that could accompany legal claims. One editor of a national newspaper argued:

“The potential costs are far from trivial. In the past three years [our newspaper] has won three significant libel cases, with lawyers in total earning in excess of £6.5 million. That would have been the cost of defending our journalism had Section 40 been in force.”

Concerns were raised that section 40 would allow individuals or organisations to bring a baseless lawsuit to court and face no retribution, with news outlets forced to pay both sides’ legal costs.

Publications

Publications of all types were overwhelmingly opposed to section 40. The majority stressed that it would be damaging to free speech and could contravene article 10 of the European Convention on Human Rights should it lead to an increase in litigation costs that stifle investigative journalism.

One special interest publisher, for example, stated they get many complaints from people who do not disagree with their content, but disagree with their ethos. If section 40 were implemented, they stated that they could face punitive legal costs from complainants despite not having done anything wrong. They also stated that IPSO is improving and is encouraging better self-regulation. Members agree to their code by contract and this is enforceable in the courts. By contrast, they felt IMPRESS was not impartial and so would not consider joining it even if section 40 were commenced.

Several digital publishers, such as BuzzFeed, said the legislation wasn’t suitable for the digital age and that they would not join a UK regulator as they did not see themselves as synonymous with the UK press. Keeping section 40 on the statute book was also rejected as it would be seen as state interference in the press.

Local and Regional Publications

Local and regional outlets were specifically concerned about the cost implications of section 40, stating that they were potentially a threat to their existence. They argued that this could have knock on effects for organisations, such as Press Association, whose income relies on subscriptions from local outlets. It was suggested that, despite the beneficiaries of section 40 supposedly being smaller organisations, it would raise the barrier to entry for smaller outlets.

Local outlets also argued their exit from the market could mean corrupt public officials and individuals of interest go undetected. By extension, it was argued that section 40 posed a threat to the free and diverse press essential to democracy.

Editors and Journalists

Most editors and journalists stated they found IPSO to be an effective self-regulator in resolving disputes and improving their behaviour, and so saw no need for further incentives to join a recognised regulator. Several outlets stated their refusal to ever join a recognised regulator such as IMPRESS, raising concerns about senior figures within the organisation and their attitude towards the industry they regulate.

Industry Bodies

The vast majority of industry bodies - organisations that represent many publications - were in favour of repealing section 40. It would, in their opinion, undermine the role of journalism in a democracy; especially considering newspapers and magazines already have to overcome tough libel and privacy laws to uncover inequity.

Associations and societies also emphasised that whilst the legislation is aimed at national publishers, it will be most damaging to local publishers who would struggle to survive even with low cost arbitration. They feared commencing section 40 will lead to “litigation tourism”, with individuals making spurious complaints with no fear of financial penalty.

MPs and peers

MPs

Most Conservative MPs who responded were in favour of repealing section 40, stating that a free press is the cornerstone of our democracy and that political interference could lead to press censorship. Some raised concerns that constituents working in publishing and journalism could be made unemployed due to the cost rules creating an unfair financial burden. One MP stated it would place an “iniquitous burden on local, regional, and national publications that wish to remain entirely independent and free from state regulation.”

Concerns were also raised about the neutrality of IMPRESS, and the need for it when most newspapers are now members of IPSO, which in Sir Joseph Pilling’s review was found to be independent and an effective self-regulator that already conforms with most of the Leveson principles.

Peers

The majority of peers who responded were opposed to the commencement of section 40 on the basis that it would threaten a free press. These included peers

from a range of parties including the Conservative Party, UK Independence Party, Liberal Democrats, and a cross bencher. One peer stated:

“The Leveson Inquiry into media abuse took no evidence into the legal implications of its recommendations, and it did not purport to consider their compatibility with the European Convention on Human Rights and the Human Rights Act 1998.”

The costs were also seen to be unfair, with another peer calling the proposal to make the press pay the complainant’s costs, win or lose, “Orwellian” in its implications for press comment. There were also concerns about the impartiality of IMPRESS, and its ability to protect the independence of the press.

Legal Professionals

A significant number of lawyers specialising in media law were opposed to commencing section 40 based on the ‘chilling effect’ it would have on the concept of equality before the law. They argued that it would put the claimant in a position of unparalleled strength, encouraging unmeritorious and vexatious claims without fear of financial retribution.

Costs were a key aspect for lawyers. Several stated that, as IMPRESS pays £3,000 of successful claimants’ legal fees, despite costs on such issues running into the hundreds of thousands, this could lead to limited input from legal experts.

It was also claimed that currently, even without section 40, the legal system heavily favours a claimant. Publishers, even when successful, rarely receive enough compensation to cover the costs fully. Several suggested it was untrue that genuine claimants have any difficulty accessing Conditional Fee Agreements.

Lawyers also stressed that section 40 did not incentivise publishers to join a regulator, but threatened or coerced them. Lawyers who represent publishers, therefore, said they expected their clients to refuse and go through the courts.

Several raised concern that the phrase ‘just and equitable’ in relation to costs was too vague in providing publishers exemptions, and would be open to interpretation.

It was also again suggested that section 40 is contrary to the principles of free speech enshrined in article 10 of the European Convention on Human Rights, recognised by English law. Section 40, some therefore argued, could lead to legal action, as it may infringe on the right of the public to receive important information. The presumption could have a ‘chilling effect’ on publication and could increase the commercial pressure on publications to settle actions.

Charities

Of the charities that responded, the majority were in favour of repealing section 40. They feared that commencing section 40 would stop whistleblowing and reporting on issues such as maltreatment of those in care. There were also concerns about costs to charities that could be captured by the definition of 'relevant publisher', especially when they refused to sign up to IMPRESS which some did not regard as independent or impartial.

Political Parties

The majority of political parties that responded were in favour of repealing section 40 due to the 'chilling effect' it would have on small, local, and regional publishers. The Ulster Unionist Party suggested the legislation is problematic because it takes a one-size-fits-all approach - the legislation focuses on large national publishers, but would be most damaging to smaller publishers. The UK Independence Party contended that commencing section 40 would give wealthy individuals the power to effectively to close down newspapers.

Pressure Groups

Half of non-media pressure groups wanted section 40 repealed. Many argued that it goes against natural justice; the winner should not have to pay the costs of both sides. There was also a concern about the impact it would have on certain industries. A union, for example, argued that publishers should be able to do their jobs without the risk of financial jeopardy that section 40 would create.

Media pressure groups were mostly in favour of repealing section 40 on the grounds that commencing it would stifle free speech and fail to promote professional journalism.

Regulatory Bodies

Of the regulatory bodies that responded, The Editors' Code of Practice Committee stated that self-regulation offers effective regulation and that implementing section 40 would pose a burden on local and regional outlets. IPSO, a regulator not recognised by the Press Recognition Panel (PRP), stated that the Civil Procedure Rules and Pre-Action Protocols make litigation a matter of last resort and therefore section 40 is not necessary. IPSO highlighted that it already provides a free complaints service and low cost form of arbitration to those that want it.

Arguments in favour of commencement

The reasons provided by those favouring full commencement were also varied. The main arguments made were that the government had committed to section 40 as part of the cross-party agreement and should honour that commitment (that argument

was given by 5 per cent of all direct respondents); section 40 was crucial to ensure ordinary people have access to justice (5 per cent); a more responsible press is needed (4 per cent); section 40 was a crucial incentive to make the new press self-regulatory system work (4 per cent); and that concerns about section 40 were misplaced (4 per cent).

Victims of Press Abuse

Whilst the majority of victims who responded to the consultation did not formally express a view on section 40, those who did mostly supported commencement. Among those who did not clearly express a view on section 40, several still raised the issue of high legal costs for victims, and the need to encourage publications to join a recognised regulator. They also suggested that the Inquiry's recommendations sought to achieve a balance between privacy and freedom of expression. They felt that by not following through on those recommendations, the Government would not be properly protecting the right to privacy.

Media Professionals and Organisations

While the press were overwhelming in favour of repealing section 40, those arguing in favour suggested that editors and newspaper proprietors have often failed to deliver proper self-regulation. They also suggested that commencing section 40 would provide protection to investigative journalists:

“Commencing section 40 is essential to protecting our ability to do our jobs. Section 40 will be a valuable and much needed tool for free speech advocates and investigative journalists across the UK.”

MPs and Peers

MPs

The majority of Labour MPs who responded were in favour of full commencement. They generally argued that as section 40 was democratically passed into law in 2013, and all required elements now exist - namely an independent self-regulator - it should be commenced, and that if it has unintended consequences it can be reformed or repealed. It was suggested that signing up to a self-regulator would not inhibit press freedom, but inhibit publishers' ability to break with their own code of conduct with impunity.

Furthermore, it was suggested that the concern for regional papers was unfounded, as there were no court cases involving local or regional newspapers in 2014-15, and only one in 2016. It was also emphasised that action cannot be started if there are no legal grounds to do so, and that will remain the case if section 40 is implemented.

Peers

A minority of peers, who were either Labour or crossbench, favoured commencement; seeing it as the best way to support an investigative press that is both free and responsible.

Responses also stated that non-commencement would fall short of the approach agreed by Parliament, and would be unacceptable to victims. If section 40 is repealed, they argued the government would need to propose another way of incentivising the press to change their behaviour.

IPSO was also criticised as being unsatisfactory, as the member newspapers are unwilling to offer low cost arbitration. One Peer stated:

“All the problems with the press go back to the lack of access to justice in media law, and the lack of independent regulation, because without these the press is not properly accountable for its standards or respect for media law. This lack of accountability allowed the culture of phone hacking, blagging and harassment to develop as well as diluting the need for accuracy.”

Charities

One charity supported the commencement of section 40, stating it could restore the public’s faith in the press. They also stated it would help overcome market failure, in that the market does not reward high quality journalism but does reward gossip and invasions of privacy.

Political Parties

The Labour Party was the only political party to argue that section 40 must be commenced to meet the commitments made to victims. They also emphasised that this was a cross-party agreement, and that it should be implemented so that it can work properly. They stated that it should not be repealed just because IPSO is refusing to become a recognised regulator.

Pressure Groups

Non-Media Pressure and Special Interest Groups

Half of the non-media pressure and special interest groups that responded, including Hacked Off, supported commencing section 40. Several argued it would transform access to justice for ordinary people, whilst giving publications who are members of a recognised regulator security from powerful individuals. This, they argued, is especially valuable given the inadequacy of the current system of Conditional Fee Agreements in giving ordinary people access to justice, where lawyers only accept low risk cases making it difficult for the majority to get access to such agreements.

There was also criticism of IPSO, with several groups stating there is no evidence complainants can attain effective remedy through it. For example, one religious engagement group stated that all its interactions with IPSO had shown it was not fit for purpose, failing to properly consider their concerns. It was argued that failure to commence section 40 would be a tacit endorsement of IPSO and the pre-Leveson regime.

Media Pressure Groups

A minority of media-pressure groups favoured commencing section 40, even if only partially, to provide the benefits to members of recognised regulators. They argued commencement would not force publications to join IMPRESS as they could set up their own recognised regulator. Section 40, in their view, should be commenced because it was a recommendation from an extensive and far-reaching public inquiry.

Costs were not a concern for some pressure groups as they stated courts would maintain discretion over costs. One response also suggested that the publishers most critical of section 40 are the ones who receive the most complaints.

Think Tanks and Academics

A majority of think tanks and academics were in favour of the commencement of section 40. This support for section 40 was on the basis that repeal would be an endorsement of the status quo, arguing that IPSO is similar to its predecessor, the Press Complaints Commission. They stated that IPSO represents an attempt to stop proper regulation, especially when the press have repeatedly publically supported self-regulation whilst failing in their view to implement it effectively in practise.

Regulatory Bodies

Of the regulatory bodies that responded, IMPRESS (the PRP recognised regulator) supported the commencement of Section 40, seeing non-commencement as unlawful and that victims have a legitimate expectation it will be commenced. They argued that section 40 is needed to give full effect to the Leveson framework, and to provide the benefits promised to those publishers that have joined a PRP recognised regulator. The PRP emphasised a need to provide low cost arbitration to protect ordinary people.

Arguments in favour of partial commencement

A small number of respondents were in favour of partial commencement. This would entail commencing the incentive that would give protections to members of a recognised self-regulator, while avoiding the elements of section 40 that would lead to publishers who are not members paying additional legal costs.

One media organisation representing journalists recommended partially commencing section 40 to provide advantages to those publishers who do have arrangements for effective regulation in place, whilst leaving those outside these arrangements with the status quo.

The Digital, Culture, Media and Sport Select Committee was also in favour of this approach, as it argued it would allow a measure voted for by Parliament to be implemented, but if it was found not to be working as intended, could be repealed. The Select Committee stated that, despite some industry reform, there have been no tests to see if the public now have greater protection or trust in the system. They highlighted the disparity between broadcasters and the press. The former have to adhere to Ofcom's Broadcasting Code, whereas the latter can define their own terms.

The repeal of section 40, in the committee's opinion, would cause the current system of regulation to falter, seeing as the press have had several years to create a Leveson-compliant regulator, but have chosen not to. It advised that if IPSO is not Leveson-compliant in a year, section 40 should be fully commenced.

Section 40 as an incentive to join a recognised regulator

In response to this question, far more respondents (46 per cent) argued that section 40 would not incentivise publishers to join a recognised regulator, compared to those (12 per cent) who argued it would. The latter group cited the impact on publishers of remaining outside a recognised regulator as the key reason. 5 per cent of the total respondents argued that publishers would not sign up to a system open to government interference, while a further 5 per cent of respondents gave a view that they did not know to what extent commencement of section 40 would incentivise publishers to join a recognised regulator.¹⁰

¹⁰Not everyone expressed a view or gave a reason

5. Government Response to Section 40 of the Crime and Courts Act 2013

After considering the responses to the consultation, the Government plans to repeal section 40 of the Crime and Courts Act 2013, and shall do so when there is a suitable legislative vehicle. The Government does not plan to commence section 40 in the meantime.

The world has changed significantly since the Inquiry was originally set up. Robust, high quality journalism is important for public scrutiny and underpins democratic debate - but as print circulations decline and competition from other news sources online increases, the press is facing an uncertain future. In this changing media landscape the Government is determined to ensure that the UK has a vibrant, independent and plural free press, which is able to hold power to account as one of the cornerstones of our public debate.

The press landscape has changed dramatically over the last five years since the Leveson Inquiry reported, particularly with the rise of digital media, the fracturing of sources of news, and greater challenges in monetising news content than ever before. UK newspaper circulation fell by 52.9 per cent from January 2001 to April 2017,¹¹ and while digital circulation is growing publishers have found it much harder to generate revenue online. Overall, 198 local papers closed between 2005 and 2016,¹² with more than 20 closing down between November 2015 and March 2017 alone and the number of journalists halving over the last ten years.¹³ There have been increasing challenges for national publishers too, with print ad revenue estimated to have declined by 7.5 per cent between 2016 and 2017.¹⁴ Were section 40 to be implemented, it could lead to further closures of publications.

When the Inquiry was set up, it was impossible to envisage the extent to which the online market would have grown, the growth of citizen journalism, and the number of new online publications - the vast majority of which are not regulated at all. With this increased competition, and declining revenues, traditional publishers are facing ever greater financial pressures. The Government is committed to developing a Digital Charter to respond quickly to these new challenges. As part of this, we have

¹¹Based on figures for the Audit Bureau of Circulation

¹²<http://www.pressgazette.co.uk/new-research-some-198-uk-local-newspapers-have-closed-since-2005/>

¹³<http://www.mediareform.org.uk/wp-content/uploads/2017/12/mapping-changes-in-local-news-2015-2017-interactive-research-report-march-2017.pdf>

¹⁴<http://www.emarketer.com/Chart/UK-Total-Media-Ad-Spending-by-Media-2016-2018-millions-of-change/210349>

announced an external review to investigate the overall health of the news media. This review will also look at ways of ensuring that there are sustainable business models for all news providers who seek to provide high quality journalism, not just the traditional press.

Press self-regulation has also changed significantly in recent years. When Parliament originally agreed the Royal Charter and passed section 40 into law it was envisaged that publishers would be regulated by self-regulators that applied for recognition under the Press Recognition Panel. The vast majority of the press, however, is not regulated by a recognised regulator, and the vast majority of major publications have stated that they will never join a system that they believe is open to state interference. The consultation responses, which were overwhelmingly in favour of full repeal, bore out these views.

As so few publishers have joined a regulator recognised under the Royal Charter, and are adamant that they would never do so, if section 40 were to be commenced they would be vulnerable to spurious legal cases where they would be forced to pay regardless of the merit of the claim - an aspect that a number of respondents to the consultation felt was counter to natural justice and provided enough justification for repeal. As such, a large number of consultation responses emphasised concern about the 'chilling effect' section 40 would have on investigative journalism. They argued it may stop publishers from undertaking valuable investigative journalism, or publishing stories that are critical of individuals, for fear of being taken to court and having to pay for both sides. This is a major concern at a time when publishers are under growing financial pressure. Investigative journalism, and the ability to hold power to account, is a vital element of open and robust democratic discourse at national and local levels.

Furthermore, there now exists a strengthened, independent, self-regulatory system. The majority of traditional publishers (including 95 per cent of national newspapers by circulation) are members of IPSO. By contrast, a smaller number of publishers have joined IMPRESS; while others have chosen to stay outside either self-regulator, including the Financial Times, Guardian and Evening Standard, as well as newer digital publishers such as the Huffington Post.

The Government is committed to a voluntary system of press self-regulation. The new system is not what was envisaged when the Royal Charter was granted, yet it has led to a raising of standards across the industry, independently of government.

IMPRESS has been recognised by the Press Recognition Panel, meeting the specific recognition criteria outline in the Royal Charter. IPSO's continued improvements are also highly encouraging, taking steps in the areas recommended by the Leveson

Inquiry. Sir Joseph Pilling’s 2016 review found IPSO had made some important achievements in demonstrating it was an independent and effective regulator,¹⁵ and IPSO has made further progress since then. Publishers’ own internal governance frameworks have also undergone extensive reforms. Several have introduced long term, comprehensive reform targeted at enhancing compliance, standards and internal controls.

Publishers and self-regulators have enhanced their guidelines on a range of topics including accuracy, harassment, and anti-bribery since the Leveson Inquiry began. For victims of unethical treatment by the press, both IMPRESS and IPSO now offer a form of low-cost arbitration which offers quick access to fair and independent redress. Where arbitration is not suitable, victims of unethical treatment by the press can go to court to seek redress. Taken together, these ensure that victims have access to justice regardless of their financial means.

Regardless of whether a publisher is a member of IMPRESS, IPSO, or outside either, press regulation should adhere to the principles set out in the Leveson Inquiry: “effectiveness, in terms of credibility and durability with both press and the public; fairness and objectivity of standards; independence, transparency of enforcement and compliance; effective and credible powers together with remedies; and the need for sufficient funding taking into account the market constraints.”¹⁶

In the era of ‘fake news’, trusted brands are more important than ever and we are committed to ensuring publishers can thrive in a self-regulatory landscape, which ultimately holds them to account when things go wrong. Given these changes to the self-regulatory system we judge that commencing section 40 is no longer necessary, and repealing it will help support the future security of traditional publishers, especially at a local level, protecting the free press and tradition of investigative journalism that is an essential component of our democracy in ensuring the powerful are held to account without fear or favour.

¹⁵https://www.ipso.co.uk/media/1278/ipso_review_online.pdf

¹⁶Executive Summary, para 50.

6. Part 2 of the Leveson Inquiry

The second part of the consultation asked about Part 2 of the Leveson Inquiry, and whether the Inquiry should continue or be terminated on the basis that its terms of reference have already been considered by Part 1 and the subsequent criminal investigations.

Of the total number of direct responses received, 66 per cent thought Part 2 should be terminated, while 12 per cent thought Part 2 should continue either with existing or amended terms of reference. The remainder expressed no view on the issue.

Arguments in favour of terminating Part 2 of the Leveson Inquiry

Those who believed Part 2 should be terminated gave two main arguments. Of the main arguments, 45 per cent of direct respondents argued that the terms of reference for Part 2 had been covered by Part 1 of the Leveson Inquiry and the police investigations. 12 per cent argued that the government should focus on other priorities.

Media Professionals and Organisations

Editors and Journalists

Responses from editors and journalists to the consultation focused less on Part 2 of the Inquiry compared to the issue of section 40. However, those who did respond to this point of the consultation overwhelmingly argued that the Inquiry should be terminated on the basis that the press landscape has changed significantly since Part 1 of the Inquiry.

These responses argued that Part 1 has already led to extensive reform of self-regulation, and that there are already key laws in place – contempt, defamation, court reporting restrictions and others - to guide conduct and ensure behaviour meets the highest standards with accompanying punishments. Many also stated that subsequent police investigations and reforms across the industry had met the terms of reference for Part 2. One editor stated that their organisation has implemented an Anti-Bribery Policy, a payment policy, a whistleblowing policy, a gift and hospitality policy, a private investigators policy, and an editorial data protection policy. Another editor stated:

“We have introduced stricter controls regarding compliance; greater attention that ever is given to the provenance of stories; our complaints-handling processes have been tightened; and every journalist in the company has been trained to help them understand and comply with our regulator, IPSO.”

Publications

National, local and special interest publications were also strongly of the view that Part 2 of the Inquiry should be terminated. They argued that the law already holds them adequately to account and that there is no evidence that journalists are currently engaged in the kind of activities that caused the Inquiry to be set up in the first place.

Industry Bodies

Industry bodies were also of the view that Part 2 should not go ahead, given the expense of Part 1 and that, in their view, the terms of reference for Part 2 have already been met.

MPs and Peers

The majority of Conservative MPs who responded were in favour of terminating the Inquiry. They stated that it was unnecessary, and that the costs were disproportionate to the benefits it would provide. The majority of Conservative peers also expressed a view that the press landscape has changed so significantly as to make Part 2 unnecessary.

Members of the Public

Responses from members of the public who favoured terminating the Inquiry tended to emphasise that the cost of undertaking Part 2 was not proportionate to the value of the recommendations that would result from it. They argued that as the press landscape and policing institutions have changed so much, any recommendations produced on the basis of the original terms of reference would be out of date.

Arguments in favour of continuing Part 2 of the Leveson Inquiry

Those that believed Part 2 should go ahead had more varied arguments. 5 per cent of total direct respondents argued that further investigation was needed into corporate governance at publishers. 5 per cent argued that new evidence had emerged during Part 1 or since Part 1 that required further investigation. 4 per cent argued that there was evidence of witnesses lying under oath, and 4 per cent believed the police knew witnesses were lying under oath and did nothing about it. 2 per cent argued that there was evidence of police corruption that needed investigating.

Victims of Press Abuse

The majority of victims who responded to the consultation generally focused on questions regarding Part 2 of the Leveson Inquiry, and were overwhelmingly supportive of continuing the Inquiry with unchanged terms of reference. They felt

terminating the Inquiry would show disregard for victims' concerns and would break the promises made to them by the then Government (under the premiership of David Cameron). They argued that Part 2 was necessary to overcome concerns about police corruption and entrapment.

Many victims also stated that they had not provided evidence or spoken about their cases during Part 1 because they had been told by Sir Brian Leveson or the government that they would have the opportunity to do so during Part 2. Terminating the Inquiry, therefore, would deprive them of the opportunity to speak out, and have evidence uncovered that might help their own legal cases. Many victims also felt that the terms of reference for Part 2 were not addressed by Part 1, particularly relating to corporate governance and police misconduct.

Media Professionals and Organisations

Only one journalist spoke of the need for Part 2, claiming it would make it possible for the Inquiry to interview more individuals implicated in high profile investigations, and that the Inquiry would be incomplete without their testimony.

MPs and Peers

The majority of Labour MPs who responded were in favour of continuing the Inquiry, arguing that it was necessary to deal with the relationship between the press and the police. Some of these responses also suggested that Part 2 should occur in advance of any decision on the proposed merger between 21st Century Fox and Sky plc.

Several also expressed the view that Part 2 should continue, on the basis that in their view the terms of reference for this part of the Inquiry had not yet been met.

The DCMS Select Committee argued that the behaviour of the press, police, and public officials is still a concern, and so Part 2 is still necessary. They suggested, however, that the Inquiry should publish revised terms of reference, including specifying what constitutes as being "in the public interest."

Legal Professionals and Law Enforcement

One legal representative suggested that Part 2 should still go ahead as the terms of reference had not been addressed, and because it could uncover vital information that could help with ongoing civil cases.

Several members of the police, who responded in a personal capacity to the consultation and some of whom were also victims of press abuse, were also of the view that the terms of reference have yet to be met, particularly relating to police conduct. They believed that undertaking Part 2 of the Inquiry would help change an alleged culture of incompetence and lying in law enforcement.

Political Parties

Labour was the only political party that responded with a view on Part 2, and it supported continuation on the basis that a systematic review of unlawful and improper conduct between the police and the press has not happened yet. They also stated that it was promised by the then Prime Minister in 2012, once the relevant trials had concluded.

Pressure Groups

Of the media pressure groups that expressed a view, the majority of responses were in favour of continuing with Part 2 of the Inquiry, although most responses from media pressure groups expressed no view. Those that did express a view stated that the terms of reference have yet to be met, and that misbehaviour by NewsCorp continued internationally after phone hacking was uncovered in the UK. Continuing with Part 2 would therefore, in their view, send a message to publications that such behaviour remains unacceptable in the UK.

Think Tanks and Academics

Think tanks and academics generally supported continuing with Part 2, arguing that the terms of reference have yet to be met and that new evidence has emerged about a range of abuses and misconduct that requires proper investigation. They also stated that victims and whistleblowers were told that their evidence was essential to the Inquiry but could not be considered until Part 2.

Regulatory Bodies

Only one regulatory body discussed the Leveson Inquiry, but was in favour of it continuing as the terms of reference have yet to be met and some core participants were assured they would get to speak at Part 2, and deserve that opportunity.

Petitions regarding Part 2

Among the petitions we received, the petition from 38 degrees, containing 130,120 signatures, was in favour of continuing with Part 2 of the Leveson Inquiry. The petition from Avaaz, comprising 70,308 signatures, was also in favour of continuing Part 2 in light of the proposed merger between 21st Century Fox and Sky plc.

Sir Brian Leveson

Under the Inquiries Act 2005, if the government is minded to terminate an inquiry, they must consult the chairman. The Secretary of State and Home Secretary met with Sir Brian Leveson to discuss his views on Part 2, and subsequently exchanged letters. Sir Brian Leveson's letter, which the Government has published alongside the

consultation response, sets out that he believes the Inquiry should continue with amended terms of reference.

7. Government Response to Part 2 of the Leveson Inquiry

In coming to a view on Part 2 of the Leveson Inquiry, the Government has considered the petitions and direct responses to the consultation, including from the victims of press abuse. The Government has also formally consulted with Sir Brian Leveson as Chair of the Inquiry, and considered the points he makes in recommending that Part 2 of the Inquiry should go ahead with amended terms of reference. Having taken into account all of these views and evidence, the Government has decided that it is not in the public interest to commence Part 2, and so will terminate the Leveson Inquiry. We will deliver a formal notice to this effect under section 14 of the Inquiries Act 2005 to Sir Brian Leveson and Parliament.

When the Leveson Inquiry was set up in 2011, the full extent of phone hacking was still emerging. It was important to establish an independent public inquiry to command the full confidence of the public and get to the truth as quickly as possible. Misbehaviour had to be addressed and a proper system of effective self-regulation put in place to ensure that the systematic practices that affected so many people and the wider public's trust in the media could not happen again.

Part 1 of the Inquiry examined how the press interacted with the public, police and politicians. The Inquiry lasted 12 months and heard evidence from more than 300 people, including some of those who had been affected by the most egregious press behaviour. The final report from the Inquiry, covering 1,987 pages, made 92 recommendations covering the future of press regulation, media plurality, data protection and policing. Since Part 1, the majority of Leveson's recommendations have been implemented, resulting in higher standards of police and press practices.

Part 2 of the Inquiry would further examine wrongdoing in the press and the police. However, given the overlap in terms of reference, many of the issues that Part 2 was expected to cover were addressed in Part 1, or as part of three detailed police investigations (Operations Elveden, Tuleta, and Weeting) that have taken place over the past six years. For example, in the course of Part 1, Sir Brian Leveson thoroughly reviewed the initial investigation of the Metropolitan Police Service into phone hacking (Operation Caryatid). Operation Weeting also spent three years comprehensively re-examining all the material from the original investigation, and concluded that everything that could have been done at the time had been done.

The police investigations led to extensive reforms to policing practices and press-self regulation. As a result of these investigations, more than 40 people were convicted. This included 11 police officers and police staff, all of whom were subsequently

dismissed. In addition, two further officers were dismissed for gross misconduct. There have also been 19 public officials who have been convicted, and 10 journalists. This sent a clear message to all police officers and public officials that receiving payments for confidential information will not be tolerated. The investigations also examined the extent of unlawful conduct at News International, the Mirror, and Express Groups, which would again be considered under Part 2. Furthermore, a number of civil claims have been settled with significant compensatory damages paid to the claimants.

The Metropolitan Police Service, Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services and the College of Policing have implemented or are implementing all of the Inquiry's recommendations in relation to law enforcement. For example, the College of Policing have published a code of ethics and developed national guidance for police officers on how to engage with the press. Reforms in the Policing and Crime Act 2017 also strengthened protections for whistleblowers. The steps taken and new guidance issued since Part 1 provide considerable reassurance around the relationship between newspaper organisations and the police.

Sir Brian has set out concerns about the system of press self-regulation that has developed since Part 1 of his Inquiry. As set out in previous chapters, while the existing system of press self-regulation was not envisaged when the Royal Charter was granted, we have seen a raising of standards across the industry in spite of the fact a majority of publications have not joined a regulator under the Royal Charter.

In evaluating whether Part 2 is still appropriate, it is also important to recognise that the media landscape has changed dramatically since the terms of reference were drafted. While the focus of the Leveson Inquiry was on the traditional press, the huge increase in largely unregulated digital and social media has transformed the way news is provided and consumed, and affected the impact and influence of traditional news media. Society faces new and very significant challenges around the creation and dissemination of the high-quality and reliable news that is so vital to our democracy. These changes mean that newspapers are in a very different position today than when the phone-hacking scandal occurred in 2011.

It is in the public interest to focus on the challenges facing the media today. The Government is committed to addressing these challenges, and while Part 2 could potentially be used as a tool to achieve this (as is the view of Sir Brian) we do not believe a backwards looking inquiry is the most appropriate or effective vehicle to do so at this stage.

The Government is committed to developing a Digital Charter to respond quickly to these challenges. This will include consideration of how to ensure the reliability and

objectivity of information online and how best to tackle issues such as ‘fake news’ and online harms. We are developing an Internet Safety Strategy that will help make the UK the safest place in the world to be online, and the Law Commission will launch a review of current legislation on offensive online communications to ensure that laws are up to date with technology. The Government has also commissioned an external review to look at how to ensure sustainable business models for high-quality media online.

The consultation sought to provide an opportunity for victims of press abuse, as well as other interested parties, to share their views on the most appropriate way forward, and we are grateful to the victims for their submissions on this matter. The Government recognises the strength of feeling on this issue. The Government has taken all views into account in deciding how best to proceed, and we will continue to listen to victims of press abuse in the work the government is undertaking to develop solutions to the challenges faced by all of us in the changing media landscape.

The Government’s decision must be based on the public interest. Given the comprehensive nature of Part 1, and the detailed police investigations, the Government’s analysis is that all but one of the terms of reference for Part 2 have been wholly or partially met. It is also important to recognise that the Inquiry’s recommendations for press regulation have largely been delivered by the regulators created since the Inquiry. The Government therefore believes that the risk of the sort of behaviour by the press that led to the Inquiry being established ever happening again has been significantly mitigated.

These factors, when placed against the potential cost to the public, the amount of public money that has already been spent investigating phone hacking (£43.7 million on police investigations and £5.4 million on Part 1), and the need for solutions to address the most pressing problems facing the future of news media, mean we believe that holding Part 2 of the Inquiry is no longer appropriate, proportionate or in the public interest.

Annex A: Consultation questions

Respondents were asked to answer specific questions on the online portal. For open-ended questions, responses via this mechanism were limited to 250 words per question.

Question 1: Which of the following statements do you agree with:

- A. Government should not commence any of section 40 now, but keep it under review and on the statute book;
- B. Government should fully commence section 40 now;
- C. Government should ask Parliament to repeal all of section 40 now;
- D. If Government does not fully commence section 40 now, Government should partially commence section 40, and keep under review those elements that apply to publishers outside a recognised regulator;
- E. If Government does not fully commence section 40 now, Government should partially commence section 40, and ask Parliament to repeal those elements that apply to publishers outside a recognised regulator.

Question 2: Do you have evidence in support of your view, particularly in terms of the impacts on the press industry and claimants? If so, please provide evidence. (We are particularly interested in hearing from legal professionals - using their experience of litigation - in respect of the financial impacts on publishers outside a recognised self-regulator should government fully commence section 40, and specifically on (a) the likely change in volume of cases brought; and (b) the extent of average legal costs associated with bringing or defending individual cases).

Question 3: To what extent will full commencement incentivise publishers to join a recognised self-regulator? Please supply evidence.

Question 4: Do you believe that the terms of reference of Part 2 of the Leveson Inquiry have already been covered by Part 1 and the criminal investigations? If not which terms do you think still require further investigation?

Question 5: Do you have evidence in support of your view? If so, please provide your evidence.

Question 6: Which of the following options best represent your views? • Continue the Inquiry with either the original or amended Terms of Reference • Terminate the Inquiry

If you think the government should take another course of action to those set out in the question above, please provide your views.

Annex B: How responses were analysed

The consultation was published on the GOV.UK website. A simple way for the public to respond to this consultation was created via an online survey, which allowed respondents to answer each question in turn. Contact details were also provided for respondents who wished to send email or written responses. Safeguards were put in place to reduce multiple responses to the online survey by allowing only one response to be submitted per computer. While restricting multiple responses from an individual computer was a reasonable precaution to limit the number of duplicate responses received to the online survey, it was not reasonably possible to stop individual people responding multiple times by email. Where possible, duplicate email responses were identified and removed. Online survey and email responses were stored electronically.

Responses were analysed by a dedicated team of coders. All team members completed training on: the Leveson Inquiry, the public consultation, and how to analyse responses. Responses were analysed against a 50-code framework, specifically designed to allow analysis of a large volume of material. This framework was developed by analysing a sample of responses to identify substantive points raised, pertinent to each question in the consultation, which were then developed into codes. Each consultation response was then read and allocated the respective codes that it reflected. A single code could only be used once for each response, preventing undue weight being given to specific responses. Samples of responses were checked on an ongoing basis to ensure that the coding was accurate.

Annex C: Petitions

We received two petitions relating to this consultation.

Received from	Petition premise	Number of signatures
38 Degrees	Start Part 2 of the Leveson Inquiry.	130,120
Avaaz	Part 2 of the Leveson Inquiry should continue in light of the proposed merger between 21st Century Fox and Sky plc.	70,308

If you have any further comments about the consultation process or this response, please write to:

DCMS Ministerial Support Team
Department for Digital, Culture, Media and Sport
4th floor, 100 Parliament Street
London
SW1A 2BQ

Or email: enquiries@culture.gov.uk