

Collyer-Bristow Debate

in association with 5RB

“This house believes that regulation of the media has not gone far enough”.



This years debate took place on Tuesday 22nd March at The Great Hall, Gray's Inn in front of 150 invited guests. The debate was chaired by Sir Brian Neill while Joanna Kennedy from Collyer-Bristow acted as moderator for the debate.

For further information, please contact: debate@collyerbristow.com

“This house believes that regulation of the media has not gone far enough”

FOR THE MOTION



Sir Christopher Meyer
Head of the Press Complaints Commission

A free press is indispensable to a robust democracy. But with freedom goes responsibility, and if you are not going to have state regulation of newspapers and magazines – something I would strongly oppose – then effective self-regulation is equally indispensable to a free press. Effective

self-regulation, though, means keeping up with the now. And in that sense, media regulation never goes far enough – simply because tomorrow is different.

In some ways, the Press Complaints Commission has become a kind of Frankenstein’s monster that has broken free from its creators – the 1990 Calcutt committee and the print media industry – and become more independent and open to scrutiny than ever before. So it not surprising, therefore, that business is booming at the PCC, with increasing numbers of the public coming to us for help, which is free, fast and fair.

Naturally there is more that we can do. For example, I would like to see corrections, retractions, apologies and indeed PCC adjudications given greater prominence. I would also want to see greater coherence between a headline and its accompanying story. On the other hand, I don’t believe in fines for erring newspapers (there are problems about setting tariffs, for one thing) and it would be a serious mistake for the PCC to try and adjudicate on matters of taste and decency. You may argue this demonstrates some of the limitations of self-regulation – but, as a system, it is much better than the alternatives.



DAC Brian Paddick
Metropolitan Police

I was a victim of the inadequacy of the current regulation of the media. Sadly – and despite Sir Christopher’s confidence in the authority of the Press Complaints Commission – I had to take legal action because the Commission proved unable to resolve my particular grievance.

Did I have good cause to complain? The central question was whether it was right that a public servant with an unblemished professional record over 26 years – and who had never commented in the media about his off-duty activities – should have the intimate details of his private life spread across the pages of tabloid newspapers. My legal team and I concluded that the articles had invaded my privacy to an unacceptable degree. Ultimately, the other side agreed, settling out of court and publishing an apology.

But taking legal action meant that I had to find a large amount of money to finance it, even with the benefit of a conditional fee agreement. I also risked ending up bankrupt, since no insurer would cover me against possibly losing the case and having to pay the other side’s costs. And all this against a wealthy national newspaper, with ranks of legal advisers in support. I sought reassurance from my lawyer, Mr Desmond Browne QC. I asked, “Is this case worth betting your home on?” He replied, “Well, I think it is but, of course, it’s not my home.” So experience teaches me that the media does need to be controlled further.

AGAINST THE MOTION



Desmond Browne
5RB

Essentially, Sir Christopher's argument is that press control has not gone far enough because self-regulation just needs to go that wee bit further. The pill is made more palatable, he thinks, simply by reducing the dose of the drug, since it would be disastrous to extend external regulatory supervision. This is the intellectual equivalent of smoking the spliff but not inhaling it.

I could understand his stance if he was arguing that the Press Complaints Commission should have teeth. But he isn't. He rightly regards the introduction of fines as potentially disastrous, although for reasons that are hard to follow. Ofcom – the broadcasting and telecoms regulator – doesn't have any difficulty with a tariff, for example.

But regulation of the media surely means anything that causes editors to look over their shoulders when deciding whether or not to publish a story. Applying that test, the real regulators of the media are the courts, not the PCC. However, as recent judicial decisions in the UK and Strasbourg have taught us, even the courts are divided over the legitimate degree of control for the print media.

So we are left with Sir Christopher's proud vision of the PCC as Frankenstein's monster who broke free from his creator. It is important, though, to remember that the monster didn't just break free from his creator. He ended up destroying him. And that is the real danger for the media of Sir Christopher's argument.



Tom Crone
Head of Legal, News International

When discussing regulation of the press, what we are often talking about is simply the imposition of a value judgment. The trouble is that the law is better at dealing with absolutes than with value judgments, which alter significantly over time. However, there are no absolutes when it comes to regulating the behaviour and content of our media.

There are two general truths about the press. First, it will always be an irritant and occasionally outrage our democratic establishment, especially the government and the judges. Second, the democratic establishment will always champion journalistic freedom of speech while constantly looking for ways to curtail it.

In this country, we have a press corps that is more vibrant, more varied and more aggressive in its pursuit of truth than any other country's press corps. At the same time, we also have a print media that is regulated more harshly than its brethren in most other democratic states. We really don't need any more supervision – especially when (as Sir Christopher has pointed out) the self-regulatory system can evolve to deal with the tricky value judgment issues.

Essentially what we are discussing in this debate is censorship. Lawyers – especially judges – want to know why the press should be allowed to publish things. A free press, on the other hand, wants to know why it shouldn't. Without a free press, you do not have freedom of speech; and without freedom of speech, you do not have democracy.

Debate Outcome: Motion was voted against



Sir Brian Neill
20 Essex Street

The debate has exposed two entirely different approaches to a perennial problem that has existed ever since newspapers were published in 17th Century. On the one side we have those in favour of further regulation. Sir Christopher has put the matter in a very gentle way saying that the PCC is doing extremely well, but they just want to evolve

rather more regulation, which would include insisting on the use of the right to reply which is already provided for in their code. But if they go along on their present path they will reach a satisfactory result as it does involve more regulation, but it will be carefully worked out and will be self regulated.

Mr Paddick approached the matter from a different stand point and he looked at it from the point of view of a victim, giving us very clear and cogent reasons as to why the people who do get into the public eye, and are then subjected to what many people would regard as entirely unreasonable harassment, have really no satisfactory recourse. So I think, although he did not spell out what remedy he had in mind, he thought that something very much stronger is needed in order to keep that kind of behaviour under control. I am reminded of something that I read some while ago, after one of the early Michael Jackson programmes on television where the critic was being rather unkind to the tabloid press, "money is the bait while the truth like blood is just a messy substance which sometimes gets in the way".

Now that is one side of the coin, the other side of course is the view put forward very eloquently by Mr Browne and Mr Crone who say there is already too much regulation. We have the strictest libel laws in the world and the press have got a vital function to perform. They are bound from time to time to get things wrong, if they do get things wrong they are now chased by these libel lawyers who may impose a very serious threat to the freedom of the press. I am surprised that people have not spoken more about this. We have now got decisions from Strasburg that pour out at an enormous speed every week which very interestingly shows how people from other jurisdictions, approach the kind of difficulties of how to balance the right to the preservation of your personality against Article 10 rights and freedom of the press and you do see the results of that in something like the Naomi Campbell case where the House of Lords are split in a most extraordinary way.

Previous Collyer-Bristow debate

2003: "This house believes that Intellectual Property protection has gone too far".

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