

The Second Annual IPSO Lecture.
Thursday 6th July, 2017, Church House, London.
Delivered by Rt Hon John Whittingdale OBE MP.

Alan, thank you for that very flattering, perhaps, undeserved introduction. I'm most grateful for the invitation to deliver your second lecture. Anne is right to the extent that, in parliamentary business terms, Thursday is a quiet day, but I've not had a quiet day. I've just come from hosting a meeting with the prime minister of Ukraine, a country where media plurality and independent ownership still has a little way to go compared to the UK.

But, of course, this lecture, I was first invited to give back in January, and we fixed a date a few months hence, which then turned out to be in the middle of the general election campaign, and I think, sensibly, we decided to postpone until after the general election. At the time when that decision was taken, I'd thought that we would be in a rather different climate than had previously been the case. And in that I was right, but it was just not quite the difference I had anticipated.

It is extraordinary it is just four weeks ago today that the General Election took place. Indeed, this time four weeks ago, we still believed that Conservative Government would be re-elected. The last polls were still saying leads of 7-12%, and therefore I was optimistic that we would have a secure majority, and, as far as your industry is concerned, of course, you would have a government that was elected on a manifesto which made it quite plain that a decision had been taken by the then Secretary of State not to proceed with the establishment of the second part of the Leveson inquiry, and that section 40, after having been subject to consultation, for which we still await the publication, but the decision had been taken that it should be repealed. That would obviously not have put an end to the argument, but it would certainly have been quite a significant change.

Four weeks later, one has to say the world looks very different. This time, the Sun certainly did not win it. And even though the general election actually, in my view, demonstrates the waning power and influence of the printed press over the political atmosphere, and also demonstrates the rapidly increasing influence of online media, and that is something I want to come back to, nevertheless, the old arguments have resurfaced. This time a week ago, the Secretary of State made her statement on the 21st Century Fox/Sky merger proposal, and published the Ofcom recommendations. That process is obviously still ongoing, but in his

response to the statement, the opposition spokesman continued his vendetta against the Murdoch family by recounting all sins, some real, some imagined; he called for Leveson 2 to go ahead, and he stated that the Labour party will review ownership rules, with a view to banning, essentially, foreign ownership of our press. Now, had the general election gone as planned, he might still have made that statement, but it wouldn't have mattered so much. Now, we're in a different world. We have a government without a majority in parliament, and that obviously makes the government much less able to be sure of carrying through its legislation, and actually makes it vulnerable to defeat. So even though the Conservative manifesto pledge still holds, I suspect that the "Crime and Courts Act s.40 Repeal Bill" won't be seen for, certainly, the immediate future.

And there are other areas where the Government will be vulnerable. We saw before the election attempts to legislate through the House of Lords. So, I suspect this is an issue that will come back to the fore once again. And it means that the industry will need to make the arguments again – if anything, the case for introducing penalties under section 40 for those publications not in a recognized regulator has become, in my view, even weaker than when I announced that I was not minded to go ahead. Obviously, the economics of the newspaper industry have continued to become steadily more difficult, which means that the potential liability to punitive fines which would result from the implementation of section 40 would have an even greater chilling effect because it is hard to see any publisher taking any kind of risk when faced with a possibility of damages and costs combined as section 40 requires.

That is not to say that we should just sit back. No one questioned the genuine anger that was felt, and it was very widespread anger, at the revelations of phone hacking. Alan referred to the sessions that I held. There was no doubt, firstly, that what we did work hard to expose was criminal. It was a complete abuse. And it also caused huge distress to the victims. And we did take evidence from a number of those victims, and I entirely understand their anger and wish to see changes made so that kind of practice can never happen again. And some of the practices that were then exposed during the Leveson Inquiry and in the civil and criminal cases did cause revulsion. It led to convictions, and of course it led to the closure of one of the best-selling newspapers.

So, the task then was to restore public confidence, and to do that it was essential a new system be put in place.

Now, the solution which parliament came up with – I won't recount the history, a lot of people in this room know it only too well; some indeed participated in it – it was an unhappy, late-night agreement which was the only occasion I think under the Coalition Government in which the leaders of the two parties that formed the Coalition Government made separate statements, because even then they didn't wholly agree. And it was subsequently described in the Conservative manifesto 2017, a document which will be of interest to historians but perhaps few others – but it was described as a “flawed system”.

It was always going to be up to the press as to whether or not to join. And I believe that – and I've made this case before – I believe that when Parliament thought that there might need to be sanctions which would put pressure on recalcitrant publications to join a recognized regulator, parliament never envisaged that actually no publication was willing to join a recognized regulator, and that therefore if section 40 was implemented it wouldn't just be against a single publication standing out against the rest, but actually would apply to the whole of the printed media, with the tiny exceptions of the members of Impress. So, I think that in itself changed everything.

But the objections that the press had were based on both principle, which I understand, and I don't subscribe to the view that this is statutory regulation but it undoubtedly creates a role for Parliament which is potentially open to abuse, and that is why I understand the principled objections, but also there were very practical objections to do with the economics, particularly amongst the local newspapers, who made the case very strongly that the arbitration scheme could result in huge costs which they simply could not sustain.

So, I welcomed the creation of IPSO, which I do think went a long way towards delivering what Leveson wanted from a regulator, and I commend some of its work. Now, it has been accused by some people of being essentially the PCC rebranded. I have to say I think some of the criticism brought against the PCC is unfair. Before I took evidence from Sir Alan, I took evidence from Chris Mayer and some others at the PCC and they felt that they were doing a valuable job. And there are plenty of people who did feel that the PCC supported them in their complaint. But the PCC was a body which was essentially there to adjudicate disputes between individuals who felt they had been badly treated and the publishers, and there is no doubt that it did not command confidence in Parliament, or indeed outside of Parliament. And the fact that it appeared to turn a blind eye as the evidence of abuse mounted during the inquiry into phone hacking which we were conducting damaged it still further. So, IPSO was

created, and IPSO was promoted as being more independent than the PCC, as having real penalties available to it which the PCC had not had, and also with an ability to initiate investigations. Now, I think what Sir Alan said in his introduction is correct. I think there are a lot of people both in the public and in Parliament who are not persuaded yet that IPSO is any of those things. And looking at the adjudications, they do look remarkably similar to those which the PCC used to carry out – the adjudication would say whether or not a complaint was upheld or not upheld, and then the adjudication would be required to be printed by the offending publication, and the differences which exist – because the powers are there – of the ability to initiate independent investigations and to impose penalties up to a million pounds, but financial sanctions which would clearly be felt quite strongly by those against whom they are levied – those powers have not really been used. And I feel that that is adding to the lack of confidence that IPSO is a much tougher, more different organisation.

Now I'm not saying that you should start fining newspapers just for the sake of it, or indeed that you should initiate investigations unless they are merited. But I think in the public mind, the public find it difficult to believe that in the over two years since IPSO has been in existence, no newspaper has done anything that merits independent investigation, or the imposition of a fine. And therefore, I think that that is something that you need to reflect upon, because I think Alan has diagnosed the problem, and as I have suggested, I think it is not just an academic problem, because we are going into a political period when it is all the more important that IPSO does persuade Parliamentarians that it represents the kind of tough, independent regulator which all of us accepted was necessary after the Leveson Inquiry.

I would also just reflect that the other area in which I think that the regulatory system which parliament designed is not working yet fully effectively is that as I said, s40 was designed to force recalcitrant publications to join a recognized regulator, and the world turned out to be different, but at least the vast majority of the press do belong to an independent regulator, in the form of IPSO. And IPSO does offer a system of adjudication of complaint outside that of the newspaper against whom the complaint has been made. That of course applies to the vast majority of the printed press, but not all.

There are three publication groups still outside: the Independent, The Guardian, and the Financial Times. Now they all consider themselves to be so respectable that they don't need to have an independent regulator, but in my view that's not the point, and I did say to those newspapers when I was Secretary of State that even though I was sure it would be very rare

that a complaint would be brought against them, nevertheless if the whole system was to command confidence – and they too shared the view that the alternative of joining a recognized regulator was unacceptable – that that argument was strengthened if they they should join. And I only make the observation that of course one of the papers that is still outside IPSO or indeed any independent regulator is edited by somebody who was a leading member of the government that established the system in the first place, and that is something which I hope he might reflect upon as well.

As I said, I hoped because of the general election, that I would be able to talk about other things, and not about these issues, because my hope had been that they would be resolved, but I did think it was important that, given the new Parliamentary arithmetic and landscape, you at least were aware that I think the sharks are beginning to circle again.

But actually, what I wanted to talk to you about in this lecture is something that I think is an even greater existential threat to your industry, and is even more serious, because I think it jeopardises the whole proper functioning of democracy, and that is the challenge to your industry which is caused by the digital revolution that is going on – a revolution which has now been recognized by the DCMS through the incorporation of the word “digital” into its title, and we can have an interesting argument about whether it should be one comma, two commas, or no commas... But it is a recognition that everything is changing as a result of that.

As Alan said, I sat for ten years as Select Committee Chairman and then for sixteen months as Secretary of State, and it gave me a vantage point to see the extraordinary change that is still taking place, and the disruption to almost every sector you like to look at, of the power of the internet. And it has been a struggle for Parliament and for policy makers to keep up with it.

And I think initially those industries that were affected started off by thinking they could stop it. They actually tried to obstruct the onward march of technology. I first came across this with BT, whose early involvement with the internet was through dial-up connection where you got charged for the amount of time you were ringing into your internet service provider, through a dial-up connection. And along came this thing called broadband, which actually offered a possibility of much faster speeds, but also you’re not having to be charged for the amount of time you are spending on your telephone. BT, I have to say, did everything possible to try and stop this being adopted, until they eventually realized that it was impossible, and that

broadband was going to happen, and that it was going to be something of enormous value to consumers. So they changed their tactic and they started adopting broadband, but they also realized at the same time that they would have to seek alternative revenue streams since the days when people paid to make a telephone call are vanishing incredibly fast, and so they arguably exploited their monopoly position, which is a whole other debate, one I had very robustly with both Ofcom and BT when I was holding the office that I did, and also moving into other revenue streams, such as content.

It then affected the music industry, something which I have long been a strong supporter of, who again didn't want to promote the idea that people would no longer have to go out and buy CDs, and because they could digitally download them or then in due course not even purchase the product at all, but just stream it. And their resistance to that development actually led to piracy, and it led to the establishment of sites that made available the content illegally.

Both have now had to come to terms with the new economics: as I say, BT has moved into new revenue stream, and the music industry did finally recognize that they must make content available through digital means which was legal, and also accept that the days in which they would rely upon considerable income from sales were changing. And if you look at the music industry in the old days – and it might sound faintly familiar to people in this room – the music industry depended on very creative and artistically talented people creating content; that content was then turned into a physical product by a label; it was then distributed in lorries around the country; and it was then sold to individual consumers in shops.

Today there are no shops left – it is almost impossible to find a record store, apart from those that specialize in extremely niche product. And the physical product is shrinking every year as a proportion of sales. But the music industry is going to survive. And it's going to survive because at the end of the day, people still value content, and they're willing to pay for it.

The film industry had the same experience. Again, the means by which people consumed film is changing. People still like to go the cinema, but more and more it is through video on demand and streamed content. But again, the cinema industry is thriving because the content is still something that we are remarkably good at creating in this country.

The parallel I think is clear: the newspaper industry also provides great content and people I think still value high quality journalism, brave investigative reporting, thought-provoking comment, and they also rely on newspapers to varying degrees for accuracy and trust. And in the increasing cacophony of competition out there for provision of information from the news aggregators, the user generated content, blogs, fake news – those qualities in my view become all the more valuable and important, and I think that the public demand for reliability and truth will increase when so many sources offer neither, and fake news, which has been much in the debate recently, has increased that necessity even more. For those reasons, I think it is all the more important that stories that we read in quality titles are professionally investigated by trained journalists; properly sourced; fact-checked; and that they are legalled.

But the problem is that too often those steps are not always occurring. Newsrooms are shrinking, and too often the economics are resulting in the quality deteriorating, and some of those procedures being cut out altogether. And that, I have to say, is happening even more immediately and dramatically in the local press.

In my recollection as a constituency MP, local papers had offices in high streets of the communities they were reporting on. In my own constituency, which is a relatively rural one, the local paper had a correspondent in every single village – often part time, often merely filing a couple of paragraphs a week. But those communities were represented by the local paper and were reported. Too often now the local paper is located in an industrial estate or a location miles away; it employs a handful of recent graduates or even trainees; and the editor is a regional editor who oversees maybe 20 titles. And the photographers probably number one, or number two if you're lucky.

So the result is that more and more content is user generated both in terms of pictures and stories. Now, when I go and do something as a constituency MP, I always supply it to the local paper because I know that the local paper won't send a photographer any longer, because they don't really exist, the number is so small. And part of the consequence is that a lot of the core content which people relied upon the local press for – things like the reporting of council meetings, of court proceedings, even of village fetes – no longer appear in local newspapers, or certainly not on the regular basis that they once did. And that seems to me a real threat to the proper functioning of our democracy. It has been the role of local papers to hold locally elected representatives to account; to uncover poor performance or abuse; and to inform

electors about how their candidates have performed and whether or not they deserve their vote.

My local paper is no different. It has some young reporters who do a fantastic job with very limited budget and without anything like the backup that they once had. But I did notice that in this last general election campaign, my local paper in my constituency carried three stories, one for each week of the three-week period about the general election: the first one was short profiles of the six candidates, so it had our pictures and two paragraphs just saying who we were; the second week we were all asked to give our opinion about an issue, fine, it was a big issue, it was the state of the local health service; the third week, we were asked to answer a questionnaire, which included who we would invite to our dinner party, what our favourite TV programme was and what was on our bucket list: a fun story. But, did it help the local electors decide who they wanted to elect to represent them in parliament? I, of course have a track record: I've been the MP there for over 20 years, but the other candidates were practically unknown. I don't wish to criticise my local newspaper: I have a good relationship with them and I think that they do a difficult job. But I use that as an example of what is a very widespread problem and one which I think is really quite dangerous.

There was a survey of local newspaper editors last year, in which more than half of them said that courts are no longer being properly covered or reported in their newspaper, and 55% of them said that they now rely on police press releases, rather than sending a reporter to sit in court, or rely on agency copy. It is an issue which I tried to begin to address in the BBC Charter renewal. I have to say, the BBC were very receptive to it, particularly the DG, with whom I had a very good relationship, and he saw the point, that this was actually a serious public issue and that the BBC, as a publicly funded media organisation, may play a part to help. Particularly because of the volume of complaint from newspapers that the BBC was so often taking stories, not attributing them and certainly not paying for them. And so, that resulted in the scheme under which the BBC has agreed to fund 150 local democracy reporters.

When it was first mooted, the NMA was quite cautious – I understand why. There was a suspicion that this was actually the BBC competing with them with public money, rather than supporting them, and there was a suspicion of public money. But I was delighted that the NMA did actually reach an agreement with the BBC and that those reporters are going to be put in place, I hope over the course of the next year, with £8million fund annually from the

licence fee for the charter. It is a step forward, it is a recognition that there is real value, indeed, an essential role for the local press in covering proceedings in the local institutions which govern the lives of communities. 150 is not going to solve the problem, however. So there are other things which we need to look at.

The real problem, as I was suggesting is that the news organisations, which more and more people are turning to for news, don't employ a single journalist and they make no payment for the stories they carry. There are one or two honourable exceptions: BuzzFeed are actually investing a lot of money into investigative journalism and are breaking some quite interesting stories. But they have someone who is prepared to give some financial support, because I don't think they are making a great deal of money. I also welcome the discussion which I understand is now taking place with Facebook about the creation of some kind of subscription mechanism to benefit news organisations and journalists. These are very encouraging signs, but are only scratching at the surface of the problem.

I also think that one of the most encouraging developments, actually, is the action being taken to address abuse of monopoly position. In 2011, when I was chairing the Select Committee, I had a call to meet somebody from a company I had never heard of. It was a company called Foundem and he came to see me and he produced evidence - because they were a search company - and they said that if you were looking online for price comparison, he then gave me the statistics for the number of times Foundem came up as the first place to go and how many times Google price comparison came up. Needless to say Google came up 90% of the time. And he said, this is a fix; he said there is no reason why if the Google search is not being tweaked in favour of Google's own proprietary price comparison site, there's no reason why Google would get as many top ratings as it did. I said that's very interesting, I can well believe it, what are you going to do about it? And he said, well I'm going to lodge a complaint in Europe and I said 'Good luck'!

Six years later, we've seen the result of that complaint. I have to say, it's not often that I congratulate the European Commission, but on this particular instance, they have struck a blow. I think it has demonstrated that certainly the degree of concern about the position that Google has obtain in terms of its dominance, but more importantly the way in which they are using that.

I was looking at a speech, which I think was only a couple of weeks ago, that Robert Thompson, Chief Executive at News Corps, where he produced evidence relating to the Wall St Journal where he said earlier this year, the Journal limited access to first-click free – a commercial decision that they took - and, as a result, he said, by May, there was a 94% plunge in referral from Google News. That's because Google get less revenue under the first-click principle. He said, naturally, we are reporting that statistic of a 94% fall to the European Commission, which is rightly investigating Google's abuse of its search monopoly.

So, I think that the regulators are on the case and I do think that Google has done many wonderful things and I admire Google, but it is never healthy to have an organisation with that degree of dominance. I think that there are serious regulatory issues and that was a point that I made in response to the statement by the Secretary of State last week that when you are worrying about the abuse or the undue dominance of media owners, printed press is not where you should be looking, it is online. That is where these giants of Facebook, Google, Amazon: they are the ones that are now raising very serious challenges to the competition authorities. As I say, there are signs of hope and, for the first time, a blow has been struck and, perhaps, it will lead to further action.

I think your industry, for the same reason that I believed that the music industry survived would survive, the film industry would survive, I think that the newspaper will undoubtedly have to adapt further, and I can't tell you what the new business models are, but I believe that there is still a public demand for quality content. I suspect your industry may have to see greater consolidation: not necessarily meaning titles being lost or coming together, but at least, much greater sharing of some costs in terms of back office, even the provision of core content. We're looking at new income streams, the advent of advertorial, which some turn their noses up at, and in the days they could afford to do so. But I think all of these things we need to look at again, because the priority is that newspapers, or at least news organisation survive. Because you are frankly too important to the country and our democracy, to fail.