

HOUSE OF LORDS

Select Committee on Communications

3rd Report of Session 2010–12

The future of investigative journalism

Report

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NOTE:

Evidence is published online at www.parliament.uk/hlcommunications and available for inspection at the Parliamentary Archives (020 7219 5314).

References in footnotes to the Report are as follows:

Q Refers to a question in oral evidence;

Witness names without a question reference refer to written evidence.

SUMMARY

The role and practices of investigative journalism have received unprecedented scrutiny over recent months. Its long history of exposing issues that are not in the public domain and speaking truth to power has come under the microscope as the phone-hacking scandal, perhaps the greatest political media scandal of a generation, has gradually unfolded, raising a plethora of questions surrounding the public interest, privacy and media ethics.

This report does not set out to propose solutions to these issues which are currently being considered in other forums, most notably Lord Justice Leveson's ongoing Inquiry into the Culture, Practice and Ethics of the press. Instead, this report explores the media landscape in which investigative journalism operates and argues that any changes should not be rooted in the past but should seek to enable responsible investigative journalism to flourish in the future.

Responsible, high quality, investigative journalism matters; it is a vital constituent of the UK's system of democratic governance and accountability. At its best, it informs and educates us, enhances our democracy, and is a force for good. However, it has become clear during our inquiry that rapid economic, technological and behavioural change is creating profound economic, legal and regulatory challenges for investigative journalism and how it might be conducted in the future.

Investigative journalism is suffering as a result of inconsistencies and lack of clarity in the law. We therefore make recommendations in this report which would provide clarity on the complex and sensitive issues surrounding the public interest. We do not recommend that all relevant criminal law be re-drafted in order to iron out inconsistency between different pieces of legislation when it comes to a formal, statutory defence relating to the public interest. We do, however, urge the prosecuting authorities to publish their broad approach to determining which cases should be prosecuted or otherwise in cases where illegal activity undertaken by journalists in the course of an investigation might be considered to be in the public interest.

Furthermore, we recommend that media organisations implement a two-stage internal management process whereby they track and formally record their decisions first to investigate and secondly to publish a story if such decisions rely on the public interest. We also recommend that regulators should, in turn, take such an audit trail into account when evaluating the responsibility or otherwise with which investigative journalism has been undertaken. The regulators should also take into account the actions taken *ex post facto* in considering what penalty is appropriate for any particular breach.

Investigative journalism is also suffering from a lack of proper investment and organisational support. To offer some respite from the funding crisis, we recommend an investigative journalism fund. Any fines which are levied for transgression of journalistic codes of conduct—including fines that might be introduced under a new system of press self-regulation and a proportion of fines issued for breaches of the Ofcom code—should be allocated to this fund which might be used for investigative journalism or for training investigative journalists.

We are encouraged, however, by the number of new funding and organisational initiatives that have started to materialise as a means of promoting investigative journalism, and believe it is vital that measures are taken to support and foster further initiatives which are independent of public subsidies or state support. We believe that charitable status may be one route to encouraging philanthropic investment in this area and therefore recommend that the Government reconsiders its current disinclination to legislate in this area. Given the vital contribution of investigative journalism to the wellbeing of democracy, we also ask the Charity Commission to provide greater clarity in this area and to take into consideration both the current pressures on investigative journalism as well as its democratic importance when interpreting the relevant legislation.

While we recognise the enormous economic pressures on traditional media enterprises, we urge them not to vacate the vital area of journalism training. We see some of the new media initiatives as opportunities for training in the skills of investigative journalism, and recognise the invaluable training opportunities provided by the mainstream broadcasters and by university departments.

Analysis of the media is a crowded field at the moment, but we hope that our examination of the media landscape, investigative journalism's place in it, the challenges and opportunities facing it, and the impact of media convergence, will inform the current debate and assist in influencing any regulatory or legislative reforms that may be forthcoming.

The future of investigative journalism

CHAPTER 1: INTRODUCTION

1. During the course of this inquiry, there has been a general consensus amongst witnesses that the role of investigative journalism is to bring to light things that are not in the public domain and to help hold those in positions of power at a local, national and international level to account. This happens at various levels of authority. There is a public interest in exposing wrongdoing by a nurse in a local hospital or a clerk in a County Court just as there is in exposing Members of Parliament and Chief Executives of large corporations. The role of investigative journalism in putting previously unreported information into the public domain and providing the stimulus for public debate is immensely important.
2. For this to be effective there must be two distinct parts. First there must be an investigator—the author or journalist, and secondly his/her findings must be disseminated—by the publisher or broadcaster. Investigative journalism cannot fulfil its proper role if these two processes are not working together. At present the traditional balance is being threatened by profound changes which pose economic, legal and regulatory challenges for the future of investigative journalism.
3. There is no universally accepted definition of what constitutes investigative journalism. During the course of this inquiry we have heard differing views with some witnesses defining it narrowly as a specific genre of journalism and others claiming that all journalism is investigative. Paul Lashmar, investigative journalist and Lecturer in Journalism from Brunel University, said that those editors who claimed all journalists should be investigative were generally those who did not fund their staff to do that kind of work.¹
4. For the purpose of this inquiry, we have taken investigative journalism to mean reporting which requires a significant investment, in terms of resource and/or funding; which runs a high risk of potential litigation; and which—most importantly—uncovers issues which are in the public interest but which were not hitherto on the public agenda.
5. Although investigative journalism is difficult to define precisely, it is often easy to recognise. As it requires significant investment, investigative reporting is often subsidised and validated by reputable publishers and broadcasters, although serious investigative reports are increasingly only published online, for example, in some of the work of the Bureau for Investigative Journalism or ProPublica in the United States of America. Stories identified to us by witnesses as examples of good investigative journalism included:
 - BBC's Panorama programme first aired on 21 May 2011 exposing abuse at Winterbourne View care home, which used secret filming;
 - The Guardian's exposé of phone-hacking by journalists which was uncovered after an investigation of several years by reporter Nick Davies. Details were first published on 8 July 2009;

¹ Q 448

- The News of the World's 'sting', exposing corruption by Pakistani cricketers, published on 29 August 2010;
 - The Daily Telegraph's exposé of MPs expenses which was based on information sold to the newspaper. Details of this were first published on 8 May 2009;
 - The Maidenhead Advertiser's September 2011 report on a secret turn-around plan containing proposals to cut jobs and beds at a local hospital;
 - The Art Newspaper's investigation, starting in 2000, which led to the return of the 12th Century Benevento missal to a church in Italy from where it went missing during the Second World War. This is an example of investigative and campaigning journalism in a specialist field;
 - The Sun's investigation, published on 14 September 2006, which exposed that an HIV-positive security guard had knowingly infected six women; and
 - Al Jazeera's Africa Investigates series in which Al Jazeera provided African journalists with "the opportunity to do the kind of journalism that Panorama or Dispatches might do in this country, with all the support, money, training, legal support and expertise that we can supply to them to allow them to do their jobs properly."² Investigations were conducted into issues such as illegal logging in Sierra Leone.
6. Despite these and many other recent examples of investigative reporting, these are difficult times for journalism more generally. The phone-hacking scandal, exposed by The Guardian reporter Nick Davies, has led to the closure of Britain's best selling tabloid newspaper, The News of the World, as well as the resignation of former newspaper editors and senior members of the Metropolitan Police Service. Re-examination of the report for the Information Commissioner by the Surveillance Studies Network of six years ago³ has further exposed the apparently widespread use of unlawful methods to gather information, and among those bodies examining the issues raised are:
- (a) Lord Justice Leveson's Inquiry into the Culture, Practice and Ethics of the press; the House of Commons Culture, Media and Sport Committee's inquiries into Phone Hacking and Media Plurality;
 - (b) The Parliamentary Joint Committee on Privacy and Injunctions' inquiry into privacy, anonymised injunctions and super-injunctions;
 - (c) The Parliamentary Joint Committee's report on the Draft Defamation Bill;⁴ and
 - (d) The report by Dame Elizabeth Filkin on the relationship between the Metropolitan Police Service and the media⁵ published in January 2012.

² Q 712

³ 'A Report on the Surveillance Society' For the Information Commissioner by the Surveillance Studies Network, September 2006

⁴ Report by the Joint Committee on the Draft Defamation Bill, 19 October 2011, HL Paper 203/HC 930-I.

⁵ Report on 'The Ethical Issues Arising from the Relationship Between Police and Media, Advice to the Commissioner of Police of the Metropolis and his Management Board' by Dame Elizabeth Filkin, January 2012.

We also await the outcome of a public consultation on proposals for reform of the Press Complaints Commission (PCC) by Lord Hunt of Wirral, the new Chairman of the PCC. The Government's Green Paper on a new Communications Bill will also be published in the near future.

7. In this report, we do not attempt to suggest specific solutions to issues which are being considered in other forums. Our aim is to ensure that the media landscape in which serious investigative journalism operates is analysed, which in turn should assist these other inquiries since whatever changes are introduced should be tailored to the needs of the future and not of the past. In this regard, we agree with the Department for Culture, Media and Sport's (DCMS) submission to this inquiry which states that: "We need some new ground rules [in media regulation as a result of the phone-hacking scandal], but we must also be careful not to discard the quality investigative journalism that is an integral part of our media."⁶
8. Investigative journalism has a history going back centuries. However, even before the current scandal started to unfold fully, newspapers in the UK were under threat; the combined effect of declining newspaper readership and the migration of classified advertising to online have coincided with the severe economic recession. As a result local newspapers have been forced to close and many journalists and newspaper staff have lost their jobs.
9. As outlined in our previous report on the Regulation of Television Advertising, broadcasting has also faced economic pressures in recent years. Broadcasters, to a lesser extent than the printed press, have seen advertising revenues decline as some advertisers who in the past paid for display advertising on television have moved towards classified and search advertising online.⁷ The BBC, which is funded by the television licence fee and therefore not dependent on advertising, is also facing a reduction in its income—approximately 16% between now and 2016⁸—as a result of the last licence fee settlement.
10. These economic pressures threaten the positive role played by traditional media which inform opinion, encourage debate and enable national discussion of the country's affairs. In our inquiry we have considered, in particular, the way in which investigative journalism sustains debate on matters of serious public interest.
11. If investigative journalism is to fulfil its proper role, it is essential that journalists act with integrity. A high price can be paid as a result of material they publish, witness the uncovering of the Watergate Scandal in the USA which led to President Nixon's resignation in August 1974.
12. In many circumstances it is both necessary and appropriate to regulate the media. To effectively manage the spectrum, for example, which is a finite resource, licences are issued by the media regulator Ofcom. In return for access to this important resource, broadcasters commit to a set of rules outlined in the Ofcom Broadcasting Code. This includes a duty for all broadcasters "to ensure that news, in whatever form, is reported with due

⁶ DCMS

⁷ *Regulation of Television Advertising*, 17 February 2011, HL Paper 99, paragraph 18.

⁸ Information on the BBC licence fee settlement at:

http://www.bbc.co.uk/aboutthebbc/therealstory/licencefee_settlement.shtml

accuracy and presented with due impartiality.”⁹ In the case of the BBC, it receives public money through the licence fee and its Charter details the way it should operate.

13. For the printed press no such licence is necessary. Anyone with sufficient means to do so can print and circulate information in print. Newspapers depend on readers buying their papers, or subscribing to their websites, to remain in business. To secure and maintain their readership, national and local newspapers develop a brand with which their readers identify and in which they trust. To command loyalty, they ensure that the information they publish is informative, entertaining and, at best, accurate. This was highlighted to us by the Chartered Institute of Journalists in their evidence: “Those publications that cut back their journalism content quickly find their circulation figures drop, which in turn puts off advertisers. These are the market forces which drive the inclusion of journalism in a publication.”¹⁰
14. Across the newspaper industry certain standards of accuracy are encouraged through a type of industry self-regulation as outlined in the Editors’ Code of Practice. This voluntary Code, written by serving national and local newspaper editors and enforced by the Press Complaints Commission (PCC), a body of industry-led oversight of which membership is also voluntary, aims to ensure that what is printed in newspapers is accurate. It also offers a means of recourse to people who believe that inaccurate information has been published. Unlike the statutory regulator for broadcast media, Ofcom, the PCC does not have the power to impose fines for breaches of the Editors’ Code, although it can bring about certain remedies such as requiring the publication of a correction or an apology.¹¹
15. As outlined in our Committee’s report into the ownership of the news published in 2008: “the traditional media are under very considerable competitive pressure. Newspapers, television and radio are losing advertising revenue to the internet, with the result that costs are being cut and economies are being made in traditional news gathering, ranging from journalists based overseas, to local journalists at home.”¹² Investigative journalism is especially resource intensive, requires long-term investment with no guaranteed return, involves some risk of litigation, and often does not deliver large reader or audience figures. It is therefore particularly vulnerable to economic pressures. This is especially evident at a local level and we have heard evidence that long-term investigations into local issues which require staff commitment and involve legal risk are no longer pursued as often as they were in the past. Given these profound challenges facing the newspaper industry, we believe that now is the right time to consider the prospects for investigative journalism.

Legal, regulatory and political context

16. Debate about regulation has always been an integral part of media politics, leading to impassioned debates about the legitimacy of imposing obligations or restrictions on a free press. For example, Sir David Calcutt conducted two

⁹ From Section 5 ‘Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions’ in ‘The Ofcom Broadcasting Code (Incorporating the Cross-promotion Code),’ 28 February 2011

¹⁰ Chartered Institute of Journalists

¹¹ From Section 1 on ‘Accuracy’ of the Editors’ Code of Practice, ratified in December 2011 by the PCC

¹² Communications Committee, 1st Report (2007–08): *The ownership of the news*, (HL Paper 122-I)

reviews of self-regulation of the press in the 1990s;¹³ there is a recurring debate around the purpose and goals of the BBC at the time of Charter renewal; and media legislation has been debated and passed by Parliament in the Broadcasting Acts of 1990 and 1996, the Communications Act 2003, and in subsequent legislation with relevance in this area such as the Bribery Act 2010 and the Digital Economy Act 2010.

17. However, media regulation is again at the forefront of the political agenda in the wake of the phone-hacking scandal which has raised serious questions about standards and ethics in the press. Furthermore, NewsCorp's proposed bid for the remaining shares in BSkyB during the summer of 2011 brought the issue of media plurality back to the forefront of political debate.
18. The legal and regulatory background is complicated because it involves both statutory and self-regulation, as well as three distinct legal codes: newspapers and publishing in respect of 'print on paper', broadcasting regulations for traditional radio and television, and 'electronic commerce law' in respect of digitally delivered material. These can be further complicated by jurisdictional questions arising from the worldwide nature of the internet.
19. Publishers have traditionally tended to be better-financed than journalists, and thus an easier target of the law and regulations. They have responded by exercising editorial control on their authors.
20. This has helped define the relationship between journalist and publisher, who generally does not want to become embroiled in expensive litigation, regulatory dispute or be subject to financial penalties. It is in the publisher's interests to ensure articles are within the laws and regulatory codes. This in turn should, in theory, give the reader/listener confidence in the integrity of what is produced under the publisher's imprint.
21. In addition, we heard from a number of editors that their particular long-term brand strategy also creates incentives for accuracy, reliability and even investment in investigative journalism.
22. Mr Alan Rusbridger, Editor of The Guardian, for example, spoke about the way The Guardian's investment in investigative work becomes a reason for consumers to believe in the brand's broader values. He said: "in a brand sense ... you hope people associate The Guardian with a kind of journalism and integrity".¹⁴ In turn, he claims these associations establish "the sort of brand reputation of being a paper that does brave things and tackles big powerful centres of power. I think in the long term that is distinctive and wins tremendous appreciation and respect from readers and non-readers".¹⁵
23. Of course, the fact that different media brands appeal to different groups of people has consequences for the type of journalistic content editors invest in and seek to associate with their brand.
24. Mr Richard Caseby, Managing Editor of The Sun, for example, described The Sun's brand as being something which "connects with the readers. It is like meeting the man down in the pub who always has a really interesting story to tell and you never know quite what he is going to say, and the thing

¹³ Calcutt Committee Report on Privacy and Related Matters (1990) Cm 1102, and Calcutt Review Of Press Self-Regulation (1993) Cm 2135

¹⁴ Q 61

¹⁵ Q 65

is he always says it in a really witty way.”¹⁶ Living up to this brand when it comes to investigative journalism, therefore, has clear implications. Mr. Caseby explained how this works, claiming that The Sun, for example, may tend to focus more of its investigations on: “things like holiday rip-offs, loan shark thugs, [and] people who prey on the elderly”.¹⁷ It is important to be aware, therefore, that strategic thinking about their brand on the part of newspapers can also act as a spur to sustained investment in investigative journalism. However, the types and forms that result are likely to vary in line with the distinctions and variety of brands in the media market.

This report

25. The starting point for this inquiry, as already mentioned, has been that responsible investigative journalism should be protected and encouraged given its important role in our democracy.
26. This report outlines the current media landscape focussing on its relationship with investigative journalism. We first look at the challenges and opportunities now facing it and then consider ownership, funding and the impact of media convergence. Finally we identify a number of issues surrounding the training of tomorrow’s investigative journalists.
27. We would like to thank everyone who gave evidence to us, both at oral evidence sessions which we held between September and December 2011 and in writing. We also wish to thank our Specialist Adviser, Professor Steven Barnett from the University of Westminster. We have been fortunate to benefit from his expertise throughout the course of this inquiry.
28. We will be submitting a copy of this report to the Government, to Lord Justice Leveson and to the Joint Committee on Privacy and Injunctions. We hope that they, together with Lord Hunt of Wirral who is conducting an internal review of the Press Complaints Commission (PCC), will find this a useful overview and that they will carefully consider the implications for investigative journalism of any regulatory or legislative proposals which they may make as part of their future deliberations.

¹⁶ Q 813

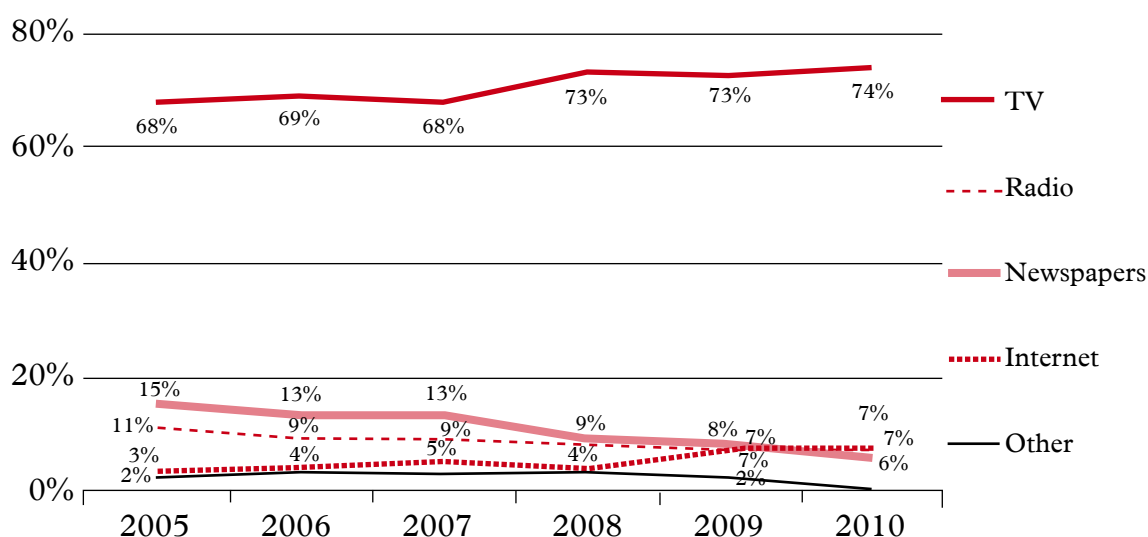
¹⁷ Q 797

CHAPTER 2: THE ECONOMIC CHALLENGE

Economic changes

29. Investigative journalism is an expensive form of journalism, principally because it is often labour intensive and it carries a significant amount of legal risk. The BBC explained that “investigations ... can take months, sometimes years, to come to fruition. This is intrinsically costly.”¹⁸ Mr Edmund Curran OBE, Member of the Newspaper Society, claimed that, “the costs of getting into trouble are so high that frankly it could close down a weekly newspaper”.¹⁹ It requires an economically healthy media with adequate resources at a time when the newspaper and broadcasting industries are encountering many economic challenges, as outlined in this chapter. Investigative reporting, which can be expensive, litigious, and politically fraught, has often been one of the first areas of journalism to feel the squeeze.
30. Television and radio broadcasters have also been subject to economic pressures in recent years as a result of declining advertising revenues²⁰ and the real terms cut in the most recent BBC licence fee settlement.
31. The way in which people receive news is also changing. Although an overwhelming majority of people continue to cite television as their main source of news (see Figure 1 below), the internet is rapidly becoming more popular and is now equal to radio as the second most popular main source of news in the UK. This analysis includes newspaper websites and other sources of news online such as blogs, search results in Google, i.e. news aggregators and social media.

FIGURE 1
Main source for UK News²¹



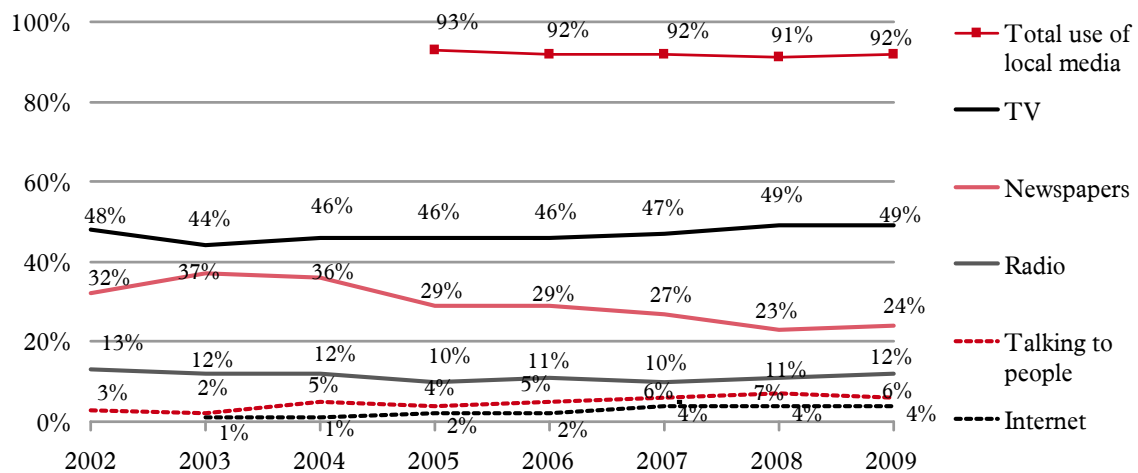
¹⁸ BBC

¹⁹ Q 541

²⁰ Communications Committee, 1st Report (2010–12): *Regulation of Television Advertising*, (HL Paper 99)

²¹ Ofcom Public Service Broadcasting Annual Review, July 2011, Source: Ofcom Media Tracker 2010. Base: A UK representative quota sample of approx. 2,100 adults (aged 16+).

FIGURE 2
Trend in main source of news and information about local area²²



32. In written evidence, the Department for Culture, Media and Sport (DCMS) commented that: “Although a minority of consumers (18%) rely on a single media owner, most consumers draw on a range of sources for news and current affairs. OFCOM research estimated that the average news consumer used 2.9 news providers in a typical week. Data from NewsCorp put this higher at 4 sources per week, but included local and regional sources as well”.²³
33. Certain witnesses before this Committee have described the 1960s to 1980s, when programmes such as Panorama on the BBC and World in Action on ITV received large audience ratings and The Sunday Times had a large ‘Insight Team’, as the ‘golden age’ of investigative journalism. With increasing economic pressures facing both the newspapers and broadcasting industries and a cultural shift in the way in which people receive news and information, large dedicated teams of investigative journalists within traditional news organisations no longer seem affordable. However, this does not mean that important issues cannot be uncovered by journalists, either working alone or as part of smaller, flexible teams.

Newspapers

34. We have heard from witnesses about the economic pressures facing the national and local newspaper industry and the damaging impact which this has had on investigative journalism. Mr Alan Rusbridger, Editor of The Guardian, told us that: “From my point of view, the economic threat is easily the biggest threat [to investigative journalism].”²⁴ The Secretary of State for Culture, Olympics, Media and Sport, Jeremy Hunt MP, agreed that the potential lack of profitability in the newspaper sector as a whole was the biggest threat to investigative journalism.²⁵

²² Ofcom Discussion Document on Local and Regional Media in the UK, September 2009, Sources: Ofcom’s Media Tracker, April 2009, Ofcom’s Technology Tracker 2005–2009, Note: 2002–2008 based on rolled yearly data and is not directly comparable to 2009 data. Base: All UK adults aged 15+ (2009 n=1045).

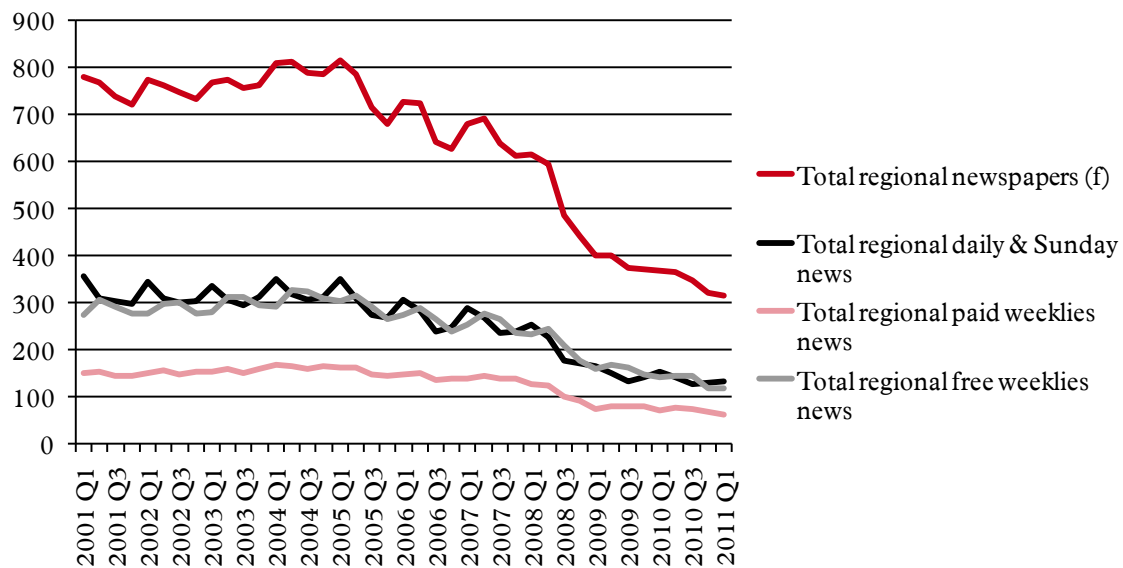
²³ DCMS

²⁴ Q 57

²⁵ Q 684

35. Declining advertising revenues and circulation as a result of the economic recession and increasing competition from online sources, some of which exploit newspapers' content, and some of which are simply preferred destinations for advertising expenditure, have had a profound effect on the printed press. This was highlighted by Ofcom in September 2011²⁶ which found a significant and rapid decline in advertising spend in regional newspapers in recent years. As shown in Figure 2 below, the downwards trend can be observed before the recession, dating instead to 2004, when internet advertising increasingly began to compete with newspapers and television advertising.

FIGURE 3
Advertising spend—regional press (2005 constant prices £m)²⁷



36. Paid-for local and national newspapers have also had to compete seriously with rival, free daily newspapers such as the Metro and The Evening Standard (which became free in 2010) and from local council newspapers which are circulated free of charge to residents in many local areas. We have heard evidence that there are some local free newspapers such as the Camden New Journal which provide useful information and expose issues in the public interest which are unlikely to be investigated by other titles.²⁸ These appear to be the exception rather than the rule. Other free local publications, however, have been accused of putting economic pressure on local newspaper advertising revenues without delivering much if any public interest journalism.
37. As a result of this combination of factors, the circulation of newspapers across the industry has fallen in recent years. ABC figures submitted to us by the DCMS in its evidence show that there has been a downward, “possibly

²⁶ Ofcom Local Media Assessment on the proposed acquisition by Kent messenger Group of seven newspaper titles from Northcliffe Media, September 2011.

²⁷ Ofcom Local Media Assessment on the proposed acquisition by Kent Messenger Group of seven newspaper titles from Northcliffe Media, September 2011. Source: Advertising Association/WARC Expenditure Report 2011.

²⁸ Q 348

accelerating” trend in total national newspaper circulation in the last decade, as shown in the table below.

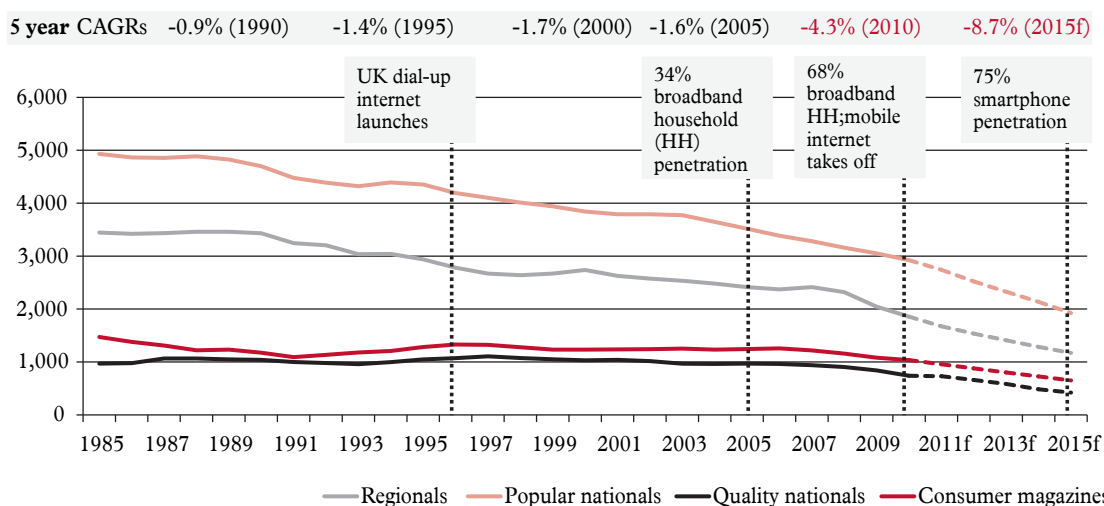
TABLE 1
National newspaper circulation, 2001–2011²⁹

Period	Total circulation (in millions)	Copies lost/gained (in thousands)	% change
Dec 01–May 02	27.15	-498.3	-1.8
Dec 02–May 03	27.19	38.9	0.1
Dec 03–May 04	26.62	-565.8	-2.1
Dec 04–May 05	25.03	-588	-2.2
Dec 05–May 06	25.15	-886.5	-3.4
Dec 06–May 07	24.32	-831.6	-3.3
Dec 07–May 08	23.58	-740.6	-3.1
Dec 08–May 09	22.04	-1,537.7	-6.5
Dec 09–May 10	20.80	-1,241.6	-5.0
Dec 10–May 11	19.53	-1,264.4	-6.1

38. At a Leveson inquiry seminar in late 2011, Clare Enders of Enders Analysis predicted that this trend would continue over the next 5 years, as shown in Figure 4 below.

FIGURE 4
Newspaper circulation volumes decline, 2005–2015 (as predicted by Enders Analysis)³⁰

UK annual press circulation (m)

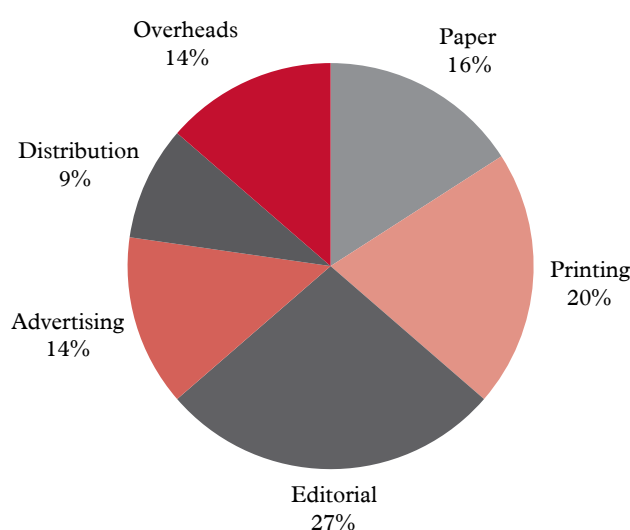


²⁹ DCMS, quoting ABC data

³⁰ Presentation by Claire Enders to the Leveson Inquiry Seminar on ‘Competitive Pressures on the Press,’ 6 October 2011.

39. Newspapers have had to adapt their business models in order to adjust to these changes. Most newspapers, such as The Guardian, do not charge for access to their content online, which is supported by advertising, even though their print circulation is far below the number of unique monthly website users. By comparison, The Times and the Financial Times now provide their online content behind a paywall.
40. Printing newspapers is expensive. Figure 5 shows that towards half of a newspaper's operating expenses go on the costs of producing the physical newspaper, rather than on editorial activity. For this reason, we believe that as readers increasingly access news content online, printed newspapers are likely to become more expensive and will be more of a niche product and a relatively expensive luxury.

FIGURE 5

Newspaper cost structures³¹

41. As can be seen, taken as a whole, the newspaper industry is facing huge financial pressure. At a national level, there is now a crisis in the printed press which is facing unprecedented challenges.
42. At a local level, the economic pressures are even more severe. This has created a serious threat to investigative journalism and hence to democratic accountability in local areas. The threat to local media is also having a profound effect on national newspapers and broadcasters as local news outlets no longer provide a large training ground for the nationals and the ability for nationals to source stories from local news outlets—either post publication or pre-publication by sourcing stories from local ‘stringers’—has significantly diminished. Mr Phil Hall, former editor of The News of the World, told us that: “There has been a real demise of the news agencies across Britain, because local newspapers used to feed off them and the agency fed off the local papers. As those have shrunk the newspapers have lost one of their main sources of information and understanding where investigations needed to be had.”³² Mr Andrew Gilligan, London Editor of The Sunday Telegraph, similarly explained that: “It used to be the case that

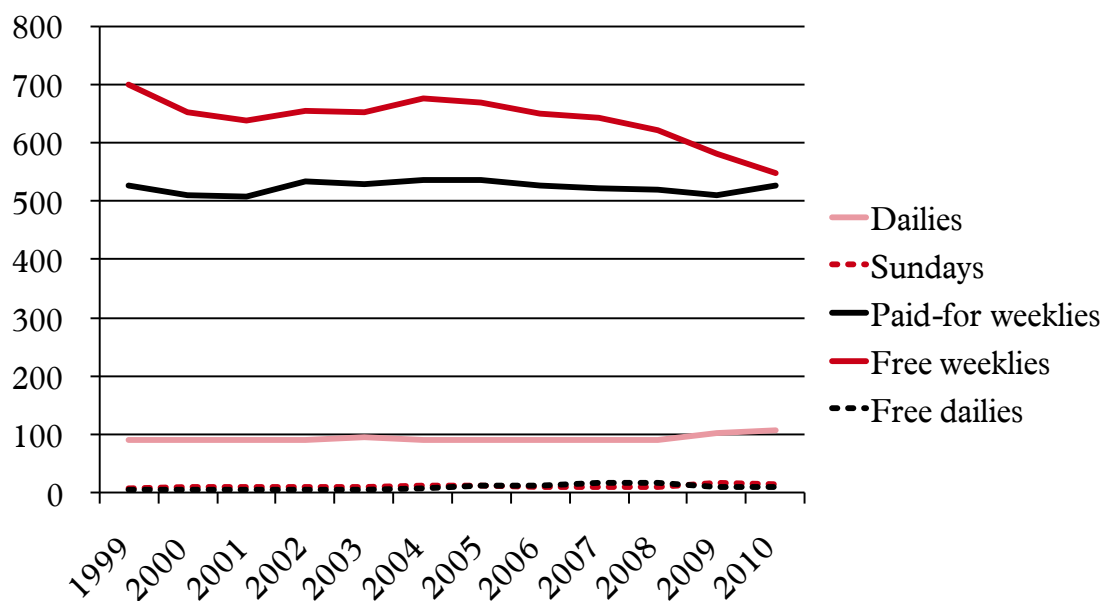
³¹ Presentation by Claire Enders to the Leveson Inquiry Seminar on ‘Competitive Pressures on the Press,’ 6 October 2011.

³² Q 604

virtually everyone on a national paper had come from a local newspaper. That is no longer the case; it is seldom the case, actually. It used to be the case that a lot of stories in national papers started in local papers, and that again is less the case than it was.”³³ On the other hand, Mr Dominic Cooper, General Secretary, Chartered Institute of Journalists, told us that, “Very often, stories are broken on a local level before they hit national anyway.”³⁴

43. As outlined by Ofcom in its Local Media Assessment in September 2011: “the number of free weekly local and regional titles has been in long-term decline, while the number of daily, Sunday, paid-for weekly and free daily local and regional titles has remained fairly static.”³⁵ This is illustrated in Figure 6 below:

FIGURE 6
Number of regional and local newspaper titles³⁶



44. As we have heard from several witnesses, the local press is in great financial difficulty. John Mair, Senior Lecturer in Broadcast Journalism at Coventry University, said that: “Newspapers are dying. They are dying not so slowly. Local papers are in the intensive care ward.”³⁷ Similarly, Mr Alan Rusbridger told us: “I just think that the state of the local newspaper industry is dire.”³⁸
45. We share the concerns raised about the seriously diminished level of investigative journalism at a local level. The evidence we have received leads us to conclude that economic pressures have severely restricted the local press’s ability to carry out major investigations.

³³ Q 634

³⁴ Q 404

³⁵ Ofcom Local Media Assessment on the proposed acquisition by Kent Messenger Group of seven newspaper titles from Northcliffe Media, September 2011.

³⁶ Ofcom Local Media Assessment on the proposed acquisition by Kent Messenger Group of seven newspaper titles from Northcliffe Media, September 2011. Source: Newspaper Society Database, March 2011.

³⁷ Q 11

³⁸ Q 52

46. It is difficult to find reliable time-series data following the amount of investigative journalism in the printed press in order to be able to conduct a comprehensive analysis of whether the amount of investigative journalism has declined over the most recent decades. However, anecdotal evidence suggests that this is very much the case.
47. The impact of economic threats facing the newspaper industry was highlighted by the National Union of Journalists (NUJ) who stated that: "... the NUJ does fear that investigative journalism is under threat. It can be expensive, with a journalist or team of journalists spending a good deal of time pursuing a story which may not produce results. Because of its nature, which involves pitting itself against the vested interests of major companies with expensive lawyers, it can be risky and ultimately costly. The present economic climate, the growth of online journalism which had led to media operations providing free content, plus the rapid fall off of advertising revenue has meant a financial drain on all aspects of the media. At the NUJ we are seeing cuts to news budgets, mass redundancies of journalists and the merging, folding and closure of a vast number of regional and local titles."³⁹
48. The lack of accountability as a result of the press no longer being able to carry out its role for financial reasons, particularly at a local level, weakens the democratic process. Newspaper proprietors, editors, journalists and others in the newspaper industry are working on new ways of addressing the current systemic lack of profitability in the industry including attempts to monetise their content online. Many of these ideas are at an early stage of development.
49. **We urge the Government to recognise the financial problems facing newspapers and encourage them to think creatively about any tax breaks or other financial incentives which might help the industry through this difficult transitional stage.**

Broadcasting

50. As in the newspaper industry, investigative journalism can be important to a broadcaster's brand, but it can be relatively expensive to produce. Mr Roger Bolton, Presenter, BBC Radio 4's Feedback, and former Editor of Panorama and This Week, told us that an hour-long investigative programme might cost somewhere in the region of £80,000–£120,000 to produce.⁴⁰ He also told us, however, that the cost of the "cheapest drama, outside of EastEnders and so on, would be around £500,000. It could go up; for an hour, it could go much more than that".⁴¹ Investigative journalism is therefore perhaps cheap to produce in relation to the cost of producing other forms of television programmes, but it is expensive in comparison to the cost of other forms of broadcast news provision.
51. It is difficult to know exactly how much each broadcaster spends on investigative programmes as this normally forms part of a broadcaster's overall budget for news and/or current affairs. Mr Ian Squires, Controller of Current Affairs and News Operations at ITV, said: "We spend more than £100 million every year, as a commercial broadcaster, on all of our

³⁹ NUJ

⁴⁰ Q 194

⁴¹ Q 194

journalism, news included, and we would not seek to differentiate between the sub-genres or the different techniques included in that.”⁴²

52. In 2010, the public service broadcasters spent a combined total of £307 million on news and current affairs output.⁴³ In the same year, the commercial multichannels spent a combined total of £99 million on news content (not including current affairs).⁴⁴
53. Channel 4 wrote in evidence that its “investment in news and current affairs is substantial—amounting to £38 million in 2010, funding the flagship Channel 4 News, online news activity, and a wide range of current affairs programmes.”⁴⁵ It continued that:

“Across the PSB system, the BBC is by far the biggest investor in news and current affairs, but ITV and Channel 5 also make valuable contributions to plurality. However, generally speaking news and current affairs programmes are unfortunately unable to turn a profit, and therefore need to be funded by other means to ensure they can continue to play their important democratic role. For example, Channel 4’s investment in news and current affairs is supported by its cross-subsidy model—where advertising income from other Channel 4 activities which are more profitable funds content that delivers public value, but is less commercially focused.”⁴⁶

In its annual report for 2010, Channel 4 noted that it had decided to focus its budget for its flagship current affairs show, *Dispatches*, on “fewer, bigger films (from 38 first-run films in 2009 to 32 in 2010).” The broadcaster claimed that this had “enabled it to increase its investigative impact, with stories that regularly hit the headlines and shaped the news agenda”.⁴⁷

54. We have heard mixed views about whether the levels of investigative programming have improved or declined in recent years. Time-series data published by Ofcom shows that the number of hours of first-run originated productions in news and current affairs on the public service broadcasting channels has fallen slightly from 18,402 hours in 2006 to 18,013 hours in 2010.⁴⁸ It is not possible to break these figures down further to determine how the number of hours of investigative journalism in these programmes may have changed over this time.
55. It has been suggested to us that there has been a cultural change in the public service broadcasters away from serious investigative reporting, either by doing fewer investigative programmes (as in the case of ITV 1) or by “dumbing down” the content produced. Gavin MacFadyen, Visiting

⁴² Q 154

⁴³ Ofcom Public Service Broadcasting Annual Review, July 2011, Figure 5, PSB first run originated spend; by genre, 2010 prices. Source: Ofcom/broadcasters. The analysis does not include S4C, BBC Alba or BBC HD. Figures exclude nations/regions programming

⁴⁴ Ofcom Communications Market Report 2011, Figure 2.38, Content spend by commercial multichannels in key genres: 2009–2010. Source: Ofcom/broadcasters. Note: Excludes BBC digital channels.

⁴⁵ Channel 4

⁴⁶ Channel 4

⁴⁷ Channel 4 Television Corporation Report and Financial Statements 2010

⁴⁸ Ofcom Public Service Broadcasting Annual Review, July 2011, Figure 14, PSB first run origination hours; by genre. Source: Ofcom/broadcasters. Figures include PSB services: BBC1, BBC2, BBC3, BBC4, CBBC, CBeebies, BBC News, BBC Parliament, ITV1, GMTV1, Channel 4 and Five. The analysis does not include S4C, BBC Alba or BBC HD. Figures exclude nations/regions programming.

Professor, City University and Director, Centre for Investigative Journalism, claimed that: “It should be said that, for the last 20 years, investigative reporting, as I am sure everybody here knows, has been on major decline in Britain from what it was—major television programmes like *World in Action*, *This Week* and *Panorama*—to where we are now; we have nothing, really, that is comparable, or at least comparable with the depth and frequency that those programmes were.”⁴⁹ Mr Peter Hill, a former investigative reporter for the BBC from the 1960s–1990s, wrote in evidence that:

“Although I see some admirable investigations on television today, conversation with the producers reveal very similar, even worse, problems to those I encountered in my career. In particular the funding for investigations is far worse than it was in the seventies. The problem also remains that senior executives do not understand investigative reporters and producers, nor the techniques they use—nor the legal and moral framework within which they must work.”⁵⁰

56. On the other hand, we heard from broadcasters that their levels of investigative reporting remain high, and in some cases, have increased in recent years. For example, the BBC wrote that it had adopted an approach of “fewer, bigger, better”⁵¹ investigative programmes, and Channel 4 and ITV recently committed to increasing the number of investigative programmes which they produce. We were pleased to hear from Ian Squires of ITV’s renewed commitment to investigative journalism through its new ‘Exposure’ series⁵² and the continued investment in this genre from non-PSB channels such as Al Jazeera English⁵³ and Sky News.⁵⁴
57. The BBC’s flagship investigative programme is *Panorama*, a weekly series of investigative programmes which has been on air for over 50 years. The BBC wrote that: “*Panorama*’s overall audience has risen from an average of 2.8m in 2009 to around 3m in 2011.”⁵⁵ However, the BBC acknowledged that: “Not all investigations will bear fruit, but the BBC is able to afford to back programmes that may, in the end, not reach air. In contrast, the market is not always able to fund such output.”⁵⁶
58. **We welcome the evidence given to us by commissioning editors from different broadcasting channels about their commitment to investigative programming. This should continue to remain a priority, particularly for public service broadcasting channels, despite the difficult economic circumstances currently facing the sector.**

Online content

59. In the early days of the internet, investigative content posted online was mainly derived from material which had previously been published either in a

⁴⁹ Q 447

⁵⁰ Mr Peter Hill

⁵¹ BBC

⁵² Q 152

⁵³ Q 712

⁵⁴ Q 712

⁵⁵ BBC

⁵⁶ BBC

newspaper or on television or radio. This, however, has changed to a significant extent since many individuals now post material and, if they so wish, engage in a public conversation with a myriad of interlocutors. Access to such content is easy via search engines. Frequently, these contributors to the national and international debate are low cost, and in practice often outside the scope of any form of regulation or legal framework. This represents a revolution and poses a challenge in economic, legal, regulatory, consumer protection and political terms.

60. The ability of anyone to publish information online means that the publisher's traditional role has diminished as it is open to anyone to set up a website. In this instance, not only are the conventional powers of legal and regulatory control more or less bypassed, the influence of the publisher is no longer there to moderate, or if necessary, edit the content. All this can pose problems, particularly if the material is outside of the scope of the national legal or regulatory regimes. This makes it difficult for anyone damaged by a published untruth to take steps to ensure the offender restores their reputation and does not repeat the offence. Moreover, this is potentially very damaging to responsible investigative journalism because it becomes increasingly difficult for the public to distinguish between truthful and false claims published online, knowing there is little or nothing that can be done for anyone affected by the latter.
61. This issue is becoming increasingly important because of convergence. It is already the case that newspaper websites host video content and, with the increasing take-up of tablets, data-enabled mobile phones and internet-enabled televisions, the issue of whether it is appropriate, and if so, how to regulate integrated content online will become ever-more complicated.
62. At present material published by newspapers online falls under the remit of the Press Complaints Commission. Video and audio content which has previously been broadcast on a television channel or radio station and is then made available online falls within the remit of the Authority for Video On-Demand (ATVOD), Ofcom and/or the BBC Trust as appropriate. However, content outside these spheres such as blogs or other websites are not subject to any sector-specific regulation at all and may be entirely outside our national jurisdiction.
63. **We note that Lord Justice Leveson and Lord Hunt of Wirral, together with the Government as part of its forthcoming Communications review, have confirmed that they will consider whether it may be appropriate to bring certain forms of online content, which currently fall outwith the scope of regulation, into the remit of the relevant regulatory body. This should continue to remain a priority. We look forward to their recommendations in this area and to their suggestions on how to put them into practice.**

CHAPTER 3: LEGAL AND REGULATORY ISSUES

Is it ever acceptable to break the law?

64. Journalists sometimes break the law. On occasion, they may do so by hacking into celebrities' voicemail messages, while on other occasions they may do so with a higher purpose, in order to investigate a particular issue. We heard from witnesses about where this might occur, and to what degree. We are conscious in the context of this report of the inquiry currently being undertaken by the Joint Committee on Privacy and Injunctions, which is considering, amongst other issues, the statutory and common law on privacy, the balance between privacy and freedom of expression, and how best to determine whether and where there is a public interest in material concerning people's private and family life, into which there has been very considerable intrusion in recent years which in some instances has been entirely unacceptable and damaging.
65. Mr Tom Giles, Editor, Panorama, told us that there were occasions where the law is broken:
- “There are cases, and undercover is one of them—and the Director General has spoken about this publicly—where technically we break the rules. Technically we break the law whether it is on privacy or on giving a misleading CV in order to ensure that we are able to go in undercover. In those cases there is very clear prima facie evidence that this is something that is of significant public interest. So I think there are times when we do those things but we have to be very clear. They have to be agreed both by me and by the controller of editorial policy, and probably the director of news if it is significant enough, because we obviously take matters like that very seriously. Then we take a decision based on whether or not we have sufficient information and evidence to go undercover and, secondly, whether to broadcast it after we have gathered it.”⁵⁷
66. Chris Birkett, Deputy Head of News and Executive Editor, Sky, expressed a similar view, saying that:
- “For us, there are times when the only way to get the story is to do something that is contrary to the laws of the country in which we are doing the journalism. It is illegal to film as a journalist in parts of Syria right now and also in other parts of the world. If you try to film openly, you will be beaten up and arrested, your camera will be smashed and you will be put in prison. That has happened so frequently to our correspondents around the world and it is something with which we are very familiar. We know that in order to get the story out, which is of great significance to the rest of the world, on behalf of the very people who are being repressed, we have to break the law. We do not hesitate to do that because it has a very strong moral, ethical and professional element. It is underpinned by those.”⁵⁸
67. Mr Nick Davies, The Guardian journalist who broke the phone-hacking scandal, told us that:

⁵⁷ Q 139

⁵⁸ Q 732

“I do not think journalists have any right to break the law, other than a normal citizen has ... I think all citizens have a right of conscience in extremis to say, ‘This is so important that I’m going to break the law’. If the only way to stop the paedophile kidnapping the child he has abducted is to hack his voicemail because I cannot get to the police and I am going to be able to find the child, it is morally right you are going to do it and you would expect the courts to find in your favour.”⁵⁹

68. We have heard about the use of illegal methods such as subterfuge or secret filming in order to uncover information for investigations which are in the public interest. No one has argued that journalists are above the law. Mr Alan Rusbridger, Editor of The Guardian, said that:

“I think, by and large, you should stick within the law. I think if you are not going to stick within the law then you have as an individual to accept the consequences. I do not think any journalist is above the law so if you are going to break the law then I think you have to be honest about it and you have to take the personal consequences.”⁶⁰

69. In our opinion, the important practical—as opposed to ethical—issues to be taken into account by journalists and editors when considering whether or not to use potentially illegal methods in order to obtain information which they believe to be in the public interest are (i) would a decision to prosecute be taken; and (ii) would a jury convict? Determining these issues during the course of an investigation falls inevitably to the journalist and their editor; and the buck, therefore, ultimately stops with them. While this might not be straightforward, we will present a number of recommendations which have the potential to make this process significantly clearer and simpler than it is at present.
70. **We wholeheartedly believe that media organisations themselves should take responsibility for the decisions they take regarding how to investigate and whether to publish a story. In coming to decisions on these matters, however, it is important that journalists and editors do so in a way that is rigorous, structured and leaves an audit trail for future external scrutiny.**

The public interest

71. Questions about the public interest, which in UK law is used to effect the balance between Article 8 and Article 10 of the European Convention on Human Rights, lie at the heart of these decisions. Jeremy Hunt MP, the Secretary of State for Culture, the Olympics, Media and Sport, said that: “No journalist is or should ever be above the law, just as no Parliamentarian is or should ever be above the law, but journalists do have a public interest defence.”⁶¹
72. Mr Paul Lewis, Special Projects Editor, The Guardian, highlighted the importance of having strong reasons relating to the public interest before attempting to use any illegal method to access information. He said that: “I do not think it is okay to deploy any form of deception just on a whim or because you think you might get something. I think you need very strong

⁵⁹ Q 106

⁶⁰ Q 71

⁶¹ Q 667

evidence, and it must be the only method available to you to prove that story.”⁶²

73. Mr Ian Squires, Controller of Current Affairs and News Operations at ITV, expressed a similar view, saying that at ITV:

“Part of the process through which you go is understanding that if you are called to account for the actions that you are about to unleash, or the programme that you are about to commission, can you realistically, in a right-minded society, stand up and justify those actions and show that in the end, in all conscience and against any other measure that anyone cares to throw at you, you behaved properly and in the public good? The public good might be slightly different from public interest. I think that is the kind of yardstick that you have to bear in mind. I would not necessarily say you always start with a conscience-reckoning but I would humbly suggest that the process I have described is deeply informed by both a singular and collective conscience that we all try and exercise.”⁶³

74. Mr Paul Lewis went further, arguing that deception could be justified under certain circumstances, saying that:

“Some very strong undercover filming investigations have been done lately. The one that springs to mind is the care homes story of Panorama. Now, those are the types of stories where I think an element of deception is justified. There is a question as to whether or not those journalists could have proven what they did without having used undercover filming. Now, they would have been breaking certain rules, certainly the rules of the care home, but I think it was right that they did that.”⁶⁴

75. We were told that in recent years, some judges have been sympathetic towards arguments relating to the public interest. John Lloyd, Reuters Institute for the Study of Journalism, said that:

“My impression is that judges now tend to take in more fully and more sympathetically an argument that is the public interest defence; that is: this is justified, even if the means were criminal and transgressed the law. They are more severe on cases that interest the public, which are seen as salacious but nobody’s business but the person involved, but many judges are more lenient on accepting a public interest defence for investigative journalism.”⁶⁵

76. An example of this was highlighted by Chris Birkett from Sky News who said:

“We purchased a gun over the counter without the required documentation, authority, licence, whatever. It was an illegal purchase. We did it because we thought it was worth exposing the person who sold us the gun. It was a very simple, obvious case whereby we broke the law but the law breaker we exposed was doing worse deeds than that. At his subsequent trial we were congratulated by the judge.”⁶⁶

⁶² Q 592

⁶³ Q 149

⁶⁴ Q 591

⁶⁵ Q 9

⁶⁶ Q 733

77. Another example of the attitude which may be adopted by judges was brought to our attention by the Secretary of State for Culture, the Olympics, Media and Sport, Jeremy Hunt MP. He said that: “It is not for me to prejudge what the courts might or might not say, but I think it is inconceivable that a court would have ever found it was wrong for The Daily Telegraph to do what they did because they would understand the public interest involved.”⁶⁷
78. There is a lack of clarity in this area which can pose a significant problem for responsible investigative journalists, who are unable to be sure in advance of breaking a particular law whether this action will get them into trouble.

Interpreting the public interest

79. We believe that there are three distinct levels at which the public interest must be considered: First, the criminal law; second, the regulatory codes; and third, internal management and governance. We will address each in turn.

Public interest and the criminal law

80. Most pieces of legislation relevant to the matters under discussion here do not contain a formal, statutory defence relating to the public interest. For example, no formal public interest defence exists in any of the following pieces of legislation: the Regulation of Investigatory Powers Act 2000 (RIPA); the Official Secrets Act 1989; the Computer Misuse Act 1990 and the Bribery Act 2010.
81. However, exceptions do exist. The Data Protection Act 1998, for example, contains an exemption to the Act for data which is used for the special purposes of publication in any journalistic, literary or artistic material, provided that the data is used in the public interest.⁶⁸ As a point of fact, The Data Protection Act does not include a definition of what constitutes the public interest. Instead, it states that in assessing whether it is reasonable to argue that publication would be in the public interest, the assessor should have regard to the journalist’s compliance with “any code of practice which ... is relevant to the publication in question.”⁶⁹ In cases of exemptions to the Act for journalistic purposes, this means that the examples of public interest as outlined in the Editors’ Code of Practice or the Ofcom Broadcasting Code, as appropriate, would be taken into account. The public interest exemption was included in the Data Protection Act because the Government at the time believed that the imposition of these rules without exemptions for journalistic, literary and artistic purposes (‘the special purposes’) would be damaging to freedom of expression.⁷⁰
82. The resulting inconsistency in legislation often makes the decision for journalists and editors as to whether they may be able to break a law in order to uncover certain information and subsequently argue successfully the

⁶⁷ Q 667. The Secretary of State was referring to the *Daily Telegraph*’s purchase of information which formed the basis of their exposé on MPs’ expenses.

⁶⁸ Section 32 (1) of the Data Protection Act 1998

⁶⁹ Section 32 (1) of the Data Protection Act 1998

⁷⁰ PCC note on Data Protection Act, Journalism and the PCC Code:
<http://www.pcc.org.uk/news/index.html?article=ODg>

public interest in their defence all the more difficult. Whether or not it would be possible to do so would depend on which particular piece of legislation had been broken.

83. An example of this was highlighted by the Index on Censorship who wrote that: “Potentially, The Daily Telegraph could have run a public interest defence if prosecuted under the Data Protection Act for leaking MPs expenses claims—but not if were prosecuted under the Official Secrets Act. This is clearly an anomaly”.⁷¹
84. Another example of this issue was given to us by Mr Richard Caseby, Managing Editor of The Sun. He cited a case in which he had sanctioned a reporter to bribe an official at a Magistrates Court who they had reason to believe was accepting bribes in order to remove driving offences from people’s driving licences. The official was subsequently found guilty of breaches of the Bribery Act as a result of the story that was published in The Sun. However, Mr Caseby highlighted the risk which the journalist and the news organisation had had to take in order to uncover this issue as there is no public interest defence in the Bribery Act. He said:

“... that [bribing the Court Official in order to prove the story] was a risk for the reporters, and I have to say that, in the era we are in at the moment, those are sometimes risks that they are unwilling to take ... But the only get-out really is that, if a reporter is perhaps arrested in something that I have sanctioned or one of our lawyers has sanctioned, the company would protect them—they would obviously give them a very strong legal defence. Our only position would be to go to the DPP and say, ‘it is simply not in the public interest to pursue this prosecution’, but that is not a lot you can promise someone who is risking an entire career”.⁷²
85. These examples demonstrate the inconsistency between different pieces of legislation when it comes to whether there is a statutory defence relating to the public interest. We are aware of this and the practical challenges and uncertainty it creates for journalists, editors and the prosecuting authorities. For that reason we believe it is appropriate in considering any future law to ask specifically whether a statutory defence relating to the public interest should be included.
86. However, we believe it is not realistic for all relevant existing criminal laws to be changed. Instead, a less disruptive and more practical route to clarifying this area lies with the prosecuting authorities. After all, as was mentioned to us by the Secretary of State, in the recent case involving the publication by The Daily Telegraph of information relating to MPs’ expenses: “It is inconceivable that a court would have ever found it was wrong for the Daily Telegraph to do what they did because they would understand the public interest involved.”⁷³ There are clearly cases involving journalists who have broken the law which have not been prosecuted on the grounds that the journalists were acting in the public interest. It ought, therefore, to be possible for those responsible for bringing prosecutions to publish their broad approach, in exercising their discretion, as to how they determine these kinds

⁷¹ English PEN and Index on Censorship

⁷² QQ 803, 804

⁷³ Q 667

of decisions. There is precedent for this, for example, in the CPS Policy for Prosecutors in respect of Cases of Encouraging or Assisting Suicide.

87. **We do not recommend that all relevant criminal law be re-drafted in order to iron out inconsistency between different pieces of legislation when it comes to a formal, statutory defence relating to the public interest.**
88. **We do, however, urge the prosecuting authorities to publish their broad approach to determining which cases should be prosecuted or otherwise in cases where illegal activity undertaken by journalists in the course of an investigation might be considered to be in the public interest.**

Regulatory Codes

89. As we mentioned earlier, the framework within which journalists and editors operate is shaped not only by the criminal law, but also by the relevant industry-wide regulatory codes of practice.
90. Both the Editors' Code of Practice and the Ofcom Broadcasting Code provide a non-exhaustive list of what might constitute a public interest exemption, rather than providing a definition of the term. Mr Tony Close, Head of Standards at Ofcom, explained that: "The public interest is a very difficult thing to define. I am not sure, necessarily, it is good to seek to define it; I think that might constrain investigative journalists".⁷⁴
91. The Ofcom Broadcasting Code provides examples of what might constitute a sufficient public interest defence for a breach of the Broadcasting Code. Tony Close said that:

"In the Broadcasting Code we include activities and conduct that broadcasters might carry out that would be broadly within, we think, the public interest—exposing crime, exposing wrongdoing, exposing incompetence in public office—but the list is not exhaustive. I think the way I would normally approach it is that a broadcaster would need to demonstrate to me a persuasive argument that something was in the public interest, even if it was not on that list of potential examples and based on the set of facts at any given time we would be able to reach a judgement about that."⁷⁵

92. Ms Dorothy Byrne, Head of News and Current Affairs, Channel 4, said:

"I believe that Ofcom does not have a definitive definition of the public interest and that in a democracy it is probably correct that there should be no laid-down definition of public interest. We have guidance for people to help them in their thinking. We say to people that there is not an exhaustive definition, but here are some of the things that they have to think about. Are they exposing or detecting crime, corruption, anti-social behaviour or injustice? Are they exposing lies, hypocrisy or misleading claims made by individuals or organisations? Are they protecting public health or safety? Are they disclosing incompetence, negligence or dereliction of duty that affect others and are they exposing dangerous or exploitative behaviour that could harm others? I think that

⁷⁴ Q 494

⁷⁵ Q 494

those are jumping-off points for people to really examine together whether the programme that they are making is of real significance.”⁷⁶

93. The BBC Editorial Guidelines also include examples, rather than a definition, of when it might be appropriate to deviate from the Code with a public interest justification. The Guidelines include examples of the public interest, similar to those in the Ofcom Broadcasting Code, such as exposing or detecting crime or anti-social behaviour, exposing corruption or injustice, disclosing significant incompetence or negligence, protecting people’s health and safety, preventing people from being misled or disclosing information that assists people to make decisions on matter of public importance. As with the Ofcom Code, the BBC Code requires that, when using the public interest to justify an intrusion, “consideration should be given to proportionality; the greater the intrusion, the greater the public interest required to justify it.”⁷⁷
94. The Editors’ Code of Practice is written by a Committee of serving newspaper editors and enforced by the PCC. It provides similar examples of what constitutes the public interest and is something the DCMS has broadly endorsed: “On a national level, or for more contentious issues, we believe that the definition of what may be in the public interest set out in the Editor’s Code of Practice, overseen by the Press Complaints Commission sets a useful working definition for journalists.”⁷⁸
95. In December 2011 changes were made to the Editors’ Code of Practice which now require that in order successfully to argue a public interest exemption to breaching the Code, an editor must show not only that they had good reason to believe the public interest would be served in doing so, but also how and with whom that was established at that time.
96. The BBC Editorial Guidelines and the Editors’ Code of Practice differ from the Ofcom Broadcasting Code in that they state that there is a public interest justification in freedom of expression itself. This potentially offers more flexibility in arguing a public interest defence for breaches of these Codes than would be possible under the terms of the Ofcom Broadcasting Code.
97. **We do not recommend that a definition of the public interest be included in legislation. Instead, it should be defined by reference to good and responsible behaviour, not least as defined in the relevant regulatory Codes of Practice which contain examples of what could constitute a sufficient public interest justification for breaching a rule or regulation. In addition, in implementing such regulatory provisions, the regulator should bear in mind the underlying rationale and purpose of the rules they enforce.**
98. **We welcome the changes made in December 2011 to the Editors’ Code of Practice requiring that in order to argue a public interest exemption to breaching a certain section of the Code, an editor must show not only that they had good reason to believe the public interest would be served in doing so, but also how and with whom that was established at that time.**

⁷⁶ Q 121

⁷⁷ BBC Editorial Guidelines, Section 7: Privacy

⁷⁸ DCMS

Internal management and governance

99. In addition to the standards laid out in the relevant Codes, broadcasters and newspapers also apply internal standards to a whole range of circumstances including assessing whether it is appropriate to break a law or regulatory rule in the public interest. Newspapers and broadcasters also can and frequently do take legal advice prior to publishing on an issue which they believe may be controversial.
100. Alan Rusbridger told us of the five bars which he considers when making an editorial decision about whether a rule or law can be broken with a sufficiently strong and proportionate public interest justification. He said:
- “The first bar is to consider the harm of what is going to be done. So if you are going to do things—all journalism has an impact—what is the harm going to be that results from what you do? The second is: what is the good that is going to result from what you do; what is the public good that you are trying to achieve? The third is proportionality. Are the methods that you are thinking of using proportional to the aims that you are trying to achieve, and could they be achieved in another way? The fourth is a kind of audit trail. It says, ‘We need proper authority’ and that was obviously apparently missing within the News of the World, that nobody knew anything about it. You have to show some evidence that people have thought about it and discussed it and that people have approved it. The fifth is to do with fishing expeditions. You cannot justify a mass trawl of the information in the hope that something will turn up.”⁷⁹
101. Al Anstey, Managing Editor, Al Jazeera, explained that:
- “If we are going to employ methods such as secret filming, there are clear protocols, checks and balances and written approval at three different levels within Al Jazeera English, which always involve, rightly, a very intense debate, first and foremost, about what the story is; the methods we need to employ; and the credibility that those methods will give to the story ultimately. Those three levels of check and balance are absolutely critical. Oftentimes we will bring in legal counsel to discuss exactly what we are doing. Sometimes there are clear-cut examples. Syria is pretty clear cut. I think most people would suggest that to be able to go and see what is happening in Syria right now with our own eyes as journalists is an important element of freedom of information and freedom of speech as to what is really going on in the world. Sometimes there are areas that are perhaps less clear cut, but, whatever it is, we need to apply those levels of check and balance and bring in experts and legal counsel when it is sensible and necessary, because for me it again comes back to trust.”⁸⁰
102. The Guardian journalist, Nick Davies, recommended that an independent advisory panel should be established by statute “that can give serious advice in confidence to journalists or anybody else who wants to know whether a particular course of action which they are proposing is in the public interest.” Mr Davies’ idea is that you would contact this panel in confidence and say:

⁷⁹ Q 71

⁸⁰ Q 733

“Here is what I know so far. Here is what I am planning to do. Have I got public interest on my side?’ and they, in confidence, would give me advice, and I would then proceed. If subsequently somebody sued me or the police tried to prosecute me, that advice would be disclosed, and if they had said, ‘You’ve got public interest on your side’ that would not be the end of the argument, but it would be very weighty on my side. The contrary would apply, so if somebody said, ‘You haven’t got public interest’ and I went ahead, it would weigh against me very heavily, but it would not decide it.”⁸¹

103. The Chartered Institute of Journalists had a different view. They told us that:

“The merits of a story should be assessed by senior journalists within the media organisation they are working for. Ultimately the decision is for the editor to take since he or she is the person with whom both the legal and moral responsibility rests. To use any other form of pre-publishing regulation would undermine a free press. If there is an issue with a story post-publishing, regulation exists in the form of the courts and the editor will take full responsibility for any legal transgression.”⁸²

104. In our view, there are two critical points during the course of any investigation at which a journalist and an editor would need to decide whether, by undertaking illegal activity, they are likely to be prosecuted and found guilty by a jury. The first arises when they decide to employ an investigative method which breaks the law. The second arises when they decide to publish a story which may risk them being prosecuted or found in contempt of court.

105. In addition, there are two basic premises which underlie the way we believe they ought to behave in making these decisions. First, as a matter of principle, journalists and editors should take responsibility for all decisions relating to any investigation and publication of a story they have in mind to pursue. Secondly, as a matter of practice, they are likely to be the only individuals aware of an investigation’s existence before and while it is underway, and with that any details regarding the potential legality of its methods. It is, therefore, incumbent upon them to rationalise and justify each decision to investigate, and to publish or not, on a case by case basis and to leave an appropriate audit trail.

106. For these reasons, internal management clearly represents an additional and important level at which questions relating to the public interest are—and ought to be—considered. The manner in which and the points in time at which such questions are addressed may be informative, therefore, to the relevant regulator. For example, while a regulator may take a different view from an editor regarding the public interest represented by a published story, it may nonetheless be able to recognise a greater or lesser degree of responsibility in the manner in which the journalism itself was undertaken. For this reason we believe that there would be value in newspapers and broadcasters implementing a process of internal management whereby they track and formally record their thinking and decisions on these matters at the two crucial points already mentioned. While this formal record would ordinarily be private and retained by the relevant journalist or media

⁸¹ Q 93

⁸² CIJ

organisation, it would provide an audit trail disclosable to the relevant authority if necessary.

107. Of course, in the event of a regulator discovering a breach of its code, the newspaper or broadcaster in question should be proactive in dealing with the consequences. However, we also believe that the manner in which they do so should be taken into account by the relevant regulatory authority and indeed, that the regulators should make it clear in advance that this behaviour will be taken into account when deciding what steps it will take.
108. **We recommend that media organisations implement a two-stage internal management process whereby they track and formally record their decisions first to investigate and secondly to publish a story if such decisions rely on the public interest.**
109. **We believe regulators should, in turn, take such an audit trail into account when evaluating the responsibility or otherwise with which investigative journalism has been undertaken.**
110. **The regulators should also take into account the actions taken ex post facto in considering what penalty is appropriate for any particular breach.**

Civil law

111. As well as considering internal processes, regulatory codes and the criminal law, we have also looked at the way considerations of the public interest might affect aspects of civil law, in particular defamation.
112. As outlined above, there is no definition of what constitutes the public interest in the criminal law. After considering this issue as part of its inquiry, the Joint Committee on the Draft Defamation Bill recommended that the term ‘public interest’ should not be defined in statute. Instead, the Committee supported the Government’s suggestion that the Defamation Bill should provide a list of factors to be used to determine whether a publisher had acted responsibly (subject to certain amendments in the wording of this definition).
113. Several witnesses have spoken of the use of legal challenge by rich and powerful individuals and organisations to frighten off enquiries and to deter potential investigations. This is clearly an improper use of legal process, whose primary purpose is to uphold the rule of law and, in the case of defamation, to protect the innocent and provide redress for those who have been injured. Though these may be its proper purposes, defamation laws have nonetheless been correctly described as a risk to investigative journalism as in some cases the threat of legal challenge can lead to certain stories not getting published because of the financial risk which doing so might entail.
114. In particular, the libel laws in the UK have been described to us by several witnesses as a threat to investigative journalism. We heard from Alan Rusbridger that his newspaper (The Guardian) had a team of half a dozen lawyers.⁸³ He said that: “The costs of fighting actions are substantial, particularly if you have a very drawn out piece of litigation.”⁸⁴ Mr Ian Hislop, Editor, Private Eye, agreed that threat of litigation was a significant risk,

⁸³ Q 64

⁸⁴ Q 64

although he said that: “You are scared of getting colossal bills or ending up bankrupting your own publication but it is possible to fight occasional cases and survive.”⁸⁵ Mr John Ware, Reporter, Panorama, said that, “the libel laws in this country are very onerous. I think they do mitigate against matters of public importance that ought to get an airing of some kind and are often prevented.”⁸⁶

115. For local newspapers the issue may be even more severe as they do not have the same legal resources available. We heard from Eric Gordon, Founder and Editor, Camden New Journal, that: “I have been saddled once or twice with enormous costs built up by firms of solicitors, which were quite crippling. They have not really inhibited me but they have made me more cautious. Yes, it is a sword and it ought to be changed. The system is quite poor.”⁸⁷ Whatever rules are put in place to enable people to seek redress, it is clearly essential that they allow people—and institutions—who have no money to do so.
116. A similar threat exists in broadcasting, as we heard from Mr Roger Bolton, Presenter, BBC Radio 4’s Feedback, and former Editor of Panorama and This Week, who said that: “Where, in the past, political pressure was more difficult to deal with, now you are dealing with—I know this has been said to you in Committee—a large number of companies with lots of lawyers, who are paid, doubtless, a retainer to send out a succession of questions, and so on.”⁸⁸ Similarly, Mr Roger Graef, Producer of The Trouble with Pirates (BBC) and Kids in Care (Panorama), said that: “The legal barriers to this are going up all the time.”⁸⁹
117. Ms Dorothy Byrne, Head of News and Current Affairs, Channel 4, said that threats beyond litigation need to be considered as well:
- “They will not just try to threaten us with libel actions, they will launch worldwide PR exercises against us—there is one going on now against us about our investigation into Sri Lankan war crimes—and they will try to make complaints to our bosses, they will leak stories against us to newspaper diaries, they will go to our regulator and they will make potentially scores of complaints against us.”⁹⁰
118. Nick Davies was very critical of the libel laws, claiming that “our libel laws are a laughing stock around the world. It would be great to get rid of them and to introduce the statutory requirement to correct false statements with equal prominence.”⁹¹
119. Mr Stephen J Adler, Editor-in-Chief, Thomson Reuters, told us that the libel laws in the USA enabled a greater flexibility for investigative journalism than the system in the UK. He described the need “to give credit for good-faith efforts to get things right, because if you are trying to do responsible investigative journalism in good faith, you will occasionally get things wrong.”⁹² Mr Adler continued that:

⁸⁵ Q 64

⁸⁶ Q 179

⁸⁷ Q 387

⁸⁸ Q 193

⁸⁹ Q 206

⁹⁰ Q 116

⁹¹ Q 113

⁹² Q 653

“In the US, with the First Amendment system, there is a reckless disregard standard if you are writing about public figures or something that is deeply in the public interest and that is certainly valuable. You must also give some credit to what happens post publication, which the British system does not do. At Reuters, we take it into account that we sometimes make mistakes in good faith but we correct our mistakes promptly and we prominently display the corrections. With those kinds of protections in place, I think we provide more incentives to do responsible journalism and differentiate between essentially the rules governing responsible versus irresponsible journalism because we are not saying we should protect people blatantly printing falsehoods without doing it in good faith. We are saying we should be protecting people acting responsibly in the public interest.”⁹³

120. Mr Adler’s sentiments were echoed by Sir Harold Evans, a former editor of *The Times* and *The Sunday Times* and Editor-at-Large, Thomson Reuters. He told us that: “The legal restrictions in Britain, although Britain is of course a glorious and free country, are still impediments to investigative journalism of the responsible kind that Mr Adler has mentioned that do not really exist in the United States.”⁹⁴

121. However certain witnesses acknowledged the positive aspects of the libel regime in the UK while also being critical of it. Dame Liz Forgan DBE, Chair, the Scott Trust, said that:

“The legal consequence is something that any investigative journalist has in mind. I would argue that the restraints brought about by the toughness of the libel laws are too great and should be looked at again. But anybody who does this work has an eye in the back of their head as to what would be the costs of failure, which is a good discipline if it means they check their facts very carefully but a bad one if it frightens them off doing it.”⁹⁵

This sentiment was reiterated by Martin Bailey, Investigative Reporter, *The Art Newspaper*, who said that:

“Our libel laws are obviously very tough. It is a major constraint on investigative journalism. First, one has to pay the legal costs of having copy read on sensitive issues, even if they do not lead to any problems. On the other hand, the libel laws concentrate our minds when we are writing pieces.”⁹⁶

122. The Government is currently working on reform of the law of defamation. In March 2011 the Ministry of Justice ran a public consultation on a Draft Defamation Bill which contained provisions reforming the law to strike the right balance between protection of freedom of speech and protection of reputation.⁹⁷

123. Clause 2 of the Draft Bill introduces a new defence to an action for defamation if a defendant can show that the statement complained of is, or

⁹³ Q 653

⁹⁴ Q 653

⁹⁵ Q 289

⁹⁶ Q 387

⁹⁷ Ministry of Justice Public Consultation on the Draft Defamation Bill, March–June 2011: <http://www.justice.gov.uk/consultations/365.htm>

forms part of, a statement on a matter of public interest and that he or she acted responsibly in publishing the statement.⁹⁸

124. As already mentioned, the Draft Defamation Bill does not attempt to define the public interest. The Government noted in its consultation document that “the clause does not attempt to define what is meant by the public interest”. This is a concept which is well established in the English common law and, in view of the very wide range of matters which are of public interest, attempting to define it in statute would not be straightforward. It is made clear that the defence applies if the statement complained of “is, or forms part of, a statement on a matter of public interest” to ensure that either the words complained of may be on a matter of public interest, or that a holistic view may be taken of the statement in the wider context of the document, article etc in which it is contained in order to decide if overall this is on a matter of public interest.”⁹⁹ We believe that this is the right approach.
125. **The working of the libel laws in the UK can, on occasion, have a discouraging effect on responsible investigative journalism, and this needs to be examined. We welcome the Government’s work in this area and look forward to the introduction of a Defamation Bill later in this Parliament, which we believe should include provisions along the lines of those set out in clause 2 of the Draft Bill.**

Sources

Whistleblowers

126. Whistleblowers often play a fundamental role in investigative journalism. As a result, several witnesses stressed the importance of being able to offer them adequate protection.
127. On the one hand, this protection is part of a journalist’s general duty of care to their sources. Roger Bolton, for example, said that an investigative journalist has to “think through ... whether you can—not whether you wish to, but whether you can protect them.”¹⁰⁰ Gavin MacFadyen, Visiting Professor, City University and Director, Centre for Investigative Journalism, underlined the point:
- “We have a huge duty of care there ... We get the credit for what they do and their lives are often destroyed. They lose their homes, their families, their houses. They are subject to terrible community pressures, often sometimes threats by the police and on their lives. They have no recourse, except through us in a sense.”¹⁰¹
128. On the other hand, several witnesses argued that more effective protection for whistleblowers is also the responsibility of—and needs to be reviewed by—government. Gavin MacFadyen, for example, said: “It is very important for us to build a community of care for these people; it should not be just us [however], it should be all of you as well. It is really important.”¹⁰² Ian Hislop

⁹⁸ Draft Defamation Bill, section 2(1)(a)

⁹⁹ Ministry of Justice public consultation on the Draft Defamation Bill, March–June 2011: <http://www.justice.gov.uk/consultations/365.htm>

¹⁰⁰ Q 199

¹⁰¹ Q 478

¹⁰² Q 478

also called for stronger protection for whistleblowers, saying: “I think it is very important that they are not penalised for aiding in the process of investigative journalism.”¹⁰³ Certainly, there have been recent cases in the NHS, for example, which have shown existing legal protection for whistleblowers to be inadequate.

129. In order to address this issue, Gavin MacFadyen called for the Government to “provide greater shield laws to protect journalists from arbitrary arrest and to protect their sources and the evidence they produce. We live in a culture here in Britain where we have fewer of those protections than most European countries. Certainly much less than in the United States, where every state has a different kind of shield law; those laws tend to protect journalists’ ability to shield his sources from being forced to testify and from being forced to go public where you know he may get killed, or hurt or savaged in some way.”¹⁰⁴
130. **It is important for the future of responsible investigative journalism that journalists are able to offer adequate protection to their sources. We therefore call on the Government and Lord Justice Leveson to make the question of the suitable protection of whistleblowers a core part of their ongoing inquiries.**

Public relations professionals

131. We received considerable evidence about the reliance of journalists on press releases and the problems this can pose for accuracy and balance in the media. Nick Davies, whose book *Flat Earth News* develops this point, described in his evidence the way this might happen: “Reporters do not go out and find stories, they do not go out and make contacts, and they do not check facts. They sit and passively recycle press releases.”¹⁰⁵ This kind of passive reliance on public relations professionals as sources may be anathema—and therefore not a particular threat—to investigative journalism. However, inasmuch as it reflects a growing tendency among time-poor journalists more generally, it clearly has the potential to diminish the investigative character of journalism as a whole.
132. In addition, one indication that this reliance may be growing lies in the increasing imbalance in sheer numbers between PR professionals on the one hand and journalists on the other. Certainly, the experience of a number of witnesses appeared to confirm this trend; evidence from Mr Edmund Curran OBE, Member of the Newspaper Society, for example, was typical: “When I began my career hardly anyone was employed in the public relations world ... and over the years I have seen whole offices virtually depart towards that area.”¹⁰⁶
133. Whatever the reasons behind it, this growing imbalance has naturally led to a change in the nature of sources which tend to be available to journalists on a day-to-day basis. Nick Davies described this change: “When I started out as a reporter ... if I wanted to do a story about the police, I rang a police station and spoke to the desk sergeant; a story about a hospital, spoke to the hospital

¹⁰³ Q 85

¹⁰⁴ Q 490

¹⁰⁵ Q 88

¹⁰⁶ Q 538

manager. Over the first 10 years of my career ... any individual or organisation who anticipated being written about, employed press officers [and] created an internal rule that it was a disciplinary offence to talk to the press”.¹⁰⁷ To the extent that investigative practice can rely on journalists’ ready access to unmediated sources, the disproportional growth in the number of PR professionals acting deliberately as gatekeepers to first-person sources may serve to frustrate or impede the investigative character of day-to-day journalism. We have heard, for example, how the role of PR practitioners can be as much to withhold and protect stories from media attention as it is to influence their treatment once they are being discussed. Nick Davies, for example, said: “Before you get to distortion and falsehood, the key thing that PR people do is they choose which stories we should write.”¹⁰⁸ This apparently growing trend may, therefore, be of concern.

134. However, a number of witnesses also spoke about the way journalists and news organisations actually benefit from working with public relations professionals. Perhaps most obviously, PR practitioners, who now regularly work for a wide range of organisations from strictly commercial enterprises, to political parties and interest groups, can provide journalists with stories which are more or less ready to publish, thereby saving considerable time and resource. Mr Phil Hall, former editor of *The News of the World*, gave us an example: “If you are representing a diet company and somebody has lost a lot of weight ... they [the journalist] will make a quick check call to the person involved and it [the story] will run in.”¹⁰⁹ Another example mentioned by Phil Hall included a case where he acted against the more cautious instincts of his employers by actually inviting investigative journalists to pursue a story into the rumoured closure of half of his employer’s UK operations.¹¹⁰ As gatekeepers and conduits to first-person sources, PR professionals can both stimulate—as much as they can thwart—thorough investigative work by journalists. PR professionals are clearly neither inherently nor necessarily a block on investigative journalism. Instead they can either help or hinder journalistic investigation and our concern is simply that they act openly and honestly rather than obstructively.
135. However, one of the characteristics of this sector as it stands is that, as Ms Jane Wilson, Chief Executive Officer, Chartered Institute of Public Relations (CIPR), told us, only approximately one sixth of those engaged in PR are signed up to the Code of Conduct of the CIPR.¹¹¹ It is very much an unregulated activity, and there is currently no comprehensive system of self-regulation. Of course, the CIPR, which works on behalf of individual PR practitioners, does exercise a degree of ‘professional’ oversight of the industry, together with the Public Relations Consultants Association (PRCA) which represents the interests of PR companies. However, given the CIPR is a voluntary organisation, its capacity to enforce its code seems, in practice, to be relatively light and of course, its current reach only extends into a small part of this industry. This has highlighted the real need for the responsible PR industry to strengthen its internal system of self-regulation, and thereby increase public confidence in their industry and their work.

¹⁰⁷ Q 90

¹⁰⁸ Q 90

¹⁰⁹ Q 609

¹¹⁰ Q 607

¹¹¹ Q 820

136. In addition, a problem arises from the fact that there is no way—nor, of course, should there be—to prevent any individual inside or outside the PR industry itself from issuing a press release. This does mean, however, that it can be difficult for those on the receiving end to establish its credentials. This, of course, represents a similar problem to that faced by journalists using online sources more generally. It therefore only serves to underscore the need for journalists to be professional in their use of information provided to them. It may also help if journalists act as transparently as possible in their use of material provided by PR practitioners. For example, there are no real barriers online to publishing links to full versions of press releases that have been used to inform a particular article.
137. It is worth mentioning, of course, that some of the biggest culprits of ‘spin’ and misleading information are political parties, for example, with regards to the lines to take which they provide to party members. Although accurate, these often include a range of carefully selected facts on a particular issue which serve to support the party’s political position.
138. In addition, in its report on Government Communications, our Committee explained that: “One of the most important tasks of government is to provide clear, truthful and factual information to citizens. The accurate and impartial communication of information about government policies, activities and services is critical to the democratic process.”¹¹² Since then, the Government has launched a broad Open Data agenda, a data.gov.uk website and has announced investment in a new Open Data Institute. Nonetheless, during the present inquiry, Ms Clare Sambrook, freelance journalist, Co-editor, OurKingdom, Winner of the Paul Foot Award and the Bevins Prize for Outstanding Investigative Journalism, suggested that the transparency being applied to data may not yet extend to Government communication in general. She spoke to us of “the distortion that I noticed, coming back into journalism ... in Government press releases, so not just boosterism, but just plain misrepresentation and distortion.”¹¹³
139. **In the context of investigative journalism, it is incumbent upon journalists and news providers to be rigorous and proactive in checking the accuracy of press releases, as with other sources of news, as part of their commitment to accuracy. In addition, we recommend that journalists themselves be transparent in their use of press releases particularly online where barriers to publishing links to press releases are low.**
140. **To address the concerns that the Committee has heard about the potential adverse impact of the public relations industry on investigative journalism, we recommend that PR practitioners should abide by a stringent code of behaviour which could be derived from the existing CIPR code or something similar, and which might be overseen by a third party.**
141. **We also reiterate the recommendation made by the Committee in 2008 on the need for the Government to communicate accurately and in an impartial way information about its policies and we urge the Coalition Government to set the benchmark in this area by ensuring**

¹¹² Communications Committee, 1st report (2008–09): *Government Communications*, (HL Paper 7)

¹¹³ Q 86

that their press releases are universally transparent and straightforward. The Government and political parties should require their press officers to follow guidelines similar to those found in the CIPR code of conduct.

142. **We encourage the Government to lead by example in ensuring its press releases do not mislead and in particular, when data is made public, it is in forms which enable those capable of analysing it to do so, as advocated by the Open Data Institute.¹¹⁴**

¹¹⁴ Technology Strategy Board News Release, 29th November 2011. Available online:

[http://www.innovateuk.org/assets/0511/open%20data%20institute%2029nov11%20final%20\(2\).pdf](http://www.innovateuk.org/assets/0511/open%20data%20institute%2029nov11%20final%20(2).pdf)

CHAPTER 4: OWNERSHIP AND ITS SIGNIFICANCE

143. Ownership matters. It is well understood, for example, that a proprietor or proprietary structure can have a significant impact on the journalistic culture of a news organisation. Dame Liz Forgan DBE, Chair, the Scott Trust, talked in her evidence about the way “The Times is heavily subsidised by Rupert Murdoch. He has ... [his own] priorities for his subsidy”¹¹⁵ and these priorities can have an effect on the owner’s portfolio of titles. More significantly perhaps, ownership can have an impact on the sheer economic viability and survival of media organisations; regulations either restricting or enabling mergers have recently proven to be life or death matters for struggling businesses. In addition, plurality of ownership across a nation’s media is clearly a vital issue for its democracy and governance. In the light of the phone-hacking scandal, for example, the value of a media able to scrutinise itself has become undeniable. This chapter will examine the significance of ownership for the future of investigative journalism.

Media plurality and the public interest test

144. The issue of media plurality has returned to the forefront of media and public attention following the proposed acquisition of the remaining shares in BSkyB by NewsCorp, which was subsequently withdrawn by NewsCorp in the wake of the phone-hacking scandal.
145. If a proposed media merger passes a threshold of a UK turnover of £70 million or over being acquired or the merger creates or enhances a 25% share of supply in the UK or a substantial part of the UK, it falls within the terms of the Enterprise Act 2002. This Act permits the Secretary of State to intervene in proposed mergers if appropriate on public interest grounds.¹¹⁶ If the Secretary of State intervenes, he will then be able to consider whether to:
- Refer the transaction to the Competition Commission (CC) for examination of any media public interest considerations together with any competition issues that are identified by the Office of Fair Trading (OFT) (in the case of mergers meeting the standard jurisdictional criteria);
 - Clear the merger; or
 - Direct the OFT to seek undertakings in lieu of a reference.
146. If the Secretary of State enacts this power, he must seek advice on the matter from both the OFT and Ofcom. Ofcom would conduct a public consultation and report its findings to the Secretary of State on the impact of the transaction on the media public interest. One of the factors which Ofcom would consider is how the proposed merger would affect media plurality.
147. This issue is currently being considered by Ofcom which has been asked by the Secretary of State for Culture, the Olympics, Media and Sport to undertake some work into the feasibility of measuring media plurality across platforms, and recommend the best approach. In particular, Jeremy Hunt MP has asked Ofcom to consider the following issues:
- What are the options for measuring media plurality across platforms? What do you recommend is the best approach?

¹¹⁵ Q 272

¹¹⁶ Enterprise Act 2002, Part 3, Chapter 2

- Is it practical or advisable to set absolute limits on news market share?
 - What could trigger a review of plurality in the absence of a merger, how might this be monitored and by whom?
 - Could or should a framework for measuring levels of plurality include websites and if so which ones?
 - Whether or how it should include the BBC?¹¹⁷
148. Ofcom's report, which is due to be published in June, will provide input into the considerations of Lord Justice Leveson who will consider this issue in Module 3 of Part One of his inquiry. The issue will also be subject to Parliamentary scrutiny as part of the House of Commons Culture, Media and Sport Committee's inquiry into media plurality which was launched in December 2011.
149. **We encourage Ofcom, Lord Justice Leveson and the House of Commons Select Committee on Culture, Media and Sport to consider carefully the following issues as part of their inquiries:**
- **Whether the criteria for application of the public interest test should be extended to include cases of organic growth as well as in proposed mergers;**
 - **Whether the decision to invoke the public interest test in media mergers should remain solely with the Secretary of State; and**
 - **The application of the 'fit and proper person' test and whether this should be extended to cover newspaper mergers.**
150. **With regard to the public interest test, we believe that there may be a case for legislation to allow for this to be invoked in cases where a news organisation develops over a 25% share of the national newspaper market through organic growth, rather than just in cases of proposed mergers, as is the case at present under the Enterprise Act 2002.**
151. **In assessing this, we encourage Ofcom, Lord Justice Leveson and the House of Commons Select Committee on Culture, Media and Sport to consider the following issues in more detail:**
- **Whether 25% would be the right threshold for invoking the public interest test in cases of organic growth; and**
 - **How would market share be determined? For example, would Ofcom be required to conduct a regular review of the newspaper industry in order to determine whether this threshold in terms of market share had been reached?**
152. **Given the importance of ownership, we wish to repeat the recommendation made in the 2008 ownership of the news report by our Committee that the Communications Act 2003 should be amended to enable the public interest test to be invoked at the discretion of either the Secretary of State or Ofcom.¹¹⁸**

¹¹⁷ Jeremy Hunt's letter to Ed Richards, Ofcom CEO, on 'Ensuring Media Plurality', October 2011: http://www.culture.gov.uk/images/publications/CMS_188245_Ensuring_Meda_Plurality.pdf

¹¹⁸ Communications Committee, 1st Report (2007–08): *The ownership of the news*, (HL Paper 122-I)

153. **Finally, we encourage the relevant inquiries examining this issue to consider whether or not it may be appropriate to extend the ‘fit and proper’ test, currently determined by Ofcom before awarding a broadcasting licence, to include potential newspaper proprietors. If this is deemed appropriate, we believe that as Ofcom currently conducts this process with regard to broadcasting it may be best placed to set the criteria and carry out the test in cases of proposed newspaper mergers as well.**

Media ownership at a local level

154. As highlighted in Chapter 3, local newspapers are facing enormous economic pressures at present. As a result, there has been much consolidation of local newspaper ownership in recent years. This has had the effect of enabling many local newspapers to share resources more widely and to continue to operate in some local areas. However, with less money available, many local newspapers are no longer able to conduct the same amount of investigative “accountability journalism” stories, including those covering events at local council and town hall level. This was highlighted in evidence by Eric Gordon, Founder and Editor, Camden New Journal. He said that:

“What has happened with local newspapers is that they have been slimmed down by large groups in order to cut overheads ... in my opinion, in order to maintain a good net return the large groups—which were seeking 25%, even more, in the good, buoyant years of the 1990s, whereas we would get along with 10% or so—have cut overheads by slimming down the editorial staff, which in turn means that local courts and councils are no longer covered as well as they should be. Sometimes they are not covered at all.”¹¹⁹

155. Currently the OFT reviews information relating to proposed mergers and, where necessary, refers any relevant mergers to the Competition Commission.¹²⁰ In November 2010 the OFT and Ofcom agreed on a Memorandum of Understanding setting out the relationship between Ofcom and OFT in relation to Local Media Assessments (LMAs). The Memorandum of Understanding requires that the OFT takes account of Ofcom’s assessment in its final decision on local media mergers, but it clearly states that: “The final conclusion on all aspects of the competitive analysis of the relevant local media merger case remains one for the OFT.”¹²¹ This had significant bearing on a recent attempted local media merger.
156. In September 2011, Ofcom conducted an LMA on the proposed acquisition by the Kent Messenger Group (KMG) of Northcliffe titles in Kent. Ofcom concluded in this instance that: “The evidence available to us suggested that the target business and the regional newspaper business of KMG would struggle to achieve profitability in their current form, which might lead them to respond by closing newspaper titles or reducing quality (or both). In light of this, we considered that a merger may provide the opportunity to rationalise costs, maintain quality and investment, and provide a sounder commercial base from which to address long-term structural change, for

¹¹⁹ Q 348

¹²⁰ Enterprise Act 2002, Part 3, Chapter 1

¹²¹ Principles governing an LMA in the Memorandum of Understanding between the OFT and Ofcom on Local Media Assessments, November 2010

example by expanding the availability of online and other digital local services.”¹²² However, the OFT decided to refer the proposal to the Competition Commission (CC) on the grounds that: “These companies publish the only local weekly newspapers in seven local areas in East Kent” and that “the monopoly of local newspapers that would result in these areas risks costlier advertising for businesses and higher cover prices for readers.”¹²³

157. Geraldine Allinson, President of the Newspaper Society and Chairman of the Kent Messenger Group, was critical of this decision, saying that: “For an organisation of our size the cost is prohibitive to go to the Competition Commission. It would cost us over £500,000.”¹²⁴ Ms Allinson told us about the consequences of the OFT’s decision to refer the merger to the CC:

“We had to withdraw. We told the Office of Fair Trading at the very beginning when we first went to them that if they were going to refer this to the Competition Commission the deal would end up being dead because of the costs associated with it. I fundamentally believe, and I think the industry does, that those titles would have been better off in our ownership because we would be able to provide a better service through better journalists, better quality of service to those communities for longer, including investigative journalism and things like that.”¹²⁵

158. In this case, the local newspaper in this area, the East Kent Gazette, did indeed close following the collapse of the merger proposal. However, in the same week in which this paper was closed, Kent Messenger Group announced that it planned to launch a new title, the Sittingbourne News Extra, which would cover the same area. Nonetheless, this case is an example of the damaging effect which the competition regime can have on the local newspaper industry, which is facing a significant economic threat.
159. We welcome the comments made by the Secretary of State on this issue when he gave evidence to the Committee:

“I have asked my officials to look at what can be done in those processes and, indeed, whether, if there are any legislative changes to be made, they can be made in the Communications Bill that we are intending to put before Parliament in this Parliament. It is clear to me that the local newspaper sector needs to consolidate. It needs to be able to develop new business models.”¹²⁶

In addition, we welcome the Government’s removal in June 2011 of the local cross-media ownership restrictions; this should also help support local media outlets by enabling them to consolidate across media platforms.¹²⁷

- 160. We note the Government’s recent removal of rules relating to local cross-media ownership and hope that this will provide an opportunity for local media organisations to develop a sustainable business model through consolidation in future if they wish to do so.**

¹²² Ofcom News Release, Local Media Assessment on the proposed acquisition by the Kent Messenger Group of seven Kent newspaper titles from Northcliffe Media, 31 October 2011

¹²³ OFT news release, OFT refers Kent newspaper merger to the Competition Commission, 18 October 2011

¹²⁴ Q 543

¹²⁵ Q 544

¹²⁶ Q 691

¹²⁷ The Media Ownership (Radio and Cross-media) Order, 2011 No. 1503, June 15th 2011

161. **At a local level, we recommend that Ofcom’s role in assessing local media mergers should be strengthened compared to the Competition Commission’s in order to ensure that the vital watchdog and informational role of the local media is given greater weight when assessing merger proposals. We welcome the Secretary of State’s commitment to look at this issue and we support the suggestion that any legislative changes required should be included in any Communications Bill.**

Media ownership at a national level

The national cross-media ownership rules

162. While we understand that there may be a need for greater consolidation of media organisations at a local level, we believe that, given the important role played by the national media in informing opinion about world events and its impact nationally on the democratic process, a different approach needs to be taken towards the ownership restrictions at a national level.
163. In 2008, the Committee considered the issue of media plurality as part of its inquiry into the ownership of the news, finding that: “Regulation to ensure a plurality of media ownership [was] still relevant and necessary.”¹²⁸
164. As noted above in Chapter 2 on the economic context, declining advertising revenues and competition from alternative free news sources has had a severe impact on the economic viability of the national press. Mr Alan Rusbridger, Editor of The Guardian, told us: “From my point of view, the economic threat is easily the biggest threat. I think the next five years are going to be extremely sticky for all newspapers.” He described how: “Three out of four of the quality newspapers in Britain are losing substantial sums of money.”¹²⁹
165. **It is crucial that the existing media ownership rules at a national level are examined to assess whether the correct balance is being struck between the need to protect the plurality of news ownership, essential in a democracy, and securing the financial viability of the industry. Any proposals to amend the cross-media ownership rules should form part of the Government’s Communications review.**

Public service broadcasting quotas

166. The Communications Act 2003 sets a range of obligations which the commercial public service broadcasters must meet in return for the financial and other benefits which accrue to public service broadcasters (PSBs). For example, quotas, prescribing the extent to which certain genres of content are represented in broadcasters’ schedules, apply to all of the BBC’s analogue and digital channels, and also to ITV 1, Channel 4, Channel 5 and S4C in Wales. Some of these quotas are fixed for all public service broadcasters while others vary according to the broadcaster in question. In return for compliance with these and other requirements, such as delivery of current affairs programming, the PSB channels receive benefits including prominence on the electronic programme guide and universal carriage, even on cable and satellite platforms.

¹²⁸ Communications Committee, 1st Report (2007–08): *The ownership of the news*, (HL Paper 122-I)

¹²⁹ Q 57

167. In order to monitor compliance with these quotas, in 2006 Ofcom, with agreement from the broadcasters, provided a definition for the genres for which quotas are relevant.¹³⁰ The definitions apply for monitoring and research purposes only. Investigative journalism is not spelt out in the Ofcom definitions of news or of current affairs. However, those which are most relevant to investigative journalism are:

- News, which is defined as:
 - (i) Newscast or news bulletins providing national, international or regional news coverage;
 - (ii) News magazines which may contain a range of items related to news stories, with comment and elements of general interest;
 - (iii) Coverage of Parliamentary proceedings and political coverage;
 - (iv) Weather forecasts and bulletins, including reports on air quality, tide times etc.
- Current affairs, which is defined as:
 - (i) A programme that contains explanation and analysis of current events and issues, including material dealing with political or industrial controversy or with public policy;
 - (ii) Topical programmes about business matters and financial issues of current interest;
 - (iii) Political debates, ministerial statements, party conferences.

168. Since the Communications Act 2003, all public service broadcasters have continued to deliver beyond the statutory requirements set by Ofcom (and the BBC Trust) with regards to quotas for news and current affairs.

169. John McVay, the Chief Executive of the Producers' Alliance for Cinema and Television (Pact), said that:

“I think it is really important that commercial broadcasters under their public service licences maintain levels of high-quality current affairs programmes with investigative journalism at the heart of it. As we saw with ITV diminishing its commitment to regional programming and its diminution of regional news, if that is not at the heart of the PSB licence I fear that it will leave the BBC as the only place doing programming like that. I think that is bad for plurality.”¹³¹

170. In order to encourage continued investment in broadcast investigative journalism, we recommend that Ofcom, working with the public service broadcasters, amends the definition of current affairs in the guidance on public service quota requirements to include, but not expressly require, investigative journalism in this genre. This would provide further stimulus for public service broadcasters to broadcast high-quality investigative programmes which we hope would be replicated by other commercial broadcasters.

¹³⁰ Ofcom Public Service Broadcasting Report 2011: Annexes: Information Pack E—background and methodologies; 21 July 2011

¹³¹ Q 322

CHAPTER 5: FUNDING INVESTIGATIVE JOURNALISM

Zero-rating VAT status for newspapers

171. Newspapers, journals and periodicals receive certain financial benefits for delivering news content in the form of zero-rated VAT as outlined in Section 30 of the Value Added Tax Act 1994.
172. Schedule 8, Group 3 to the Act lists newspapers, journals and periodicals as articles which may be zero-rated. For the purposes of the Act, a newspaper is defined as a publication if it is: “issued at least once a week in a continuous series under the same title. Each issue is usually dated and/or serially numbered. They usually consist of several large sheets folded rather than bound together, and contain information about current events of local, national or international interest. Publications which do not contain a substantial amount of news are not newspapers.” Journals and Periodicals are similarly defined as: “magazines issued in a series at regular intervals, more frequently than once a year, either in newspaper format or as paper-bound publications.”¹³²
173. The UK Government is able to set this zero-rate under the transitional terms of the Principle VAT Directive.¹³³ These powers are provisional and the European legislation allows, but does not require, the zero-rating for newspapers. It is therefore in the hands of the UK Government to cease to provide this support at any time should it wish to do so by amending the relevant UK legislation.
174. In written evidence, the Department for Culture, Media and Sport (DCMS) noted that zero-rated VAT was available “to UK print media, although this is not available for electronic versions.” The Government noted that:
- “The majority of EU Member States are predicted by HMRC to be against any attempt to widen the concession to non-print media, although France has classified media on a CD as liable to a reduced rate. Reasons given for this include difficulty in defining the target market and insufficient evidence to show that the benefit of a lower VAT rate for electronic platforms would be passed on to consumers if adopted by the UK.”¹³⁴
175. **Zero-rating VAT is a form of state support for the newspaper industry which is a transitional power open to the UK Government to implement as it deems appropriate under the terms of the EU Directive. Given the economic pressures facing the newspaper industry, we believe it is appropriate that the Government should maintain zero-rated VAT for newspapers in order to provide a continued form of public support for this struggling and vital industry.**
176. It has been suggested that only those newspapers which are members of the Press Complaints Commission (PCC), or any successor body, should receive this zero-rating. This is on the face of it an attractive proposition. It would

¹³² Zero-rating of Books etc., HMRC Notice 701/10, December 2011

¹³³ Directive 2006/112/EC, 28 November 2006 on the Common System of Value Added Tax

¹³⁴ DCMS

give a newspaper a significant financial incentive to be a member of and to adhere to the rules of the press's regulatory body. However, we suspect that any proposal to limit zero-rating in this way might be illegal under European Community law. VAT is subject to the principle of fiscal neutrality which precludes treating similar goods or supplies of services differently for VAT purposes. The principle is engaged when goods are identical or similar from the point of view of the consumer and meet the same consumer needs. It seems likely therefore that tying a newspaper's receipt of zero-rating for VAT purposes to its membership of an industry regulatory body would be deemed to breach this principle.

177. **We recommend that the Government should consider further the legality of any proposals to limit the receipt of zero-rating for VAT purposes to those newspapers which are members of the PCC (or any successor body).**

The BBC licence fee

178. Another form of public support for investigative journalism is the BBC licence fee which is used to pay for BBC content and services. Guardian journalist Nick Davies said that: "I think it is vital to protect the BBC. You have what you might loosely call a business model, a funding model, that works."¹³⁵
179. In written evidence, the BBC explained that a few years ago it "reduced the budget and the number of hours of factual programmes on BBC television, concentrating on more ambitious, larger-scale projects. The overall evidence suggests that the audience impact and perceived value of these programmes has risen. The same principles will guide the BBC in its strategy for journalism generally and investigative journalism in particular."¹³⁶
180. As part of its proposals to the BBC Trust on how it will deliver cost savings in order to meet the terms of the last licence fee settlement, BBC management has announced that it intends to safeguard the budget for investigative journalism on Panorama.
181. However, this does not mean that the BBC current affairs budget will not be affected by the cost-cutting proposals. The National Union of Journalists (NUJ) told us that it was "most concerned about the effect of cuts at the BBC on the future of investigative journalism."¹³⁷ The NUJ continued that:

"Mark Thompson has given the impression that investigative journalism will be safeguarded. But that is not the case. Editions are being cut from Radio 4's Law in Action, and The Report, while Beyond Westminster and Taking a Stand will come to an end. On BBC Radio 5Live, the 5Live Investigates programme will be scrapped. The regional TV investigative programme, Inside Out, faces 40 per cent cuts. Cuts are underway in National TV Current Affairs (makers of Panorama) based in London and have been since February 2010. There are plans to axe 31 posts and as a result there will be no current affairs programmes on BBC 4. There will be a cut of about nine hours per year of ad hoc current affairs series on BBC2. Despite promises of new money for

¹³⁵ Q 110

¹³⁶ BBC

¹³⁷ NUJ

Panorama in the future, there is no guarantee that it will be inflation-proofed. If not, it could actually mean a further real-terms cut.”¹³⁸

In early January 2012, the BBC issued five compulsory redundancies for staff working on the BBC Panorama programme.¹³⁹

182. At a local level, we have also heard concerns expressed by witnesses about the impact which the proposed BBC budget cuts will have on local radio stations, which may affect their ability to provide journalism in certain areas due to a loss of local journalists and staff cuts. Mr Roger Bolton, Presenter, BBC Radio 4’s Feedback, and former Editor of Panorama and This Week, explained to us his fear that, “the cutting back of BBC local radio and regional television means that that ability, the expertise, and the resources to use that expertise in scrutinising what is happening at a local level is diminishing.”¹⁴⁰
183. In response to these criticisms, the BBC submitted further written evidence to the Committee. While this broadly confirms the outline of cuts depicted by the NUJ, it also makes a number of additional points. While conceding that current plans include the termination of Taking a Stand and Beyond Westminster and a reduction in editions for Law in Action, it claims that plans do not exist to reduce the number of editions of The Report; instead, five of its editions are due to become updated repeats rather than original investigations. Moreover, the BBC rejects the suggestion that any of this represents a blow to its investigative journalism as it claims “none of these would be normally classified as investigative” in the first place.¹⁴¹ However, the BBC’s latest evidence does note that two of the areas picked up by the NUJ have also been highlighted by the BBC Trust’s own Interim Findings, released in January 2012, on the Executive’s programme for cuts. In the case of 5Live Investigates, the Executive’s proposals have been rejected by the Trust, and in the case of Inside Out, the Executive have been asked to reconsider their plans in light of the value audiences place on local and journalistic content. More broadly, the Trust has made clear that it remains “to be convinced that the savings for regional current affairs can be achieved without undermining the BBC’s journalistic aspirations” or the “overriding principle ... that local radio must stay local for most of the time to continue to have impact.”¹⁴² The BBC is clearly having to make difficult decisions in its cuts programme, Delivering Quality First, but it is important it does so with sensitivity to its role in sustaining—among other things—proper, investigative journalism from the international to the local level. We, therefore, note the Trust’s Interim Findings following its consultation in 2011 and look forward to the Executive’s updated proposals, as well as to the Trust’s final conclusions due in spring 2012.
184. **Given that the BBC receives public money in the form of the licence fee in order to deliver a public good, we believe that it should continue to provide high-quality investigative content in both its television and radio services, including at a regional level. We are concerned about**

¹³⁸ NUJ

¹³⁹ Panorama faces industrial action threat over BBC job losses, *The Guardian*, 4 January 2012.

¹⁴⁰ Q 203

¹⁴¹ BBC 2

¹⁴² BBC Trust, *Interim Findings on Delivering Quality First*, January 2012, available online:

http://www.bbc.co.uk/bbctrust/assets/files/pdf/review_research/dqf/interim_findings.pdf

the reported cuts in staff on the flagship investigative programme, Panorama, but we welcome the BBC's commitment to continue to invest in investigative content at international, national, regional and local levels. We encourage it to continue to do this, despite the cost-saving measures which the corporation must make.

Alternative funding models for investigative journalism in newspapers

185. Traditionally newspapers were owned by shareholders, either a few major shareholders, or a range of smaller shareholders, or a combination of the two. Over the years other ownership models have developed, initially driven by businesses seeking to protect themselves from Inheritance Tax and its predecessors. The character and structures of ownership are very important for a news organisation. In addition, the preferences and personality of the owner play an important role in determining a media organisation's commitment to investigative journalism. For example, a generous proprietor or shareholders are philanthropists to the extent that they are prepared to forgo profit in order to support the publication of information that is in the public interest.
186. Mr David Mahoney, Head of Content Policy, Ofcom said:
- “I think that ownership structures are very important and I think that charity and trust models have a potentially very interesting role to play in, if you like, guarding against pure commercial interest in decisions about news and programming. What I do not think that ownership models can do—and we have a number of ownership models today, we have a different ownership model for the BBC, for Channel 4, for ITV and then you have the Scott Trust, which is a limited company but based on a trust, the history of the Scott Trust—what I don't think it can do is solve the problem of funding. So I think you have to have the funding in place and then you can look at the ownership structure that best delivers the public and social purposes and that can help guard against purely commercial decisions and protect journalistic integrity and all those sorts of things. But I think you need the combination of the two, which is an ownership structure that suits the delivery of news and the funding that facilitates strong investigative journalism.”¹⁴³
187. We heard about a number of different organisations with ownership structures which differ from the traditional ownership model of private ownership or a company limited by guarantee. One example is the Scott Trust, which owns the Guardian Media Group, and is “a limited company with exactly the same purposes as the trust. It distributes no dividends; it has other more stringent conditions about changing membership and things like that.”¹⁴⁴ We also heard from the Camden New Journal, which was set up by Eric Gordon (who remains the paper's editor) and other journalists in 1982 as a company with a limited guarantee helped by the Co-operative Development Agency.¹⁴⁵ Mr Gordon told us that he and his colleague bought the newspaper from an owner “who thought the paper had no future”¹⁴⁶ and that they had turned it from a paid-for paper into a free-sheet. The West

¹⁴³ Q 515

¹⁴⁴ Q 265

¹⁴⁵ Q 330

¹⁴⁶ Q 335

Highland Free Press on the Isle of Skye is an employee-owned co-operative which is “run basically along the lines of the John Lewis mutual employment society.”¹⁴⁷

188. Martin Trepte, Editorial Director, Maidenhead Advertiser, told us that his newspaper is:

“Wholly owned by the Louis Baylis (Maidenhead Advertiser) Charitable Trust, which was set up in 1962 by the then editor and proprietor Louis Baylis, basically to safeguard the independence of the paper. Effectively, the trust is the single shareholder of the paper and receives 75% to 80% of its profits, which it then distributes to good causes in the community. The trust is effectively the sole shareholder, so we are run as a company that publishes the Maidenhead Advertiser and the Slough & Windsor Express series. It is run as a company with business plans and everything to deliver a profit to our shareholder—the trustees—so our management structure and methods are very businesslike.”¹⁴⁸

189. **We have found that what matters in terms of ownership and support for investigative journalism is not the type of ownership structure but whether the owners be they an individual, a company, a charity, trust or co-operative, are prepared to ensure the money to support this type of journalism.**

Charity ownership

190. Later on in this report we will consider the emergence of charitable organisations such as The Journalism Foundation which are focussed on the mentoring and training of investigative journalists. In this section, however, we will concentrate specifically on the role charities can play in the ownership structures of newspapers and other organisations engaging in investigative journalism. Outwith the UK, for example, some newspapers have been set up by foundations which have similarities with, but are far from identical to, UK charities. The differences may appear at first glance to be slight, but in reality they may make a significant difference to the activities in which the organisation can participate. One attraction of being a charity in the UK is that the organisation can be the beneficiary of philanthropic donations in return for constraints on what it can do.
191. In England and Wales the law of charities is governed by the Charities Act 2006 and in Scotland by the Charities and Trustees Investment Act 2005, which is overseen by a Charity Commission in each jurisdiction.
192. Investigative journalism is not currently recognised as a charitable purpose in its own right in Charity Law, as “a commercial undertaking such as a conventional newspaper company is likely to be disqualified from charitable status because its underlying purpose is to generate a financial return for its owners, regardless of any beneficial effect on the public that might result from some of its work.”¹⁴⁹
193. There are, however, two principal ways in which a charity might be involved in the running of a newspaper. First it might own the paper and run it, and

¹⁴⁷ Q 355

¹⁴⁸ QQ 333–334

¹⁴⁹ Charity Law Association

secondly it might own shares in a non-charitable company which runs the paper, as is the case for the Maidenhead Advertiser. In the first example the charity must behave charitably, within the law as defined by the Charity Commission's guidelines. It is reasonably clear that a conventional newspaper falls outside of these guidelines, not least because campaigning cannot be charitable.

194. If a charity were to support investigative journalism, a possible problem might arise through the charity owning shares in an unprofitable company (after all, newspapers are struggling financially at present) in which case it would have no income to distribute to those entitled to benefit.
195. On the issue of whether newspapers might be charitable in line with the Charity Commission guidelines, Dr David Levy, Reuters Institute for the Study of Journalism, suggested this might be possible at a local level. He said:

“I can see that there would be opportunities to do charitably funded newspapers ... in the UK that had a very clear community focus. Some people argue that this would be absolutely possible within existing UK charity laws in terms of the community purpose and community benefit that these organisations could commit themselves to. My worry is that it would be rather more difficult to do at the national level where ... an investigative story might be seen as more partisan or as running some kind of line and it might be more difficult to say that it complied with existing UK charity law.”¹⁵⁰

However, as highlighted by World in Action Editor and Executive Producer, Ray Fitzwalter, “charitable status is exceptionally difficult to get.”¹⁵¹

196. A charity must protect its limited resources, and as highlighted by the Charity Law Association:

“One of the distinctive difficulties for any investigative journalist is the uncertainty, when he or she sets out on a new project, of there being any beneficial outcome at the end of that project. Much painstaking work may be necessary before any useful results are achieved and it would be particularly difficult for a charity, whose funds may only be applied for charitable purposes, to commit itself to providing financial support for an investigation that might quite possibly disclose nothing of any benefit to the public. Charity law does permit trustees to take certain risks and to support projects whose intended outcomes are not guaranteed ... However, any decision to commit funds to investigative journalism would need to be justified by a reasonable expectation of a beneficial outcome.”¹⁵²

197. The Charity Law Association called for investigative journalism to be included as a charitable purpose in its own right. They said that: “On the basis of anecdotal evidence offered to the working party, it appears that the main impact of any of the above measures would be threefold:

- (a) To enable donations from private individuals or businesses wishing to support investigative journalism to attract charity tax reliefs;

¹⁵⁰ Q 19

¹⁵¹ Q 188

¹⁵² Charity Law Association

- (b) To enable an existing charity to make grants to support appropriate investigative journalism; and
 - (c) To enable an organisation that carries out or commissions investigative journalism to enjoy charity tax reliefs (including relief from business rates payable on its premises).¹⁵³
198. If investigative journalism in its own terms were to be included as a charitable purpose, this would require legislative change, for which the Government do not at present have any plans. In his supplementary written evidence, the Secretary of State wrote that: “There have been no calls from the public or the charity sector to recognise investigative journalism as a charitable purpose so ... Government is not currently inclined to legislate.”¹⁵⁴
199. In the circumstances, the only immediate step appears to be to seek assistance and guidelines from the Commissions as to what extent and in what ways charities might be involved in the provision of investigative journalism.
200. Some of the alternatives to charitable ownership, such as the employee-owned model of the Camden New Journal and the West Highland Free Press are not charities but could still be possible beneficiaries of philanthropy. The model of an industrial and provident society (they can, but need not also be a charity, and hence subject to Charity Commission rules) is probably the type of alternative structure which is most relevant in this context. However, as far as can be established, no newspaper business is registered as such.
201. **We call on the Charity Commission to provide greater clarity and guidelines on which activities related to the media, and in particular investigative journalism, are charitable in the current state of the law. Furthermore, we ask the Charity Commission to take into consideration both the current pressures on investigative journalism as well as its democratic importance when interpreting the relevant legislation.**
202. **While recognising the Government’s current disinclination to legislate in this area, it seems to us that reform of charity law is the only way in which certainty in this area could be achieved. We therefore urge the Government to reconsider.**

Non-traditional funding models for investigative journalism

203. A development which may be an indicator of ways in which investigative journalism might be funded in the future is the development of various organisations which may or may not be charitable and are sometimes associated with universities or NGOs and which carry out investigative activities and publish their findings online or through other forms of distribution but are not embedded in a newspaper or other media organisation. John Lloyd, Reuters Institute for the Study of Journalism, spoke of the “extremely encouraging signs of not-for-profit money coming in to investigative journalism in particular. In this country, it is not in a huge way, but in a significant way, in the Bureau of Investigative Journalism,

¹⁵³ Charity Law Association

¹⁵⁴ Secretary of State for Culture, Media, Olympics and Sport, Jeremy Hunt MP

which is attached to City University, and in the States there is much more.”¹⁵⁵

204. The thinking behind this originates in the USA where there is a tradition of free standing philanthropic institutions uncovering what has been hidden in pursuit of the public interest. The best known and probably the most prominent of these in this field is the ProPublica Institute which is based in New York. Richard Tofel, the General Manger of ProPublica, told us of some of the investigations which the organisation had done in recent years:

“In 2008 we began reporting on police violence in the city of New Orleans in the wake of Hurricane Katrina. By the time that reporting had played out in 2010, we had established that the police had shot—and killed in some cases—a number of innocent people and that there had been a range of police violence ... In 2009, we reported on the difficulties of nursing oversight in California ... the State of California was taking up to six years to discipline dangerous nurses. That story was published in the Los Angeles Times on a Sunday, the then Governor of California, Arnold Schwarzenegger, read it and on Monday morning dismissed almost the entire California Nursing Board and set in motion a chain of reform there.”¹⁵⁶

205. The closest equivalent to ProPublica in the UK is the Bureau of Investigative Journalism. Iain Overton, Managing Editor, Bureau of Investigative Journalism, described the role of the Bureau:

“[It] is the first not-for-profit body of investigative journalists of its kind in the UK. We are loosely based on a similar model in the US, the ProPublica model, which effectively gives away its information for free. We have a slightly different remit where we have both a desire to bolster investigative journalism, which we have done with a £2 million grant from the David and Elaine Potter Foundation, but we also have a commercial element to what we do. We get commissions ... to do broadcast journalism. We have worked with all of the major national papers. We have been operating since April 2010. We have had 26 front page stories in that time. We have won an Amnesty Award and a Thompson Reuters Award. We have just been nominated for a Foreign Press Association Award. We have been mentioned around 12,500 times in different articles internationally.”¹⁵⁷

206. Mr Overton cited a recent example of the Bureau’s work which had had a significant impact:

“We did a recent examination of drone attacks in Pakistan, which has had a huge impact in the States particularly. What we did was quite a forensic analysis of the number of attacks that had happened by US drones in Pakistan ... the end result of that was that we effectively proved that the CIA’s declaration that no civilians had been killed in the last 12 months by US drone attacks in Pakistan was not true ... this has caused quite a huge debate and ended up being a leading editorial in the New York Times and a front-page story in the New York Times, but

¹⁵⁵ Q 11

¹⁵⁶ Q 755

¹⁵⁷ Q 396

what I think makes it very good investigative journalism is that we have created quite a strong follow-on debate from it.”¹⁵⁸

207. Organisations such as the Bureau of Investigative Journalism and ProPublica are funded primarily from grants, although they also seek other sources of funding. The Bureau of Investigative Journalism (unlike ProPublica) sells some of its content to a range of media outlets in order to help with the cost of producing it. However, Iain Overton explained that the Bureau does not make a profit from this: “I have had only a small number of stories that have funded themselves, and that is generally when you go through to one player and they agree to match your costs.”¹⁵⁹ Mr Overton identifies philanthropy as “... really the way that I am getting my funding.” He said that: “In the last three weeks, I have had four people emailing me asking me whether I would like to meet them to discuss them funding me, so I think I am showing that it can work ... two weeks ago, I submitted a tender to the European Union, who asked me to show how much investigative journalism had changed corruption in the European Union. That was a €60,000 tender ...”¹⁶⁰
208. Much of ProPublica’s income, given that it offers its content for free, comes from the grant which it received from the Sandler Foundation. The remainder is raised through fundraising. Mr Tofel explained that ProPublica was seeking to build the amount of funding which came from alternative sources to the grant. This would help the organisation to build a more sustainable business model. Mr Tofel said that: “In 2009 we got contributions of \$1 million from other donors, or about 12% of the total. In 2010 contributions from people other than the Sandlers went up to about \$3.8 million, about 39% of the total. This year ... we will be over \$4 million and somewhere in the 40 per cent of contributions from other donors.”¹⁶¹
209. Whilst we were engaged with this inquiry, the Institute of Journalism at the Technical University of Dortmund produced a report which examined the field of foundation funding for journalistic enterprise in the United States.¹⁶² In February 2012, the Carnegie Trust published a report which recommended new investment from civil society organisations to help fund new and innovative journalism initiatives.¹⁶³
210. We also heard evidence that some investigative journalists were now employed by NGOs who were sponsoring investigations into areas within their own sphere of interest. Paul Lashmar, investigative journalist and Lecturer in Journalism from Brunel University, told us that: “NGOs ... have the money and the patience to do these things well ... there are seven or eight [investigative journalists] that I can think of immediately who are now working for NGOs and doing really good work ... they are using their expertise and bring professionalism and they now work with the media and are much more proactive.”¹⁶⁴ Some NGOs have a particular point of view which they want to promulgate to the public and so there is a danger that the material they produce could be partial. Mr Lashmar sought to reassure us

¹⁵⁸ Q 403

¹⁵⁹ Q 435

¹⁶⁰ Q 438

¹⁶¹ Q 768

¹⁶² http://www.wissenschaftsjournalismus.org/fileadmin/content_wj/Study_Nonprofit_Funding_of_Journalism_final.pdf

¹⁶³ [http://www.carnegieuktrust.org.uk/publications/2012/better-journalism-in-the-digital-age-\(full-report\)](http://www.carnegieuktrust.org.uk/publications/2012/better-journalism-in-the-digital-age-(full-report))

¹⁶⁴ Q 454

that: “If an NGO puts it out on their own website you have to go with their reputation. Their reputation hangs on that for better or worse.”¹⁶⁵

211. **We admire the non-traditional model of providing investigative journalism which originated in the USA with organisations such as ProPublica and we welcome its development in the UK with organisations such as the Bureau of Investigative Journalism. Whereas in the past investment in long-form investigative stories relied on support and continued investment from a newspaper proprietor or broadcaster; newspapers and television and radio stations are increasingly outsourcing this to—or responding to initiatives from—specialist organisations. We encourage UK broadcasters to support these organisations by working in partnership with them.**

Public subsidy for investigative journalism

212. As highlighted earlier in this chapter, investigative journalism is supported by public funding via the television licence fee which funds programmes such as Panorama and File on Four on the BBC. Zero-rating VAT for newspapers is a form of public support for the newspaper industry.
213. We have heard differing views from witnesses on the issue of public support for newspaper ownership. The Department for Culture, Media and Sport (DCMS) noted in written evidence that: “Anecdotal evidence picked up from different parts of the press at different times suggests that generally they are against direct support because it detracts from their independence, but internationally there are a range of support mechanisms, including support for publishing plant and journalists’ costs.”¹⁶⁶
214. The National Union of Journalists (NUJ) wrote that: “Industry levies—a tax or charge on the revenues or profits of media organisations—common in many European countries is one option to provide subsidies elsewhere in the industry.”¹⁶⁷ Direct public subsidies for journalism are available in Finland, the Netherlands and France. The NUJ argued that: “All these measures helped ensure the press increase its reach, helped smaller publications survive, and helped bigger ones increase both their profits and their potential to do public good.”¹⁶⁸ However, we are concerned that if these are levied on struggling or loss making organisations they will merely compound the problem of pressure on limited financial resources, not help to solve it.
215. Furthermore, Dame Liz Forgan DBE, Chair, the Scott Trust, warned against any Government intervention in investigative journalism, saying that: “... a direct government subsidy for investigative journalism seems to me a bit of a contradiction in terms.”¹⁶⁹ Similarly, in his evidence before this Committee, the Secretary of State for Culture, Olympics, Media and Sport, Jeremy Hunt MP, talked about the curiosity of “protecting something that is designed to make my life difficult.”¹⁷⁰

¹⁶⁵ Q 457

¹⁶⁶ DCMS

¹⁶⁷ NUJ

¹⁶⁸ NUJ

¹⁶⁹ Q 273

¹⁷⁰ Q 665

216. **We recognise that public funding is a potential model for financing investigative journalism and one which works in other European countries. However, given the strong independent character of the printed press in the UK and our political traditions, we do not believe that it would be appropriate for the UK Government to fund investigative journalism directly in the form of state subsidies other than with the continued support for zero-VAT rating for newspapers and of the BBC licence fee in broadcasting.**

An investigative journalism fund

217. One possible way forward might be for the successor to the Press Complaints Commission (PCC), whatever that might be, and the statutory regulator for broadcasting, Ofcom, to distribute some or all of the fines which they collect for breaches of the relevant Codes (or may collect if the new system of press regulation has the power to impose fines) to an organisation which could be used to fund investigative journalism or the training of investigative journalists. If this were to be adopted, there would need to be a fair and transparent criteria for and means of distributing the funds to which all investigative journalists could apply.
218. While it might be tempting when considering how to fund an effective regulatory regime for the printed press to consider using this money in order to finance the regulatory system itself, it seems more appropriate for it to be used to reinforce journalism. If broadcast journalists were to be equally able to apply for this funding, it would seem appropriate that a proportion of the funds generated from fines for breaches of the Ofcom Broadcasting Code were allocated to this fund, rather than to Her Majesty's Treasury which is where all broadcasting fines currently go.
219. **If fines are introduced for breaches of the Editors' Code of Practice by newspapers and magazines under a new system of press self-regulation, we recommend that a proportion of all media fines (including fines for breaches of the Ofcom Broadcasting Code) should be allocated to a fund reserved for financing investigative journalism or for the training of investigative journalists. This fund should be open to all investigative journalists and journalism organisations—big and small, who publish in print, broadcast or online. The money would need to be distributed fairly by an independent regulatory body, such as Ofcom or the reformed PCC and there would need to be a system of accountability in place to ensure that the money was used appropriately, bearing in mind that, due to the nature of investigative journalism, some investigations would not lead to material which could be published.**

CHAPTER 6: CONVERGENCE

220. One of the characteristics of convergence is that the moment will soon arrive when everything which is currently distributed through the press and which is broadcast by radio and television will also be distributed via the internet.
221. The advent of new technologies and the increasing take-up of social media both as a means of communication and as an additional way for journalists to obtain information have had a significant impact on investigative journalism. The way in which people receive news and information is changing at a rapid pace as new technologies enable information to be shared in real-time around the globe. Traditional news outlets such as newspapers and television stations are under immense pressure to break news, whereas in the past stories could be developed and published either in an evening news bulletin or in the following day's paper.

The role of social media in investigative journalism

222. Social media offers journalists new ways of contacting sources and accessing information from around the globe. Ms Elizabeth Linder, Politics and Government Specialist, Facebook, pointed out that, "As information becomes more available ... searching for that information also gets better."¹⁷¹ The Bureau of Investigative Journalism noted that:

"Social media is of increasing importance for the dissemination of news, and allows people who would never normally read a particular newspaper to be aware of its journalism by recommendations by people they are connected to via social media sites. Mobile devices such as e-readers and iPads allow for instant access to news almost regardless of location, giving further opportunities to find and read investigative journalism."¹⁷²

223. Martin Trepte, Editorial Director, Maidenhead Advertiser, spoke of the benefit for local newspapers of using social media. He said:

"Twitter and Facebook enable you to connect with a wider audience and with people in a different way. They might previously have phoned you up, or you might have phoned them. If you have followers you can put something up on Twitter. As an example, we were taking a picture of some demonstrators who were opposed to a big, ancient tree being cut down. The photographer was going round there in about an hour. The chief of the protesters put a message out on Twitter. By the time the photographer got there about 30 people were there for the photo. If she had had to ring around we would probably never have had that many people there. So, in terms of reaching particular interest groups, because you do sign up to follow people on Twitter, there is a new way of contacting people."¹⁷³

224. Mr Paul Lewis, Special Projects Editor, The Guardian, said that:

"In terms of how social media should work and does work for investigative journalists you could really split it into two. It is a bit of a

¹⁷¹ Q 235

¹⁷² BIJ

¹⁷³ Q 385

false dichotomy; I will do it anyway. One of them is to say you can use it to broadcast and disseminate the information that you find out, so to tell people what you are finding out. Secondly, it is for other people to help you in your journalistic endeavour. The fascinating thing is actually the two are one and the same. So journalism becomes a lot more like a conversation; the news article is not the finished product, it is the first version and it is constantly corrected as people help you in that process.”¹⁷⁴

225. In relation to Twitter, Paul Lewis said:

“There are 140 million tweets sent out each day, each of them their own small, tiny digital footprint. As a journalist that is really something quite remarkable. It means that there is a record of most things particularly important or controversial things that happen and that is what you need. You need a record. You need evidence. So from that perspective, it is a really exciting time.”¹⁷⁵

226. Paul Lewis explained how journalists can use social media to contact witnesses in this way:

“To give you a very good example, I think, of where it has worked well, there was the death of a detainee on an aircraft from Heathrow to Angola and this is one of the cases I spoke about in the video you mentioned. I think this is a good example of the story that you would not be able to investigate in any other way, and therefore it would have been virtually impossible to investigate it, certainly at that speed, prior to about 2008.”¹⁷⁶

227. Ms Clare Sambrook, a freelance journalist, spoke of the benefits of using social media to publicise investigative reports. She said:

“There are lots of very good online publications and then also online we can promote the work through Twitter, for example. So, if you get a really astonishing piece—like we had a ... piece on the Breivik massacre—and it just went ... around the world. We got loads and loads of people reading that. It was a piece that would not have appeared in a national newspaper, a piece by a Norwegian giving context to what had happened very, very quickly. It would have been extraordinarily difficult for him, as somebody unknown to a national newspaper, to get that kind of space. So, there are all sorts of benefits to online publication and online research, massive benefits.”¹⁷⁷

228. However there are also risks which journalists must be aware of when using social media. For example, it is often still necessary to talk to sources face-to-face in order to verify sources and in order to be able to reassure potential whistle-blowers that they will be protected wherever possible. Ms Elena Egawhary, an investigative journalist on the BBC’s Newsnight programme, told us that:

“I do not think that the role of journalists has actually changed at all with the internet. Journalism remains the same, which is that you gather

¹⁷⁴ Q 576

¹⁷⁵ Q 569

¹⁷⁶ Q 576

¹⁷⁷ Q 103

from all the sources you can and you try and find the truth of the situation or as close to what you think is the truth of what you have received from all of your sources. The thing with the internet is that we now have a lot more sources that we can start going through, but I do not think the nature of journalism itself has changed. I think the skills are still the same. You talk to as many people as you can; you go to as many places as you can; you read as many documents as you can; and you hope that out of this mass of information you somehow get to the place that you are trying to go to and you get the proof for the story that is there ultimately with all of this information that you are gathering.”¹⁷⁸

229. A recent example which highlights the problems facing journalists in trying to verify source information online, especially when there is no ‘real’ publisher, was the example of the ‘Gay Girl in Damascus’. This blog was purported to have been written by a citizen journalist and it gained worldwide readership and was followed by major news organisations in 2011. It purported to be the diary of a 25 year old lesbian woman living in Damascus and writing about her life at a time of political unrest. However, this was later discovered to be have been written by an American man living in Edinburgh. It was a complete fabrication which highlights the problem of lies on the internet and the need for all journalists, and investigative journalists in particular, to verify as thoroughly as possible their sources. It also raises issues about how the use of unedited and unaccredited material can mislead the public and poses the question as to whether there may be workable ways of validating material and verifying sources.
230. **We welcome the use of social media by journalists as a means of contacting people around the world in order to access content and information which might otherwise be extremely difficult and time-consuming to identify. We recommend that the PCC tightens its guidance on the use of information provided by citizen journalists using social media and we warn journalists to be extra vigilant in verifying information found online. Where appropriate, news organisations should issue clear internal guidelines for all staff on how to use such data. In addition, given the challenges which will only intensify in this area, we recommend that further thought be given to considering what, if any, workable ways might be proposed to aid the processes of validating material and verifying sources.**

Data journalism

231. A huge amount of information, much of it statistical, is now made available online by public bodies as part of the Open Data agenda and the Government has recently announced its investment in the Open Data Institute. Requests for specific types of information can also be made by individuals under the Freedom of Information Act 2000 (FOI). This revolution in the accessibility of public information clearly represents a significant new opportunity for investigative journalists and perhaps even for citizens interested in researching particular issues. Jeremy Hunt MP, Secretary of State for Culture, Olympics, Media and Sport, underlined this point: “If we unleash citizen journalists on vast swathes of government data we are opening up big, big opportunities both to hold Government to

account and also to learn things about our society that we never knew before. It is a very, very big opportunity.”¹⁷⁹

232. However, these new opportunities bring with them new challenges. One arises from the sheer volume of data. For example, the Bureau of Investigative Journalism claimed that “theoretical open access does not necessarily translate to practical transparency. Public bodies now release so much data that it is entirely possible for important information to be deliberately buried or unwittingly lost. Some information is provided in non-searchable PDFs, or so scattered that it requires considerable time and effort to collect, despite the individual elements being available.”¹⁸⁰
233. In addition, analysing this data often requires an in-depth understanding of computing and data software. Professor Jon Crowcroft, Marconi Professor of Communications Systems in the Computer Laboratory, University of Cambridge, told us that:

“Vast amounts of data are not necessarily a barrier to making some forms of investigative journalism easier, because the vast amount of computing power that is very cheaply available, almost freely available, offsets that ... the biggest barrier seems to me, as in many walks of life, that to do anything reasonably new you might need to do some new piece of computing that might need some extra skills and resources in the journalism world that they might not have.”¹⁸¹

We have certainly heard evidence that, at present, many journalists do not have sufficient training in computer skills to be able to exploit the new opportunities of data journalism. On the one hand, this has created a need for specialist analysts who must be recruited at additional cost. On the other, it has underlined the need for better levels of training in statistical methods and software for journalists in general. John Mair, Senior Lecturer in Broadcast Journalism at Coventry University, for example, told us that “modern students need to learn data journalism. They need to learn all the normal journalism methods but also how to handle data.”¹⁸² We therefore welcome the fact that several universities have begun teaching these skills as part of their respective journalism courses.

Finding a business model online

234. We do not think it is overstating the case to say that in the last 10–20 years there has been a technological revolution. Not only has the use of the internet grown exponentially over the past decade, but the development of smart phones and tablet computers has meant that all of this can be done just about anywhere. As acknowledged by the Government in its written evidence to this inquiry: “Virtually all publishers involved in print now have an online presence, but with varying success as they learn how to use the relatively new media to their advantage.”¹⁸³ In addition, websites, blogs and social media sites are all now routinely used as news sources by a large section of the population together with traditional media. These largely unregulated forums

¹⁷⁹ Q 701

¹⁸⁰ BIJ

¹⁸¹ Q 230

¹⁸² Q 23

¹⁸³ DCMS

undermine the business models of traditional news sources such as newspapers, television channels and radio stations as some of them offer similar content free of charge and they can divert audiences and readers away from traditional news sources.

235. Online delivery models will continue to form a significant part of news organisations' business models in the future. New business models for investigative journalism are likely to emerge which enable the producers of content to monetise what they produce. In some cases, this is already happening. Richard Tofel, the General Manager of ProPublica, told us that they had had some success selling e-books for Amazon Kindle devices and that there was "considerable potential" to develop this revenue stream.¹⁸⁴
236. Some newspapers have put most of their content behind a paywall, an online device which prevents users from accessing the content without a subscription. Mr Richard Caseby, Managing Editor of The Sun, told us that: "The Sunday Times and The Times have a paywall and think that does show a real way forward for them."¹⁸⁵ Mr Caseby also told us that the use of apps as a means of accessing news content was increasing rapidly. An app is a piece of software developed for mobile devices which enables news providers to charge readers to download. He said that the Sunday Times has around 120,000 paying users on the iPad, adding that: "What is fantastic about the business models of newspapers or magazines on the iPad is that you can probably charge about eight or nine times as much for an advertisement on the iPad as you can on a website."¹⁸⁶ Paywalls and mobile software apps are relatively new technologies and Mr Alan Rusbridger, Editor, The Guardian, told us that, "it is not a given to me that any salvation would lie through the route of putting up a paywall."¹⁸⁷
237. Martin Moore, Director, Media Standards Trust, highlighted the models emerging in the USA as an example of how investigative content might be delivered in the UK in future. He said:
- "Look particularly at the American models, because they have, as I say, experimented in many different models, whether it is through foundation funding or through mixed funding. There is a rather innovative man called David Cohn, who created Spot.U.s,¹⁸⁸ which is public funding, if you like. People donate towards particular stories. The news organisation start-up we are working with in South Wales is doing a similar thing. The key, I think, is that, first, it will be mixed and, secondly, it will not be profitable in the way it once was. In many areas, actually, it will not be profitable at all."¹⁸⁹
238. Dr David Levy, Reuters Institute for the Study of Journalism, told us that although technology offers many new opportunities for journalists and news

¹⁸⁴ Q 774

¹⁸⁵ Q 811

¹⁸⁶ Q 811

¹⁸⁷ Q 61

¹⁸⁸ This is a website through which the public can commission and participate with journalists to do reporting on important and perhaps overlooked topics. Ideas for investigative stories are posted on the website and then individuals can contribute to the cost of pursuing the investigation. Once the money has been raised, the investigation is started and Spot.U.s will then work with news organizations to distribute content under appropriate licenses

¹⁸⁹ Q 422

organisations, going forward, “the main model for investigative stories will continue to be larger organisations that are seeking to enhance their brand by putting themselves, as they would see it, at the cutting edge of journalism.”¹⁹⁰ We agree with Dr Levy that—for both newspapers and broadcasters—delivering high-quality investigative output is likely to remain an important part of many news organisations’ brands. As described above, although the way in which people access news and current affairs content, including investigative journalism, is likely to change in the next 5–10 years as a result of increasing convergence between media devices, we do not believe that this will have a significant impact on the type of investigative content produced. Rather, news outlets will deliver content which they will be able to market in different formats to different audiences at different prices.

239. We believe that the newspaper industry will develop a range of different models through which to monetise content online. In this regard we agree with Martin Moore that: “One of the key things to say is that there is no silver bullet. I do not think there is anything specific that one can say, ‘That will do it’.”¹⁹¹ For example, printed newspapers, which are more expensive to produce, are likely to continue to be published and sold at a higher price than their online counterparts. News organisations are also likely to offer content online and charge this at different levels, offering free access; subscriptions; micro-payments for single articles and websites and online applications tailored to different devices such as mobile phones, tablet computers and e-readers. There is no doubt that it will be challenging for the newspaper industry to respond to this technological change, but as well as creating a threat to traditional business models, these changes will also offer many new opportunities for the industry to deliver interesting and informative investigative content to people in different ways.
240. **We welcome the innovation which is emerging in trying to find a way of monetising investigative journalism content online and making this information available to users in a variety of different ways at a range of different price-points. However, although take up of online services is increasing rapidly, these remain relatively new developments and we are in the early decades of a digital revolution which will bring change on a scale that is irresistible and profound. We heard much evidence which painted a pessimistic picture of the economic problems facing investigative journalism but we have heard no evidence that leads us to conclude that investigative journalism will disappear: we believe that it will continue.**
241. **As news organisations adapt their business models to these changing circumstances and new players enter the marketplace, we will observe with interest the extent to which people are prepared to pay to access online content and if so, which devices will prove most popular and what the correct price-point for investigative stories will be.**
242. **The technologies upon which investigative journalism now often relies are developing at an ever-faster rate. The outcome of developments in this area remains uncertain but we are confident that investigative journalism will adapt if sufficient scope is given to allow the industry to build successful models online. It is essential that any legal or**

¹⁹⁰ Q 19

¹⁹¹ Q 422

regulatory reforms take account of these new technologies and that in an age of increasing convergence it is often the same content which is delivered through different platforms. It is vital that any such changes do not make the position of investigative journalism yet more precarious in what is already a difficult market in which to operate.

CHAPTER 7: TRAINING TOMORROW'S INVESTIGATIVE JOURNALISTS

243. Many witnesses told us about the skills required to be an investigative journalist. Some told us that investigative journalists needed unique characteristics in addition to those of a regular journalist, for example, more determination to continue with a line of enquiry which may take a long time or be difficult to uncover. There is also a question about whether such attributes can be taught.

244. John Mair, Senior Lecturer in Broadcast Journalism at Coventry University, described investigative journalists as a “strange breed”, saying that:

“Investigative journalists ... can be quite difficult people. They are good journalists, they are accurate, but they have two or three qualities that make them stand out ... have a sense of mischief. They like to cause mischief, and they are also bloody determined. You will not put them off the scent. I am not sure how you teach that. I suspect that people like that will still be coming forward because there is one—or several—in every generation.”¹⁹²

Mr Alan Rusbridger, Editor, *The Guardian*, appeared to agree, at least in part, with this analysis, saying that “investigative reporters’ brains are wired differently.”¹⁹³

245. However, Mr Paul Lewis, Special Projects Editor, *The Guardian*, did not agree with his Editor’s analysis that investigative journalists were different from other kinds of journalists, saying that:

“Each investigative journalist has their own moral compass, and it will be different in each case. As flattering as it may be, I do not buy this argument that we are a breed apart. Some are obsessive, you know, some are probably a bit lazy too. What is interesting is that I think all investigative journalists have very different characters.”¹⁹⁴

246. Paul Lashmar, investigative journalist and Lecturer in Journalism from Brunel University, described the teachable skills needed to be an investigative journalist, saying that: “They have to have a very good grasp of the law. They need functional journalism skills; they do not have to be great writers. Persistence is a key part of it. The determination to carry through where others do not is quite a clearly definable element of the investigative journalist.”¹⁹⁵ Mr Stephen J Adler, Editor-in-Chief, Thomson Reuters, agreed, saying:

“There is the ability simply to stick to something. There is a good amount of instinct involved and there is an awful lot of specialised intelligence to know how to read something to take you to something else and of course to know how to get information from people who might be reluctant initially to give it.”¹⁹⁶

¹⁹² Q 30

¹⁹³ Q 39

¹⁹⁴ Q 583

¹⁹⁵ Q 474

¹⁹⁶ Q 650

Training

Professional training

247. Given the technological changes which are occurring, investigative journalists will increasingly need to be adept in using digital technology, particularly social networking tools and analytic tools.
248. We welcome the investment in the training of journalists made by broadcasters. John McVay, the Chief Executive of the Producers' Alliance for Cinema and Television (Pact), for example, told us that some broadcasters were working with Skillset, the industry body which supports skills and training for the UK creative industries.¹⁹⁷ In particular, we became aware during the inquiry of Channel 4's recently increased commitment to training, and we welcome its Chief Executive, David Abraham's recent announcement at the Oxford Media Convention in January 2012, that new contracts for the production of Dispatches "are to provide paid work and mentoring as part of the Channel 4 Investigative Journalism Training Scheme."¹⁹⁸ We also note the BBC's investment in training through its academy for journalists.
249. In the newspaper industry we note that there has been a decline in the number of training opportunities available to aspiring journalists. This is partly because local newspapers no longer have the resources available to provide training, largely as a result of financial pressures and a reduction in staff numbers. World in Action Editor and Executive Producer, Ray Fitzwalter, said: "The training courses that there used to be in local newspapers ... do not exist anymore."¹⁹⁹ Those wishing to be journalists often have to be prepared to work for free at local news organisations in order to develop work experience and try to find work.
250. We have heard about the increasing use of internships as a means for prospective journalists to gain relevant work experience. In his evidence, Mr Edmund Curran OBE, Member of the Newspaper Society, made this clear: "There are increasingly—and I am not so sure it is a great thing—internships. I think it is almost getting journalism on the cheap. But obviously if young people are being trained and they cannot find a post, they are prepared to accept something less just to get a foot in the door and get going."²⁰⁰ We have also heard concerns that projects where student journalists work on stories without pay, have increased the competition in an already competitive marketplace and that this runs the risk of squeezing out opportunities for people who try to earn a living from investigative reporting.
251. **We welcome the investment made in training journalists by the whole media and encourage continued investment in this area, especially in digital technology skills. In particular we appreciate the financial pressures facing all media organisations, especially the local newspaper industry but we encourage local newspapers, wherever possible, to provide both paid and voluntary opportunities for aspiring journalists to gain practical experience in local news organisations.**

¹⁹⁷ Q 315, 317

¹⁹⁸ Channel 4 Chief Executive, David Abraham's speech to the Oxford Media Convention, 25.01.2012

¹⁹⁹ Q 186

²⁰⁰ Q 554

252. **We welcome the opportunities which internships offer but these should not be considered as an alternative to paid employment opportunities for journalists.**
253. **We encourage all media companies to offer training opportunities. In those media industries where there is a regulator, the regulator should consider whether there are circumstances in which they should mandate the offering of training opportunities.**

The role of universities

254. There are now approximately 60 university courses in journalism in the UK. Ray Fitzwalter mentioned that he had “counted up that there are 60 British media schools ... and those are ones that have some editorial content or are devoted to editorial matters.”²⁰¹ We have heard how universities increasingly provide the training ground for aspiring journalists which used to be offered by local media. Gavin MacFadyen, Visiting Professor, City University and Director, Centre for Investigative Journalism, for example, spoke about local media training, saying: “When that dried up ... it was passed to universities to try to make up for this difference.”²⁰² We have heard about three in particular which specialise in investigative journalism—City University, Strathclyde and Sheffield.
255. Ray Fitzwalter argued that there are now too many university courses in journalism and not enough jobs, commenting that “we could probably do without half a dozen universities and not feel any loss whatever.”²⁰³
256. Certain universities focus on offering practical training opportunities in investigative journalism for their students, both in the form of placements and through innovative schemes such as the Sheffield Record project at Sheffield University. Several witnesses have praised the important role played by universities in delivering investigative journalism in projects such as these. Gavin MacFadyen told us that Strathclyde University had started a project based on the Innocence Project from a university in Chicago which had encouraged law students to re-examine the cases of convicted prisoners on death row. The Innocence Project at Strathclyde University used journalism students to re-examine the cases of convicted criminals with a view to finding and overturning any wrongful convictions.²⁰⁴
257. **We recognise the important role played by universities in training investigative journalists and encourage the Government to support these educational facilities in providing useful and practical training opportunities for aspiring journalists.**

Charitable mentoring and sponsorship

258. An additional route through which journalists can acquire the skills they require to operate and launch their own journalistic projects is through charitable sponsorship and mentoring. It is, of course, essential that there are safeguards to ensure that the donor has, and is seen to have, no influence on the investigations.

²⁰¹ Q 186

²⁰² Q 447

²⁰³ Q 186

²⁰⁴ Q 463

259. An example of this we encountered during the present inquiry was the recently established Journalism Foundation, an organisation set up with a grant from the Lebedev family as an independent charitable foundation.

260. Its Chief Executive Officer, Simon Kelner, described the three very different projects the Journalism Foundation has decided to support in the first instance:

“In one we are establishing the first really practical training courses for journalists in Tunisia ... Of course, what the journalists there want to know is very basic stuff. How do you sell newspapers? How do you sell advertising? How do you do an edition structure? ... On the other side is a project in Stoke-on-Trent, which was set up by a very public-spirited guy just over a year ago ... He started a website called pitsnpots.co.uk, which is terrific. It covers local politics in a very fair and impartial way ... We are helping him to build the reach of his website with funding and resources ... The third project, which is very much in gestation at the moment, is based in Tanzania, where another very public-spirited guy, with help from DfID, has set up two Swahili newspapers in outlying areas where there have been no local news networks at all ... We are going out there to see how we can help him.”²⁰⁵

261. Another example of charitable sponsorship of investigative journalism was explained to us by Iain Overton, Managing Editor, Bureau of Investigative Journalism, as described earlier in this report (paragraph 205).

262. **We welcome the establishment of charitable sponsorship and mentoring bodies, and hope to see this model replicated more widely.**

CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

263. As we explained at the start of this report, the purpose of our work has been, against the background of perhaps the greatest political media scandal of a generation, to look at the future of investigative journalism in the light of the problems currently facing the media and the technological revolution unfolding in this area.
264. We hope that what we have done will enable those going into the issues in greater detail than us to come forward with proposals which will be relevant to and protect the responsible investigative journalism of tomorrow.
265. We urge the Government to recognise the financial problems facing newspapers and encourage them to think creatively about any tax breaks or other financial incentives which might help the industry through this difficult transitional stage. (Para 49)
266. We welcome the evidence given to us by commissioning editors from different broadcasting channels about their commitment to investigative programming. This should continue to remain a priority, particularly for public service broadcasting channels, despite the difficult economic circumstances currently facing the sector. (Para 58)
267. We note that Lord Justice Leveson and Lord Hunt of Wirral, together with the Government as part of its forthcoming Communications review, have confirmed that they will consider whether it may be appropriate to bring certain forms of online content which currently fall outwith the scope of regulation into the remit of the relevant regulatory body. This should continue to remain a priority. We look forward to their recommendations in this area and to their suggestions on how to put them into practice. (Para 63)
268. We wholeheartedly believe that media organisations themselves should take responsibility for the decisions they take regarding how to investigate and whether to publish a story. In coming to decisions on these matters, however, it is important that journalists and editors do so in a way that is rigorous, structured and leaves an audit trail for future external scrutiny. (Para 70)
269. We do not recommend that all relevant criminal law be re-drafted in order to iron out inconsistency between different pieces of legislation when it comes to a formal, statutory defence relating to the public interest. (Para 87)
270. We do, however, urge the prosecuting authorities to publish their broad approach to determining which cases should be prosecuted or otherwise in cases where illegal activity undertaken by journalists in the course of an investigation might be considered to be in the public interest. (Para 88)
271. We do not recommend that a definition of the public interest be included in legislation. Instead, it should be defined by reference to good and responsible practice, not least as defined in the relevant regulatory Codes of Practice which contain examples of what could constitute a sufficient public interest justification for breaching a rule or regulation. In addition, in implementing such regulatory provisions, the regulator should bear in mind the underlying rationale and purpose of the rules they enforce. (Para 97)
272. We welcome the changes made in December 2011 to the Editors' Code of Practice requiring that in order to argue a public interest exemption to breaching a certain section of the Code, an editor must show not only that

they had good reason to believe the public interest would be served in doing so, but also how and with whom that was established at that time. (Para 98)

273. We recommend that media organisations implement a two-stage internal management process whereby they track and formally record their decisions first to investigate and secondly to publish a story if such decisions rely on the public interest. (Para 108)
274. We believe regulators should, in turn, take such an audit trail into account when evaluating the responsibility or otherwise with which investigative journalism has been undertaken. (Para 109)
275. The regulators should also take into account the actions taken ex post facto in considering what penalty is appropriate for any particular breach. (Para 110)
276. The working of the libel laws in the UK can, on occasion, have a discouraging effect on responsible investigative journalism, and this needs to be examined. We welcome the Government's work in this area and look forward to the introduction of a Defamation Bill later in this Parliament, which we believe should include provisions along the lines of those set out in clause 2 of the Draft Bill. (Para 125)
277. It is important for the future of responsible investigative journalism that journalists are able to offer adequate protection to their sources. We therefore call on the Government and Lord Justice Leveson to make the question of the suitable protection of whistleblowers a core part of their ongoing inquiries. (Para 130)
278. In the context of investigative journalism, it is incumbent upon journalists and news providers to be rigorous and proactive in checking the accuracy of press releases, as with other sources of news, as part of their commitment to accuracy. In addition, we recommend that journalists themselves be transparent in their use of press releases particularly online where barriers to publishing links to press releases are low. (Para 139)
279. To address the concerns that the Committee has heard about the potential adverse impact of the public relations industry on investigative journalism, we recommend that PR practitioners should abide by a stringent code of behaviour which could be derived from the existing CIPR code or something similar, and which might be overseen by a third party. (Para 140)
280. We also reiterate the recommendation made by the Committee in 2008 on the need for the Government to communicate accurately and in an impartial way information about its policies and we urge the Coalition Government to set the benchmark in this area by ensuring that their press releases are universally transparent and straightforward. The Government and political parties should require their press officers to follow guidelines similar to those found in the CIPR code of conduct. (Para 141)
281. We encourage the Government to lead by example in ensuring its press releases do not mislead and in particular, when data is made public, it is in forms which enable those capable of analysing it to do so, as advocated by the Open Data Institute. (Para 142)
282. We encourage Ofcom, Lord Justice Leveson and the House of Commons Select Committee on Culture, Media and Sport to consider carefully the following issues as part of their inquiries:

- Whether the criteria for application of the public interest test should be extended to include cases of organic growth as well as in proposed mergers;
 - Whether the decision to invoke the public interest test in media mergers should remain solely with the Secretary of State; and
 - The application of the ‘fit and proper person’ test and whether this should be extended to cover newspaper mergers. (Para 149)
283. With regard to the public interest test, we believe that there may be a case for legislation to allow for this to be invoked in cases where a news organisation develops over a 25% share of the national newspaper market through organic growth, rather than just in cases of proposed mergers, as is the case at present under the Enterprise Act 2002. (Para 150)
284. In assessing this, we encourage Ofcom, Lord Justice Leveson and the House of Commons Select Committee on Culture, Media and Sport to consider the following issues in more detail:
- Whether 25% would be the right threshold for invoking the public interest test in cases of organic growth; and
 - How would market share be determined? For example, would Ofcom be required to conduct a regular review of the newspaper industry in order to determine whether this threshold in terms of market share had been reached? (Para 151)
285. Given the importance of ownership, we wish to repeat the recommendation made in the 2008 ownership of the news report by our Committee that the Communications Act 2003 should be amended to enable the public interest test to be invoked at the discretion of **either** the Secretary of State **or** Ofcom. (Para 152)
286. We encourage the relevant inquiries examining this issue to consider whether or not it may be appropriate to extend the ‘fit and proper’ test, currently determined by Ofcom before awarding a broadcasting licence, to include potential newspaper proprietors. If this is deemed appropriate, we believe that as Ofcom currently conducts this process with regard to broadcasting it may be best placed to set the criteria and carry out the test in cases of proposed newspaper mergers as well. (Para 153)
287. We note the Government’s recent removal of rules relating to local cross-media ownership and hope that this will provide an opportunity for local media organisations to develop a sustainable business model through consolidation in future if they wish to do so. (Para 160)
288. At a local level, we recommend that Ofcom’s role in assessing local media mergers should be strengthened compared to the Competition Commission’s in order to ensure that the vital watchdog and informational role of the local media is given greater weight when assessing merger proposals. We welcome the Secretary of State’s commitment to look at this issue and we support the suggestion that any legislative changes required should be included in any Communications Bill. (Para 161)
289. It is crucial that the existing media ownership rules at a national level are examined to assess whether the correct balance is being struck between the need to protect the plurality of news ownership, essential in a democracy, and securing the financial viability of the industry. Any proposals to amend

the cross-media ownership rules should form part of the Government's Communications review. (Para 165)

290. In order to encourage continued investment in broadcast investigative journalism, we recommend that Ofcom, working with the public service broadcasters, amends the definition of current affairs in the guidance on public service quota requirements to include, but not expressly require, investigative journalism in this genre. This would provide further stimulus for public service broadcasters to broadcast high-quality investigative programmes which we hope would be replicated by other commercial broadcasters. (Para 170)
291. Zero-rating VAT is a form of state support for the newspaper industry which is a transitional power open to the UK Government to implement as it deems appropriate under the terms of the EU Directive. Given the economic pressures facing the newspaper industry, we believe it is appropriate that the Government should maintain zero-rated VAT for newspapers in order to provide a continued form of public support for this struggling and vital industry. (Para 175)
292. We recommend that the Government should consider further the legality of any proposals to limit the receipt of zero-rating for VAT purposes to those newspapers which are members of the PCC (or any successor body). (Para 177)
293. Given that the BBC receives public money in the form of the licence fee in order to deliver a public good, we believe that it should continue to provide high-quality investigative content in both its television and radio services, including at a regional level. We are concerned about the reported cuts in staff on the flagship investigative programme, Panorama, but we welcome the BBC's commitment to continue to invest in investigative content at international, national, regional and local level. We encourage it to continue to do this, despite the cost-saving measures which the corporation must make. (Para 184)
294. We have found that what matters in terms of ownership and support for investigative journalism is not the type of ownership structure but whether the owners be they an individual, a company, a charity, trust or co-operative, are prepared to ensure the money to support this type of journalism. (Para 189)
295. We call on the Charity Commission to provide greater clarity and guidelines on which activities related to the media, and in particular investigative journalism, are charitable in the current state of the law. Furthermore, we ask the Charity Commission to take into consideration both the current pressures on investigative journalism as well as its democratic importance when interpreting the relevant legislation. (Para 201)
296. While recognising the Government's current disinclination to legislate in this area, it seems to us that reform of charity law is the only way in which certainty in this area could be achieved. We therefore urge the Government to reconsider. (Para 202)
297. We admire the non-traditional model of providing investigative journalism which originated in the USA with organisations such as ProPublica and we welcome its development in the UK with organisations such as the Bureau of Investigative Journalism. Whereas in the past investment in long-form

- investigative stories relied on support and continued investment from a newspaper proprietor or broadcaster; newspapers and television and radio stations are increasingly outsourcing this to—or responding to initiatives from—specialist organisations. We encourage UK broadcasters to support these organisations by working in partnership with them. (Para 211)
298. We recognise that public funding is a potential model for financing investigative journalism and one which works in other European countries. However, given the strong independent character of the printed press in the UK and our political traditions, we do not believe that it would be appropriate for the UK Government to fund investigative journalism directly in the form of state subsidies other than with the continued support for zero-VAT rating for newspapers and of the BBC licence fee in broadcasting. (Para 216)
299. If fines are introduced for breaches of the Editors' Code of Practice by newspapers and magazines under a new system of press self-regulation, we recommend that a proportion of all media fines (including fines for breaches of the Ofcom Broadcasting Code) should be allocated to a fund reserved for financing investigative journalism or for the training of investigative journalists. This fund should be open to all investigative journalists and journalism organisations—big and small, who publish in print, broadcast or online. The money would need to be distributed fairly by an independent regulatory body, such as Ofcom or the reformed PCC and there would need to be a system of accountability in place to ensure that the money was used appropriately, bearing in mind that, due to the nature of investigative journalism, some investigations would not lead to material which could be published. (Para 219)
300. We welcome the use of social media by journalists as a means of contacting people around the world in order to access content and information which might otherwise be extremely difficult and time-consuming to identify. We recommend that the PCC tightens its guidance on the use of information provided by citizen journalists using social media and we warn journalists to be extra vigilant in verifying information found online. Where appropriate, news organisations should issue clear internal guidelines for all staff on how to use such data. In addition, given the challenges which will only intensify in this area, we recommend that further thought be given to considering what, if any, workable ways might be proposed to aid the processes of validating material and verifying sources. (Para 230)
301. We welcome the innovation which is emerging in trying to find a way of monetising investigative journalism content online and making this information available to users in a variety of different ways at a range of different price-points. However, although take up of online services is increasing rapidly, these remain relatively new developments and we are in the early decades of a digital revolution which will bring change on a scale that is irresistible and profound. We heard much evidence which painted a pessimistic picture of the economic problems facing investigative journalism but we have heard no evidence that leads us to conclude that investigative journalism will disappear: we believe that it will continue. (Para 240)
302. As news organisations adapt their business models to these changing circumstances and new players enter the marketplace, we will observe with interest the extent to which people are prepared to pay to access online

content and if so, which devices will prove most popular and what the correct price-point for investigative stories will be. (Para 241)

303. The technologies upon which investigative journalism now often relies are developing at an ever-faster rate. The outcome of developments in this area remains uncertain but we are confident that investigative journalism will adapt if sufficient scope is given to allow the industry to build successful models online. It is essential that any legal or regulatory reforms take account of these new technologies and that in an age of increasing convergence it is often the same content which is delivered through different platforms. It is vital that any such changes do not make the position of investigative journalism yet more precarious in what is already a difficult market in which to operate. (Para 242)
304. We welcome the investment made in training journalists by the whole media and encourage continued investment in this area, especially in digital technology skills. In particular we appreciate the financial pressures facing all media organisations, especially the local newspaper industry but we encourage local newspapers, wherever possible, to provide both paid and voluntary opportunities for aspiring journalists to gain practical experience in local news organisations. (Para 251)
305. We welcome the opportunities which internships offer but these should not be considered as an alternative to paid employment opportunities for journalists. (Para 252)
306. We encourage all media companies to offer training opportunities. In those media industries where there is a regulator, the regulator should consider whether there are circumstances in which they should mandate the offering of training opportunities. (Para 253)
307. We recognise the important role played by universities in training investigative journalists and encourage the Government to support these educational facilities in providing useful and practical training opportunities for aspiring journalists. (Para 257)
308. We welcome the establishment of charitable sponsorship and mentoring bodies, and hope to see this model replicated more widely. (Para 262)

APPENDIX 1: SELECT COMMITTEE ON COMMUNICATIONS

The Members of the Committee which conducted this inquiry were:

Lord Bragg
Lord Clement-Jones
Baroness Deech
Baroness Fookes
Lord Gordon of Strathblane
Lord Inglewood (Chairman)
Lord Macdonald of Tradeston
Bishop of Norwich
Lord Razzall
Lord St John of Bletso
Earl of Selborne
Lord Skelmersdale

Steven Barnett, Professor of Communications at the University of Westminster, acted as Specialist Adviser for this Inquiry.

Declarations of Interest

The following relevant interests were declared:

BRAGG, Lord

*Independent programme maker (largely arts programmes) for BBC2, BBC4 and Sky Arts
Presenter, Radio 4 'In Our Time'*

DEECH, Baroness

*Governor of the BBC 2002–2006
A close family member is a BBC employee/journalist*

INGLEWOOD, Lord

*Non-executive Chairman of CN Group
Owner of 1,740 shares in CN worth approximately £6,000*

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.publications.parliament.uk/pa/ld/ldreg/reg01.htm>

APPENDIX 2: LIST OF WITNESSES

Written Evidence

Evidence is published online at www.parliament.uk/hlcommunications and available for inspection at the Parliamentary Archives (020 7219 5314).

Evidence received by the Committee is listed below in order of receipt and in alphabetical order. Witnesses without a * gave written evidence only. Witnesses marked with * gave both oral and written evidence. Witnesses marked with ** gave oral evidence and did not submit any written evidence.

Oral evidence in chronological order

**	(QQ 1–36)	Reuters Institute for the Study of Journalism
**		Mr John Mair
**	(QQ 37–85)	Mr Ian Hislop
*		Mr Alan Rusbridger, Editor, the Guardian
*	(QQ 86–115)	Mr Nick Davies, Journalist, the Guardian
*		Ms Clare Sambrook
*	(QQ 116–155)	Channel 4
*		ITV
**		Mr Tom Giles
**	(QQ 156–189)	Mr John Ware
**		Mr Ray Fitzwalter
**	(QQ 190–223)	Mr Roger Bolton
**		Mr Roger Graef
**	(QQ 224–259)	Facebook
**		Professor Jon Crowcroft
**		Ms Elena Egawhary
**	(QQ 260–296)	The Scott Trust
**	(QQ 297–329)	Pact
**	(QQ 330–395)	The Art Newspaper
**		Camden New Journal
**		Maidenhead Advertiser
*	(QQ 396–445)	Bureau of Investigative Journalism
*		Chartered Institute of Journalists
*		Media Standards Trust
**	(QQ 446–490)	Mr Paul Lashmar, Brunel University
**		Professor Gavin MacFadyen, City University and Centre for Investigative Journalism
**	(QQ 491–525)	Ofcom

- * (QQ 526–559) The Newspaper Society
- * (QQ 560–601) Mr Paul Lewis, Special Projects Editor, the Guardian
- ** (QQ 602–626) Mr Phil Hall
- * (QQ 627–642) The Daily Telegraph
- ** (QQ 643–664) Thomson Reuters
- * (QQ 665–708) Rt Hon Jeremy Hunt MP, Secretary of State for Culture, the Olympics, Media and Sport, Department for Culture, Media and Sport
- ** (QQ 709–754) Al Jazeera
BSkyB
- ** (QQ 755–795) ProPublica
- ** (QQ 796–819) The Sun
- ** (QQ 820–840) Chartered Institute of Public Relations
- ** (QQ 841–865) The Journalism Foundation

Written evidence in Alphabetical Order

- ** Al Jazeera
- ** The Art Newspaper
- ** Mr Roger Bolton
- * BBC
BMJ Group
- ** BSkyB
- * Bureau of Investigative Journalism
Professor Hugo de Burgh, University of Westminster
- ** Camden New Journal
- * Channel 4
Charity Law Association
- * Chartered Institute of Journalists
Chartered Institute of Public Relations
The Children’s Society
- ** Professor Jon Crowcroft
- * Mr Andrew Gilligan, London Editor, The Daily Telegraph and The Sunday Telegraph
- * Department for Culture, Media and Sport
The Detail
- ** Ms Elena Egawhary
English PEN
- ** Facebook

- ** Mr Ray Fitzwalter
- ** Mr Tom Giles
- ** Mr Roger Graef
- ** Mr Nick Davies, Journalist, the Guardian
- ** Mr Paul Lewis, Special Projects Editor, the Guardian
- ** Mr Phil Hall
- Mr Peter Hill
- Mr Dan Hind
- ** Mr Ian Hislop
- Ms Jacqui Hodgson
- * ITV plc
- Index on Censorship
- ** The Journalism Foundation
- ** Mr Paul Lashmar
- ** Professor Gavin MacFadyen
- ** Maidenhead Advertiser
- Mr John Mair
- * Media Standards Trust
- * National Union of Journalists
- * The Newspaper Society
- ** Ofcom
- Dr Eamonn O'Neill
- Mr Sean O'Neill
- ** Pact
- ** ProPublica
- ** Reuters Institute for the Study of Journalism
- * Mr Alan Rusbridger, Editor, the Guardian
- * Clare Sambrook
- * The Scott Trust
- ** The Sun
- ** Thomson Reuters
- ** Mr John Ware

APPENDIX 3: CALL FOR EVIDENCE

Investigative journalism is vital for a healthy democracy. It acts as a watchdog, holding those in positions of authority to account by exposing wrongdoing, standing up for the public interest and, where appropriate, campaigning for reform. Its contribution to democracy is just as valuable at local as at national level: to hold democratically elected bodies to account, to ensure their work is visible to the people whom they represent, and to keep people informed about what is happening in institutions such as their local schools, hospitals or businesses.

But these are difficult times for investigative journalism. The phone hacking scandal has already led to the closure of Britain's best selling tabloid newspaper as well as the resignation of former newspaper editors and senior members of the Metropolitan Police force. This, combined with the Information Commissioner's report of five years ago, has exposed apparently widespread use of unlawful methods to gather and intercept information, and will be investigated in full by the relevant judge-led and Parliamentary inquiries.

Even before the current scandal started to unfold, the economic climate was threatening original journalism: declining newspaper readership, fragmenting TV audiences and the migration of print advertising to online were exacerbated by the impact of the worst economic recession since the war. As a result, local newspapers have been forced to close and many journalists lost their jobs, long before the closure of the News of the World.

While the events of the last few weeks clearly reflect very badly on some areas of the British press, they are also a reminder of the importance of investigative journalism. Revelations about the phone hacking scandal itself, about abuse in some care homes, about match-fixing in test cricket have been uncovered by investigative journalism.

This raises urgent questions about whether and how, in a changing media landscape, it may be possible to harness the power of new technologies to complement traditional media in ensuring a healthy journalistic culture. Information about public authorities and bodies that provide a service to the public is increasingly available online and to anyone who wishes to access it via a Freedom of Information Act request. This, together with the rise of social media such as twitter, YouTube and Facebook and new online opportunities in journalism, means that now is an appropriate time to consider what role "citizen journalism", participatory journalism and other new approaches or models might be able to play in the future of investigative journalism.

Given the rapid economic and technological changes and the extent to which investigative journalism has been thrown into the spotlight in recent weeks, the House of Lords Communications Committee welcomes your views on the parameters for the future of journalism in a difficult media environment. In particular, this inquiry will examine the future for investigative journalism in a world where traditional print and broadcast business models are under threat and a great deal of news and information is readily available for free online. It will also investigate ideas for different organisational or business models which might promote or advance the future of investigative journalism. This builds on the work of our predecessor Committee's report into the ownership of the news which was published in June 2008 and seeks to complement the current Parliamentary and Judge-led inquiries into phone hacking, privacy and injunctions. We welcome your views on the following issues:

The changing media landscape

Has the way in which people consume news changed in recent years? What are the recent trends in newspaper circulation figures and how do these compare with figures for television and radio news, and accessing news content online?

What effect, if any, will devices such as ipads and e-readers have on the ways in which people consume news and access information?

What is the role of social media in displacing or complementing traditional news outlets?

Are there any existing funding, business or organisational models from other sectors or overseas which could successfully be used in order to safeguard the future of investigative journalism?

The role of investigative journalism

What role does investigative journalism play—both at a national and local level—in safeguarding democracy and in the accountability of those in positions of power or public prominence?

How can the merits of a journalist's story be assessed? How is the public interest defined and determined?

What contribution is citizen and participatory journalism making to original journalism and what is its impact on the ways in which people access news and information?

Does the availability of information under the FOI Act and the increased onus on public bodies to make information available online have an impact on the role of investigative journalism?

Paying for investigative journalism

To what extent are readers, listeners and viewers prepared to pay for the skills of serious reporting?

What are the new business models for paying for investigative journalism which new media will make possible?

How successful are pay-walls as a model for supporting investigative journalism? Are they likely to become a successful model for generating new income streams in future?

What other funding models (such as pay-per-use access and micropayments) are likely to emerge to safeguard the future of investigative journalism?

How safe and secure are the funding models for journalism in the print media and on commercial TV and radio?

Are there any changes needed in the regulation of broadcast journalism or digital or print media to ensure they fulfil a useful journalistic function?

How might the continuing commercial and financial viability of investigative journalism be secured on different media platforms in the future?

Do we need regulatory or other policy incentives to ensure that these initiatives succeed?

22 July 2011