

NI Group Limited  
D. J. Mohan  
Third Statement  
13 July 2012

**IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES  
AND ETHICS OF THE PRESS**

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**THIRD WITNESS STATEMENT  
OF  
DOMINIC JAMES MOHAN**

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I, Dominic James Mohan c/o The Sun, News Group Newspapers Limited, of 3 Thomas More Square, London E98 1XY, will say as follows:

This statement is made in response to the notice under section 21 of the Inquiries Act, June 29, 2012.

**Q1.) Who are you and your current job title**

**1** I am the Editor of The Sun and was appointed in 2009.

**Q2.) To what extent were you personally involved in drawing up the proposal for “a new and effective system of self-regulation” submitted to the Inquiry by Lord Black?**

- 2** The Introduction of a new, trusted system of regulation for the Press, which sets proper ethical boundaries for the industry and yet does not inhibit the important right to freedom of expression, is of vital interest to me, my journalists and our readers. Any reform, though, should be measured and ensure proper safeguards for freedom of expression.
- 3** The Press Complaints Commission has been criticised by a number of witnesses during the Leveson Inquiry. But even if such criticisms are partially or even fully justified, it does not follow that we should leap from the present system of regulation to regulation by government, or some quango, which ultimately is controlled by government.
- 4** Whilst I have not had personal involvement in the drafting of the proposals, I have followed closely the development of the ideas which underpin Lord Black's proposals. The interim legal counsel of News International, Simon Toms, and the new staff incumbent to the post, Paul Chinnery, and the Sun's managing editor, Richard Caseby, have all attended

meetings with Lord Hunt or Lord Black, making contributions to the debate over the future of media regulation. Each of them reported to me about the progress of the plans at appropriate stages so that I could offer my own feedback into the debate.

- 5 i believe the proposals put forward by Lord Black in his third witness statement to the inquiry are a considered, balanced and workable solution. After my discussions with other Editors, I believe Lord Black's blueprint offers the best option for a new regulatory framework which ensures participation and is robust and yet protects freedom of expression.

**Q3.) How far would you personally, in your capacity as editor, expect to be involved in the final decision as to whether your publication signed up to the contractual obligations envisaged by this system? Please explain in full how that decision would be taken.**

- 6 In consultation with Tom Mockridge, the CEO of News International, John Witherow, Editor of The Sunday Times and James Harding, Editor of The Times, I expect to be directly involved in the decision as to whether the Sun signs up to the proposed contractual obligations.

**Q4.) In so far as you are able to do so, please indicate whether your publication is at present fully ready and committed to enter into these contractual obligations. If it is not at present fully ready and committed, please explain why, and detail any changes that would need to be made to the proposal, any further development to proposals required, or any preparatory steps that would need to be taken at your publication.**

- 7 I am ready to commit to the broad principles of the new contractual obligations though, of course, the final authorisation by News International will be made by the News International CEO in consultation with all three Editors. Whilst there are a number of details about the proposal that have yet to be worked out, I am hopeful that all industry participants will be able to reach final agreement. After hearing the evidence of other witnesses at the Leveson Inquiry over many months, I remain convinced that a self-regulatory framework strengthened by contract, without any statutory intervention, is the best and most practical solution.

- 8 At the time of the Calcutt Report in 1990 Sir David Mellor commented that the Press was "drinking in the last chance saloon". Some witnesses at the Leveson Inquiry have seized upon this to suggest that the next step must therefore be statutory regulation. This would be wrong, as Lord Hunt pointed out in his evidence to the Inquiry on July 9. The next step, in my view, should be self-regulation bound by contractual obligation, an idea first suggested by a Royal Commission in 1962 but one that was never explored or tested.

- 9 A new regulatory body secured by contract with each of the participants, but separate from the apparatus of the State, is consistent both with the long history of hard-won press

freedom in the United Kingdom, and with the vast majority of current press regulation around Europe and elsewhere in the world.

**Q5.) What specific differences would membership of a system of the kind set out put by Lord Black, underpinned by contractual obligations, make to the culture, practices and ethics of your publication?**

**10** The key differences between existing PCC and the new body are:

- (a) Independence from the industry - the new body will be supervised by an independent trust board.
- (b) Compliance regime - the regulator will police an annual audit of internal governance at each participating title.
- (c) Investigations panel - the new body will have a new investigative arm with the power to investigate wrongdoing and ethical breaches, and to impose fines on guilty parties.
- (d) Public to help set standards - for the first time there will be public input into the drafting of the Editors' Code, which forms the ethical heart of the new body.
- (e) Contractual obligation - to ensure all eligible members comply with the new standards and abide by rulings.

**11** All these new features would help improve, police and enforce ethical standards in the industry. The independent trust board will reassure the public that this new body is not a self-serving industry association. The audit of internal governance at all member titles will give the strongest guarantee of high standards and ensure that any lapses in management or record-keeping are dealt with promptly. The investigations body will for the first time allow proper examination of any endemic unethical behaviour supported by the power to fine offenders - an acknowledgement by the industry that the new body must be a true regulator rather than just an adjudications service. This threat of public humiliation will be a good deterrent.

**12** The existing PCC Editor's Code is a robust and sensible charter for good behaviour, and is under continuing revision. Public input into the Code will remove any perception - a perception which would be wrong to my mind - that the PCC Code is written out of self-interest. The contractual obligation will ensure that those who enter the governing body's tent, remain within it. The existing complaints and mediation service offered by the PCC has a history of success and has much to recommend it; the PCC's notification service to prevent harassment has been a hidden triumph of industry co-operation.

**13** Lord Black's proposals complement new governance that News International has already introduced. For example, the company policies on journalistic conduct have been revised and NI has appointed a Chief Compliance Officer, reporting to the NI General Counsel, who is responsible for working with each title to ensure adherence to the revised policies

on conduct. There is also a continuing programme of training for all journalists about the law and regulation.

**Q6.) Is there any other comment you wish to make on the proposal put forward by Lord Black or on the proposals put forward by others that have been published on the Inquiry website?**

- 14** Lord Black's proposals are a practical and proportionate response to the issues which have emerged from the phone-hacking scandal. They offer an opportunity for genuine change and reform supported by all the main players in the industry. I believe the proposals, combined with the existing criminal and civil law, provide sufficient regulation for the Press. Those who wish to press for further statute ignore the vast swathe of media-related legislation that has been introduced since the Calcutt Report, the last investigation into the conduct of the Press. That legislation includes: the Protection from Harassment Act 1997, the Human Rights Act 1998, the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000, the Fraud Act 2006, the Bribery Act 2011 and the common law of privacy, developed by the courts since the Naomi Campbell case in 2004.
- 15** The adoption of Lord Blacks' proposals together with the existing legal restrictions would in all likelihood make the British Press one of the most constrained in any modern democracy. Any additional statute, however well meant, would only add to the risk of further constraint in years to come. Some commentators have described newspapers as being "under-regulated but over-legislated". The danger, though, with any new statute - even one circumscribed purely to underpin a new regime of industry regulation - is parliament's natural temptation to push for wider legislative control in future years. It would be the thin end of the legal wedge.
- 16** Although the content of tabloid newspapers may not be to the taste of some witnesses to the Inquiry, they perform a valuable public service disseminating information to a mass audience about the issues of the day. Such titles, including The Sun, the UK's best-selling daily newspaper, command widespread public approval through the ballot box of purchase. The Sun alone has a readership of around 7.5m compared with a total combined readership of about 5m for the Telegraph, Times, Guardian, Financial Times and Independent. Together the tabloid and mid-market newspapers account for a total readership of nearly 20m. It is important to appreciate that the interests of a Sun reader - for example, celebrity, scandal and sport, as well as politics - have the same legitimacy as those of a Guardian reader. Publishing commercially successful titles like the Sun is in the public interest.
- 17** I do not think there should be any statutory definition of public interest as has been called for by some, such as the Media Standards Trust. The PCC's existing Code already gives helpful guidance to Editors, but also includes an important clause which states the fundamental principle that there is a public interest in freedom of expression itself. There is

a common misconception that the Press must justify any publication of private information of any kind by pointing to a specific public interest in airing the subject. The true position is that there is a public interest in a diverse, vigorous and popular press which allows anything to be published which is not unlawful or prohibited.

- 18** Each story - whether about celebrity or crime - must be judged in relation to its own context and particular features. Keir Starmer, the Director of Public Prosecutions, issued helpful interim guidelines for prosecutors on assessing the public interest in cases affecting the media in April, 2012. His guidelines state:" Prosecutors are reminded that assessing whether a prosecution is required in the public interest is not an arithmetical exercise.....rather each case must be considered on its own facts and merits." Mr Starmer also suggested that conduct which is capable of "raising or contributing to an important matter of public debate" would fulfil one of his definitions of public interest. Such a definition is a broad umbrella under which a newspaper may argue its case for public interest, although these guidelines fall short of providing a generally applicable public interest defence.

- 19** Peter Preston, a former Editor of the Guardian, wrote eloquently in the Guardian (Dec 4, 2011) about the disconnect between those who read tabloid newspapers and those who sneer at them:

*"We in the Newsnight-watching, Observer-reading, Leveson-following classes can speak for Britain, in disgust or disillusion, as much as we wish. But we need to realise we're in a minority - not just in the UK, but out there in the great photo-snapping yonder where Lindsay Lohan meets Paris Hilton, and where a woman from nowhere called Ginger White can kill a presidential candidate's prospects stone dead by telling sex tales while we're still trying to define the public interest."*

[In 2011 Herman Cain, a Republican US presidential candidate withdrew his nomination after a woman called Ginger White alleged they had had a 13-year affair]

- 20** There has been a variety of suggestions made to the Inquiry as to what kinds of online journalism should be within the scope of any new regulatory regime. The print media industry is in a state of revolution where older business models and methods of news distribution are being broken faster than new ones can be created. Despite this, I regard this period as an exhilarating opportunity rather than a time for pessimism. Our future will be defined by how our readers wish to consume the information we collect. Today the Sun is published on four platforms: print, phone, web and app. Our rivals are not only traditional Fleet Street newspapers, but websites, blogs and twitterfeeds. No new statute for media regulation can hope to govern these unruly new technologies; they will be halfway round the world (and out of UK jurisdiction) before MPs have got their boots on. The national newspaper market no longer exists - it has become the global news market.

- 21** Any regulation by statute must define precisely who falls under the law, and who outside. When does a blogger become a professional journalist? Is it when his blog attracts a fixed

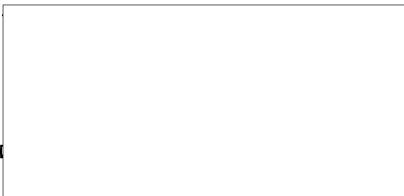
number of views, or when it provides the majority of his income? The task of definition in law, in my opinion, is insurmountable. And, of course, it would be unfair if a new burden of regulation fell solely on the shoulders of the print media just because their industry lends itself to easier definition.

- 22** Any new form of regulation must in all fairness cover the larger players in the digital news sphere: Google News, MSN, Huffington Post as well as influential blogs like Guido Fawkes and celebrity newsfeeds like Popbitch and TMZ. A survey conducted for the Reuters Institute Digital Report, published July 2012, found that in a sample week 82% of people accessed news online; 76% on TV; 54% on print media and 45% on radio. Why should the print media, which employs tens of thousands of people and is struggling to reconstruct itself in the 21st century, be further disadvantaged by new rules when digital-only rivals who play the same game are free to act as outlaws? There should be a level playing field.

I believe that the facts stated in this witness statement are true.

Signed

Dated

  
16-7-12