



REVEALED: THE PLOT TO STOP YOU READING THE TRUTH

Government approval of a new media regulator opens the door to a law that poses a dire threat to the free press and democracy, warns Mick Hume

Threats to press freedom – aren't they more of a worry in faraway places of which we know little?

Places like Poland, where crowds processed last month against government proposals to restrict parliamentary reporting. Or Turkey, where campaigners claim almost 150 reporters and writers have been detained in a government crackdown since last year's failed coup. Surely not in Britain, where we have enjoyed a press more or less free from state control for more than 300 years. Free until now, it seems. For the UK press is facing a punitive new law that could close down newspapers for telling the truth and freeze investigative journalism.

Welcome to 2017 – or should that be 1695? That was when crown licensing of the press finally ended in Britain and it became legal to publish without state officials having to approve every word. For the first time since then, Britain has a state-approved press regulator. It is a little-known body called Impres, largely funded by Max Mosley, the former Formula One impresario and venetian tabloid foe, and supported by others with minimal love for the media. Impres has been recognised as an official regulatory body under a suitably meek-sounding royal charter, agreed in 2013 at a one-night meeting between the leaders of the UK's main political parties and Hacked Off, a celebrity-packed pressure group that campaigns against "cruel and unethical treatment" by the press.

No national newspaper is currently a member of Impres, yet its status poses a threat to any publications who decline to accept its authority. Impres supporters insist that this is not a return to the bad old days of crown licensing, since joining Impres is voluntary. There is no plan to bring back punishments such as cutting off the ears of dissenting writers, or hanging, drawing and quartering those who publish without royal permission. But those who fail to join the government's cosy regulatory club may still pay a painful price.

Recognition of a regulator under the royal charter opens the door for the government to implement section 40 of the Crime and Courts Act 2013. Under this far-reaching legal sub-clause, any publication not signed up to Impres will be exposed to an uncomfortable threat. If a libel suit goes to court, the

defending publisher will have to pay the costs of both sides – even if it wins the case. The imminent threat of section 40 has introduced a novel concept in English journalism: it may not help to get the story right. The potentially enormous costs of long and complicated libel trials might well discourage newspapers and other media from investigating or publishing important stories in the first place. Recent revelations by The Sunday Times insight team on Elita corruption – "Plot to buy the World Cup" – and doping in athletics – "Sport's dirtiest secret" – may prove impossible to emulate.

Not is it only national newspapers that would be faced with swingeing legal liabilities. Section 40 would also apply to hard-pressed local newspapers, and smaller independent publications, from Private Eye to Spiked, the online magazine of which I am editor-at-large. Section 40 could ruin smaller publications, even if they managed to prevail in court.

It is already hard enough for the UK press to win libel cases – Donald Trump, the US president-elect, said during his election campaign that he wanted to make America's libel laws more like Britain's so that "we can sue and win lots of money".

All this makes section 40 something of a DIY censor's charter, offering the target of media investigations a free pass to attempt to suppress true stories by taking legal action at the media's expense. Supporters of the new system claim it offers both "sticks and carrots" to the press. If Impres is meant to be a carrot, it looks like one shaped like a baseball bat with a six-inch nail banged through the end of it.

The recognition of any state-approved regulator backed by the threat of legal punishment for dissenters contradicts the principle of a free press. That the UK government should have approved Impres as a supposedly impartial regulator has rung warning bells across the British media.

The group's chief executive, Jonathan

Section 40 would have hit scoops on Lance Armstrong, Sepp Blatter and David Hunt, as well as



Heawood, and other senior figures have been prominent supporters of a campaign called Stop Funding Hate, which lobbies big companies to "pull their support" from newspapers whose views are deemed extreme – among them The Sun, the Daily Mail and the Daily Express. In other words, as the Guido Pawkes media blog put it twice it revealed the campaign's links to Impres. Stop Funding Hate is "bullying advertisers to censor or bankrupt the three centre-right newspapers read by millions of Britons".

Remarkably, we now have an officially recognised press regulator whose senior figures want to censor or sanitise the tabloid view of the world. A seaver, amid all the worry talk about making the press more "responsible", the real question remains: responsible to whom? To the public at large, which makes its own judgments about which newspapers to buy or read online? Or to Mosley and the actor Hugh Grant, one of the leading backers of

Hacked Off? Little wonder that no big newspaper group has signed up to Impres.

It remains unclear whether Theresa May's government will take the extraordinary step of implementing section 40, though it may be under pressure from some MPs and peers seeking revenge for press revelations such as the expenses scandal. Meanwhile, the culture secretary, Karen Bradley, has launched a public consultation asking two questions: should the government implement section 40, and should it go ahead with a second round of the long-running Leveson inquiry into yet more perceived failings of the press? Those with an ounce of feeling for freedom of speech and of the press should answer both with an emphatic "No".

David Cameron set up the first part of the Leveson inquiry as a hasty response to the 2011 phone-tapping scandal at the News of the World. Lord Justice Leveson was an ineffectual hack but the entire "culture, practices and ethics" of the UK press. Yet the victims of hacking appeared to many of us as one life in a man's shield for a broader anti-media agenda.

Those who want a second round of Leveson, ostensibly inquiring into historical relations between the police and the press, are effectively seeking a different outcome to the original trials of journalists accused of "conspiracy to commit misconduct in public office" by paying for stories the authorities wanted to keep secret.

All but one of the 29 journalists charged under Operation Elveden were cleared by juries, found "guilty" of nothing more than doing their jobs. The News of the World has been closed and the wider newspaper business is under siege from internet competition. It is hard to see why yet another judge-led inquiry – the so-called Leveson 2 – is necessary.

The freedom of the press remains the lifeblood of a democratic society – and an indefinable liberty. Whoever anybody thinks of the free press, there is always something worse: an unfree one. Even without section 40 or Leveson 2, the myth of there being "too much" press freedom is taking hold across our culture, from judges issuing injunctions dictating which news is not fit to read, to student activists banning vulgar newspapers from campus. It is time to insist that we need more freedom of expression, not less.

Mick Hume's book *Revealing: How the Establishment Are Undermining Democracy and What They're Afraid Of*, will be published by William Collins in early 2017. *Baking up the wrong tree over press watchdog, Max Mosley, Letters, page 22. Editorial, page 20*

When winning means losing – and the price of publishing becomes too high

Lance Armstrong
The champion American cyclist sued The Sunday Times over a June 2014 article linking him to banned drugs. The article summarised the findings of a book co-written by David Walsh, the Sunday Times sports writer, who reported allegations that Armstrong had used drug syringes and applied make-up to conceal needle marks on his arms. After a High Court judge ruled that the allegations amounted to an accusation of illegal drug use, the paper paid Armstrong a substantial sum to settle his libel claim.

When Armstrong was banned from cycling for life after his drug-taking was exposed by US officials in 2012, we sued him over his fraudulent denials and he settled the case for an undisclosed sum. Had section 40 been in force at the time, the burden of paying Armstrong's libel costs – whether or not we won the case – would have stopped us from publishing the story in the first place.

David Hunt
In May 2010, The Sunday Times published a story claiming that some of Britain's most notorious crime syndicates were involved in property disputes in east London. It named David Hunt among the "international kings" who would cash in on land being bought for the 2012 Olympics.

Hunt sued for libel, but the newspaper argued in a two-week trial that the story was true and responsible journalism. It was vindicated in 2013 when a High Court judge ruled that Hunt was the head of an organised crime network implicated in extreme violence and fraud. The newspaper was awarded costs and eventually recovered £850,000 from Hunt. Under section 40, had we dared publish the story Hunt would not have had to pay us a penny, even though he lost his case.

Peter Cruddas
In March 2012, The Sunday Times insight team reported that Cruddas, then co-treasurer of the Conservative Party, had offered undercover reporters posing as business people direct access to the then prime minister David Cameron in exchange for donations of £250,000 a year. The millionaire Tory fundraiser sued for libel and was initially awarded £180,000 plus his legal costs. The newspaper paid, but appealed against the trial

judge's rulings. Three years later the Court of Appeal ruled that Cruddas had offered to secure access to the prime minister and the Conservative financier was eventually obliged to repay part of the original award.

Under section 40, the threat of punitive legal costs would have deterred us from publishing the original story, even though its central allegation was judged to be true.

Tim Yeo
In June 2013, the then chairman of the Commons energy and climate change committee boasted to undercover Sunday Times reporters that he was able to use his influence in parliament to promote private business interests. Yeo, the Tory MP for South Suffolk from 1993-2015, sued The Sunday Times, claiming that a series of three articles had "trashed" his reputation. A High Court judge ruled that the paper's reporting was "substantially true" and that Yeo's evidence in the case had been "unreliable and untruthful". It was reported in 2015 that Yeo agreed to pay the paper £411,000 to cover its legal costs. We eventually recovered 90% of our legal fees in the case. Under section 40, the paper would not have been entitled to reclaim its costs.

THE SUNDAY TIMES

To: Rt Hon Karen Bradley MP
Secretary of State for Culture, Media and Sport

The government has invited views on the Leveson Inquiry and its Implementation. Please consider the following points:

- 1 Investigative journalism is a vital component of a free press
- 2 The government should not seek to diminish the power of the press to expose injustice
- 3 I believe that section 40 of the Crime and Courts Act 2013 will deter investigation of wrongdoing and punish accurate reporting. The government should seek an urgent repeal of section 40
- 4 Newspaper publishers should not be coerced into joining Impres, the state-approved regulator mainly funded by a sportsman businessman
- 5 I do not believe there is a need for a second Leveson inquiry

Name _____
Address _____

Post to: Press Policy, Department for Culture, Media and Sport, 4th floor 100 Parliament Street, London SW1A 2BQ; or scan and email to: press.policy@culture.gov.uk

Readers wishing to oppose section 40 can use this form or visit www.freepress.co.uk