

Mr Chris Skidmore MP  
Parliamentary Secretary (Minister for the Constitution)  
Cabinet Office  
70 Whitehall  
London  
SW1A 2A

15<sup>th</sup> November 2017

Dear Mr Skidmore,

I am writing to draw your attention to the lobbying activities of the Press Recognition Panel (PRP) and to invite you to consider whether there has been any breach of the principles that govern attempts to influence Parliament by public bodies.

On 28<sup>th</sup> October 2017, the Chief Executive of the PRP wrote to all members of the House of Lords in a bid to procure changes to the Data Protection Bill as it entered the Committee stage.<sup>1</sup> The change the PRP seeks concerns the exemption to personal data protection for data used for journalistic purposes. This exemption permits journalists to carry out important investigations, such as the Paradise Papers, without having to obtain the consent of those investigated to the use of their data.

The PRP urges peers to alter Schedule 2 Part 5 clause 24 (5) of the Bill which sets out the journalistic codes of practice that data controllers must have regard to when considering whether a publication should qualify for the exemption. In its briefing to peers, the PRP urges them to add to that list the codes of conduct of regulators the PRP has approved. The PRP also appears to warn peers against permitting the inclusion in the list of the IPSO Editors' Code – the Code followed by the vast majority of the press - claiming that "the basis on which Parliament would choose to include the IPSO Editors' Code of Practice as a separate category on this list above is unclear to the PRP."

It is the second foray into parliamentary lobbying by the organisation in recent months. It used its annual report to Parliament published in October 2016 to lobby MPs to enact legislation that would have the effect of compelling news publishers to a PRP-recognised regulator or face crippling legal costs in libel and privacy claims even if they win.<sup>2</sup> Because of the industry's rejection of the state sponsored Royal Charter system, the PRP has only attracted applications for recognition from one regulator of minor hyperlocal and hyperpartisan publications, IMPRESS. The system's survival requires MPs and peers

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<sup>1</sup> Briefing by the Press Recognition Panel – October 2017 <http://pressrecognitionpanel.org.uk/wp-content/uploads/2017/10/Lords-briefing.pdf>

<sup>2</sup> Press Recognition Panel, Annual Report on the Recognition System 2016: <http://pressrecognitionpanel.org.uk/wp-content/uploads/2016/10/PRP-Annual-Recognition-Report-2016-Exec-Summary.pdf>

essentially to compel IPSO one way or another to join it. IPSO and its members have no intention of IPSO seeking PRP approval.

Under the Royal Charter, the PRP is funded by an initial Treasury grant for three years.<sup>3</sup> Thereafter, other than in exceptional circumstances, the PRP's income is restricted to regulators' application and cyclical fees. On 3 November, the first fee for cyclical review of £220,000 became due from IMPRESS as the only regulator recognised.

The PRP was therefore entirely funded by public money at the time it made its lobbying interventions. It is to all intents and purposes a public body and Article 4.3. of the Charter states that "the functions of the Recognition Panel shall be public functions." Indeed, it has undertaken to be governed by the principles that underpin public bodies, such as Managing Public Money and the transparency conventions of the Freedom of Information Act. Given that, we inquire whether it ought also to consider itself bound by the Cabinet Office guidelines that govern communications and lobbying by public bodies, and should refrain from spending taxpayers' funds on activities that go well beyond the limited purposes for which they were agreed, namely, covering the PRP's operational costs for the first three years of its existence.

Cabinet Office guidelines state that the communications of public bodies must be relevant to their responsibilities; objective and explanatory;<sup>4</sup> and that public bodies do not and are not perceived to engage in political lobbying.<sup>5</sup>

The PRP's latest intervention strays significantly from its core functions. Article 4.1 of the Charter lists these as a) determining applications for recognition from Regulators; b) reviewing whether a Regulator which has been granted recognition shall continue to be recognised; c) withdrawing recognition from a Regulator where the Recognition Panel is satisfied that the Regulator ceases to be entitled to recognition; and d) reporting on any success or failure of the recognition system.

As an attempt to change legislation – the October 2017 briefing is clearly political lobbying. It cannot be regarded relevant to its responsibilities in respect of its comment on the IPSO code of practice, since the PRP has no role in the regulatory regime for data protection, which is the remit of another organisation altogether, the Information Commissioner's Office. It is equally difficult to consider the PRP's letter and briefing as objective and explanatory given that it fails to mention to peers that section 40 of the Crime and Courts Act – intended to force newspaper publishers to join the Royal Charter-based regulatory system - is under review by the Secretary of State for Culture, Media and Sport, with one option being its outright repeal. It also fails to mention that the 2017 general election

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<sup>3</sup> From November 2017, the PRP will receive £220,000 – the maximum permissible fee – from IMPRESS. Its projected expenditure for the year to March 2018 is £554,368. Its spending for the year to end-March 2017 was £711,321.

<sup>4</sup> "Rules on lobbying for non-departmental public bodies", Cabinet Office, 2011

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/62130/ndpbs-lobbying.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62130/ndpbs-lobbying.pdf)

<sup>5</sup> Triennial Reviews: Supplementary Guidance on Reviews of Non-Departmental Public Bodies, Cabinet Office [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/332151/Triennial\\_Reviews\\_Guidance\\_-\\_annexes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332151/Triennial_Reviews_Guidance_-_annexes.pdf)

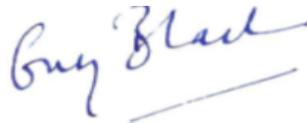
returned a majority of MPs belonging to parties who oppose section 40 and the system of press regulation that involves PRP.

By attempting to get itself written into the face of the Bill and its rival system written out, the PRP's intervention would have the effect of pre-empting and frustrating the Government review. This effort to entrench its role can only have been funded by public money and yet it would appear to be precisely the sort of self-serving lobbying activity that the Cabinet Office rules were drawn up to prevent. I would be grateful if you could look into this matter.

Yours faithfully,



**Ashley Highfield**  
**Chairman**  
**News Media Association**



**Lord Black of Brentwood**  
**Chair of Legal, Policy & Regulatory Affairs Committee**  
**News Media Association**