

## IPSO COMMITTEE BETRAYS ITS ABSOLUTE LACK OF INDEPENDENCE VIA ITS FRONT-PAGE POLICY

In a recent adjudication of a complaint about an errant front-page story published by the Daily Mail misreporting a court award of compensation to a victim of unlawful imprisonment and ill treatment by British armed forces, IPSO has set out its rationale for effectively ruling out the correction of front-page articles via the front page.

As a litmus test both of the IPSO's effectiveness and independence, there can be no more conclusive evidence that this regulator, which has been set up by the press in an effort to avoid being made subject Leveson-style effective regulation, is utterly bereft of both independence and legitimacy.

### THE TELLING PARAGRAPHS

These are the two paragraphs at issue:

24. A newspaper's front page is a means for an editor to convey to readers what they consider to be the main news stories of the day. Front pages are therefore an important forum for editorial expression. Publication of a correction, or a reference to a correction on the front page, is an interference with this. In applying the 'due prominence' requirement proportionately, the Committee therefore considers that front page corrections, or references to corrections, should only be required in the most serious cases, especially where a newspaper has an established corrections column. The Committee closely analysed the particular features of this case, in considering whether to require additional remedy to the breaches of Clause 1 that it had established.

25. The two errors appeared prominently in the main front page article. Both errors seriously affected the meaning of the article as whole. The newspaper was of course entitled to criticise the judgment. However, in this case, it had done so on a false basis. The Committee took into account that the newspaper's corrections column appeared very regularly, and prominently on page 2 of the newspaper. However, it considered that publication of the two corrections in the corrections column lacked 'due prominence'. This was a serious case where 'due prominence' required publication of a reference to the correction on the newspaper's front page. The complaint was therefore upheld as a breach of Clause 1 (ii).

A "reference to the correction on the newspaper's front page" is not a front-page correction. It is usually a small strip at the foot of the front page saying, essentially, "see page 2 for IPSO ruling on X story". It neither identifies the breach nor the correction on the front page. In many cases, page 2 does not contain a correction but a long-winded adjudication that very few of those who even see page 2 will ever read.

### THE UNIQUE NATURE AND IMPACT OF THE FRONT PAGE

Unlike any other page of a newspaper, the front page (and especially its headlines) is viewed by a substantial proportion of the population in the following non-exhaustive ways:

- In hardcopy form; by individuals passing newspaper stands at railways stations, tube stations, petrol stations, newsagents, supermarkets, being read by fellow passengers on trains, buses, tubes, in cafes, canteens, restaurants

etc and indeed in the waiting area of the IPSO offices;

- Held up to television cameras on late evening and early morning news and magazine programmes;
- Read out by radio presenters both on evening and morning programmes;
- On news Apps and in picture form on social media;

It follows then that a banner headline such as the Sun's iniquitous Queen backs Brexit will have been read by many millions of individuals around the country; the vast majority of whom would not dream of either buying the Sun or visiting its website. Not one of these individuals would even see a small strip at the foot of a front page referring to an adverse IPSO adjudication which will not be visible to anyone other than a purchaser of the paper or visitor to its website; still less would they read of the nature of that adjudication on any inside page.

The effect of that is that the IPSO "remedy" for front page breaches of its own code is therefore effectively useless. Everyone who is on the IPSO Complaints Committee or Board, works at IPSO, and has any connection with the press industry must know that. In particular, it is well known to all, those who play any role in the determination of how newspapers are regulated; especially members of the government such as the Culture Secretary.

The potential significance of false headlines such as Queen backs Brexit cannot be overstated. Given the waver thin majority in favour of our leaving the EU, who is to say that the abuse by newspapers such as the Sun and the Mail of their Article 10 rights was not responsible for our now being convulsed by our exit from the EU, with all the national anguish and disruption that comes from it.

I am completely mystified how those lay members of the Commission can therefore have put their name to the two paragraphs in the most recent IPSO adjudication which set out the Commission's rationale for conniving with the press industry to ensure that the public's "right to know", so espoused by the press when it suits them, is ignored when it does not. When it comes to front page stories that right is robbed from them in order – as is the reality – to spare the blushes of those that edit Fleet Street newspapers.

The failure of the lay members is all the more heinous when it serves to ensure that editors retain the freedom to mislead not only their own readers but the nation as a whole by abusing the privilege of electing what millions of people are told about key public interest issues. The glaring fact which the lay members appear determined to ignore is that anything published by a national newspaper is read not only by its readers, but by a vastly greater number of individuals who are not its readers.

## IPSO'S ABUSE OF ARTICLE 10

This is Article 10 of the ECHR:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary." (emphasis added)

It follows then that it is a key part of that fundamental right that those who exercise it also bear "duties and responsibilities". It must also be the case that those that exercise that right with the potency of a Fleet St editor should bear "duties and responsibilities" which are commensurate with that power. That means that if you have misled a large proportion of the population via your front page, that is where you should print the correction.

Article 10 also provides that the general public is entitled to have its right to receive information preserved in a convention-compliant country; as we purport to be. The government has however been brow-beaten into playing its part in ensuring that that fundamental human right continues to be abused; as plainly have the lay members of the IPSO Commission.

## THE IPSO JUSTIFICATION FOR THE ARTICLE 10 BREACH EXAMINED

The adjudication paragraphs I have quoted betray the abject intellectual dishonesty which pervades IPSO from top to bottom, which its lay members plainly collude. Presumably they were carefully selected by the press delegates precisely because they would lack the moral courage to stand up for the victims of press abuse when participating in the adjudication process.

There is no part of the two paragraphs that I have quoted from this seminal adjudication which justifies the failure by IPSO to ensure that the public are not disabused of lies told to them by national newspapers on their front pages – as there must be for IPSO to engage in such a flagrant breach of this vital human right.

## PARAGRAPH 24

The first sentence of paragraph 24 informs us that the front page is regarded as of great importance because it is the means whereby a newspaper editor communicates what he thinks is the most important issue of the day. IPSO however does not explain how an issue (such as Brexit) can be of

paramount importance on one day to the extent that the fake news headline takes nearly the whole of the front page; but at the point where a correction has to be made that importance dramatically diminishes to the point where it need take up no space on the front page, but merely a smaller proportion of an inside page than the offending news item had previously taken up of the front page.

Such was the ire of Sir Alan Moses and Matt Tee (Chairman and Chief Executive of IPSO respectively) at my confronting them with this editorial volt-face on the part of those members of the IPSO Commission who come from the press industry, that I was promptly frogmarched out of their office. That is because this is a most inconvenient truth for both Sir Alan Moses, Matt Tee, and all of those in authority at IPSO; as it is the press industry as a whole, because it is the truth which gives the lie to all the claims made by IPSO and the press industry that IPSO has any legitimacy.

IPSO then goes on to observe that the choice of what appears on the front page is an important element of the freedom of expression of an editor, and that publication of a correction would be an "interference" with this cherished right. The IPSO Commissioners are wrong about this for a number of reasons:

- According to both the Editors' Code used by IPSO and the NUJ code, false and misleading new material should be corrected. That can only mean that the correction is communicated in a way which is effective in undoing the damage created by the offending news item. The placing of a correction on the front page cannot therefore be an inappropriate interference with an editor's freedom of expression if it is accepted by both IPSO itself and the NUJ that this is an appropriate element of good journalism.
- The requirement of the publication by a newspaper of any correction or adjudication must (according to IPSO's rationale) be some interference with the freedom of expression of its editor when reporting the news of the day. What then is different about the front page?

- The newspaper industry has written the code used by IPSO. Paragraph 1 (ii) of the code requires that corrections be published with “due prominence”. For all practical purposes, for front page infractions, that can only mean that a correction must be published on the first page. Newspapers such as the Sun and the Mail have contractually committed themselves to comply with the Code’s obligations. It is therefore right and proper that they should be held to that obligation.
- The right of a newspaper editor to freedom of expression comes from Article 10 of the ECHR. That same article provides (in advance of that right being accorded) that the general public has the right to receive. Consequently, the refusal by IPSO to enforce that right is a blatant breach by the regulator of the Article 10 rights of the readers of newspapers; and the general public generally who are exposed especially to being misled by front pages notwithstanding never buying the newspapers in question.

## PARAGRAPH 25

Paragraph 25 of the adjudication is even more extraordinary. There IPSO effectively concedes the inadequacy of a correction for a front-page story being published in the page 2 corrections column because such a correction lacks “due prominence”. That is effectively an acknowledgment by IPSO that in the case of a front-page infraction, anything other than a front-page remedy will fail the “due prominence” test.

The adjudication then disingenuously goes on to say that in those circumstances there needs to be a reference to the adjudication on the front page. However, as every member of the Commission who put their name to this adjudication knows, that is of no greater value for the millions of people who would have read the front-page article, than if there was no reference on the front page at all. That is because the only individuals for whom that notice is of any use are those who buy the newspaper, and/or read it online. That will represent a minute fraction of those who are misled by any front-page headline, either the one which is the

subject of the IPSO complaint at issue, or such iniquitous false front-page claims such as “Queen backs Brexit”.

## THE COMPETING INTERESTS IN PLAY FOR IPSO ADJUDICATIONS

When it comes to adjudications, there are three interested parties:

- The newspaper;
- The complainant;
- The general public.

It is only in the interests of the newspaper that false stories published on the front page are corrected inside the paper (with or without a reference at the foot of the front page). The IPSO Commissioners have therefore again shown their contempt for the interests of the general public, and their unwavering commitment to the interests of their funders and creators.

The will of Parliament, the will of the general public, and the carefully considered recommendations of Lord Justice Leveson are therefore swept aside again by this bogus regulator which plays its own important role in ensuring that, as a nation, we daily consume “fake news” published for profit by huge multinational organisations who continue to ensure that they are accountable to no-one but themselves.

## CONCLUSION

So it is that this sham regulator again betrays its absolute commitment to preserve the interests of the commercial press, in particular the megaliths of Fleet Street such as the Sun and the Mail, over the interests of the public as a whole for which it manifests absolute contempt. It also ensures that fake news which appears on the front pages of national newspapers goes uncorrected; no matter how grave the consequences may be for the country as a whole. Its acquiescent lay members should hang their heads in shame.

## FOR FURTHER INFORMATION



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