A Boulton
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Exhibits TABB1-7

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

EXHIBIT TABB2

This is the exhibit TABB2 referred to in the first witness statement of Thomas Adam Babington Bolton dated 25 April 2012.

GORBACHEV LECTURES ON PRESS FREEDOM

CHRIST CHURCH, OXFORD

8TH November 2011

'ABOVE ALL LIBERTIES'

by Adam Boulton

Thank you for asking me to contribute to this series of Gorbachev lectures on press freedom here at Christ Church.

For me there is a triple significance in being here as a member of the House, a working journalist albeit mainly in Television rather than in beleaguered print, and as a journalist lucky enough and old enough to have covered the era of perestroika and glasnost during the 1980s and to have encountered the great Mikhail Sergeiovich in the process.

I have to confess to not being a very good old boy to any of the educational institutions which have nurtured me, perhaps because of exposure as a political journalist to near lethal doses of New Labour's mantra "the future not the past". Indeed while judging from my undergraduate years here the organisers at Christ Church may have felt that they had at last found a way of compelling me to attend a lecture, by asking me to deliver it. For me speaking to you tonight seemed a much preferable option to attending the imminent Gaudy for my year thirty years on. Although I am naturally apprehensive about theatre with a variant of the word "boar" in its title.

A big regret of my decision to try to do my bit in this way, is that I also inadvertently turned down an invitation to the recent retirement party for Peter Conrad, one of my main tutors here, along with Christopher Butler and Richard Hamer. I regret that because it was an enormous and lucky privilege to be taught by this trio – in my opinion the pre-eminent figures in the study of English Literature of their day. (I wrote to Peter Conrad to apologize, who replied that "your bout with Alastair Campbell, captured the spirit of my tutorials".)

Since Oxford, English has not been my main study, but in trying to order my thoughts for tonight, I was schooled enough to seek guidance from our literature's most celebrated defence of the right of free speech, from 1644 – *Areopagitica – A speech of Mr John Milton for the liberty of unlicensed printing to the parliament of England.* (As his title makes clear Milton's words are especially pertinent to the subject of press freedom because he was concerned with journalism, published books and pamphlets, rather than the still broader questions of free speech. Indeed mimetically he distributed *Areopagitica* as an unlicensed pamphlet.)

This is one of the few places in England where there are those who could hold a candle to Milton's classical and religious learning. I am not one of them nor is this going to be a lecture on Milton – even though I have borrowed a tag from him "Above All Liberties" for my title.

Self-evidently, these are very different times, three hundred and sixty seven years later (even if we may soon be talking about a parliament of England again). Nonetheless, the hacking scandal and the establishment of the Leveson Enquiry mean that the idea of licensing and further curbing the free media is once again stalking the land. And I would argue that Milton's ideas – "the wars of truth", the threat of a possible reduction of the liberty of printing to the few and the dangers to and from "a fugitive and cloistered virtue, unexercised and unbreathed" – are beacons which can guide us through.

Above all Milton, a champion of reformation in most senses, had faith that truth will prevail through competition with opposing claims and not by being protected from them by the well-meaning and paternalistic: "though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously, by licensing and prohibiting, to misdoubt her strength".

Those who would like to see tougher enforcement of rights of privacy should reflect on those words. Indeed I would go further, for Truth to prevail, the proper exercise of journalism may require the bad or undesirable to be revealed along with the good, that which is of interest to the public along with that which is deemed by some higher authority to be in the public interest.

Indeed self-censorship and the exercise of moral judgement are secondary to the prime task of journalism which is to report the facts and the context – it is for our consumers – readers, viewers, listeners – to make their own judgements about the information which we have imparted.

The issue when I covered Mrs Thatcher's famous pre-election visit to the Soviet Union in 1987 was not whether Mikhail Gorbachev was a good or bad man – our concern was that the Prime Minister had declared him a man she could do business with and what would arise from that. Just being there and being allowed to report freely, was proof of the openness and restructuring which Gorbachev had brought about, being allowed to travel to the outer suburbs to interview the Scheransky family for example, or to follow Margaret Thatcher in to meetings from which we certainly would have been barred at home.

Mrs Thatcher acquired a chic new Cossack-inspired Aquascutum wardrobe for her trip to the USSR but her postcard home was characteristically more restrained "it was a remarkable experience but it's marvellous to be back", she reassured her constituents in Finchley. But that did not dash the spirit of the Soviet reformation. Impressive open mindedness at the Reykjavik Summit in 1986 when Reagan and Gorbachev discussed ridding the world of nuclear weapons (a news story of worldwide importance even if the presence of Yuri Geller back in the London Studio, delayed my being able to report it to David Frost); incredible openness in Moscow in 1988 when Boris Yeltsin himself duly responded to a scribbled TV company's request to interview the Mayor of Moscow; almost too much openness from Gorbachev himself – star anchors fought each other to attend his first ever news conference in Geneva in 1985, only to stagger out after a marathon four hours of consciousness raising, from then on junior producers were sent to fill the once coveted seats.

The true values of the freedoms we should value here are highlighted by what has happened in Russia since then – the subject of a previous Gorbachev lecture by Luke Harding. For myself I will not forget the look of fear in the eyes, as flunkeys flattened themselves against the walls when I strolled through the halls of the Kremlin with my sometime colleague Andrew Marr, as he admits himself, a Vladimir Putin lookalike.

Looking at the impressive list of those who have already spoken in this series, and reading through their talks, I've asked myself what I can contribute - especially since I have agreed with so much of the analysis. And I suppose it is to be an exhibit: a journalist still working in this country, and what's more one who has worked for twenty three years for an organisation, Sky News, which is ultimately managed by Rupert Murdoch and his News Corporation.

I have interviewed Presidents, Prime Ministers and Nobel prize winners but I've also interviewed Katie Price when she was still known as Jordan and Nancy Dell'Olio. I've asked Cabinet ministers when they are going to resign and I've persuaded the freshly bereaved and terrorised to go on television. And I'm proud of serving both ends, all ends, of the news market, since I believe this spectrum contributes to my audience's greater understanding of the world we live in. I'm from the private not the public sector of journalism but I have no quarrel with Lord Reith's mission statement for the BBC: "to educate, inform and entertain."

Milton nearly four centuries ago and these lectures today have the same purpose - to examine the freedom of the Press. In his time there were no electronic media. Today excess is most often identified in the newspapers but the remedies – whether whips or restraints – affect all who practice journalism, as they should under common law. Today I take the issue of press freedom to mean in effect the issue of freedom for all professional journalism. This is not to say that Britain's news media face the same initial constraints to their operations. It is an irony that the licensing which Milton feared for written publications has not come about. In this country written comment is free – books, magazines and newspapers sink or swim as commercial ventures, save only for the unpredictable munificence of rich proprietors. But the newer, broadcast media are under official license.

In the United States, the airwaves were seen as just another medium through which to make money but in the United Kingdom the government decreed first the radio and TV monopoly of the BBC, then the licensed duopoly with ITV. Commercial radio was permitted in the 1970s. ...

But Television only began to fragment in the early 80s with the licensing of Channel 4 and TV-am, the breakfast tv franchise (and my first professional employer in this country). Regulation continued to operate even after the arrival of satellite television in 1989 – in the form of the officially sanctioned BSB franchise (remember squarials anyone?) and the uninvited, piratical but legal, Sky.

Commercial pressures soon forced the wedding which created BSB but the regulatory frame work did not change. BSkyB is subject to the same juristictions as the BBC and ITV, the broadcasting and competition laws both of this country and of the EU. On ultimate pain of loss of licence to broadcast we are enjoined by codes of conduct on such matters as decency, political balance, fairness, and intrusion. The only difference is that the BBC regulates itself, while the rest of us are subject to Ofcom. But the enforced values are the same.

Comparing the tabloid excesses of some American TV shows – I suppose, our sister channel Fox News is most often cited these days and the staid approach of mainstream newspapers – epitomized by the Grey Lady herself, the New York Times, a popular aphorism is that the US has responsible newspapers and irresponsible electronic media, while in the UK it is the other way round, responsible TV and radio and irresponsible papers. There is some truth in this, what is often overlooked though, is the common rules under which all TV and radio operate in this country. Bluntly put British versions of Howard Stern, or Rush Limbaugh would not be legal here, nor would the so-called Foxification of Sky News (even if it made commercial sense, which it doesn't). Nor would it have been permissible for a British broadcaster to undertake the kind of sting operation with which the Telegraph captured the Business Secretary Vince Cable's declaration of war on Rupert Murdoch. OfCom and the BBC have strict guidelines on clandestine recording and that would not have passed them.

But print and the mainstream electronic media face the same commercial adversary: competition from the new means of communication online and through smart phones and other digital devices. News is a business of diminishing returns in print, and frankly in British television it has hardly ever made a profit.

British people consume media more intensively than anyone else in the world. According to Enders Research, since the last recession consumption of Television and the internet has gone up, but the press has continued its decade long decline. In the past ten years regional newspapers have lost 40% of circulation, the national press is down 10%. Earnings have been even harder hit – by 2015 the internet will account for 85% of all classified advertising.

So far digital revenues are only making up for a fraction of the losses. In revenue terms only the Financial Times was up in the period 2005-2010 – an impressive 21% thanks to the success of its online subscription business. The Telegraph trod water. News International was down 2%, Associated, the Mail group, down 3% (in spite of its extremely popular free website).

The success of free sheets such as the London Evening Standard and the various Metros should be recognized but it is difficult to see how they will generate cash surpluses for investment in journalism. While surely they must contribute to the displacement of readers and advertisements from the paid-for press.

Prospects for future consumption of print media in particular do not look promising, extrapolating from the media consumption of the rising generation of 16 to 24 year olds:

32% television, 30% the internet, 15% voice/phone/SMS, 5% radio. What's more while the average time each day spent reading a newspaper (among those few people that still do) is forty minutes, an average individual viewing on Sky News is about 15 minute, the average read of news on the internet is two minutes twenty seconds.

Life is hard too for journalism on television. ITV has dramatically cut its commitment and budget for news and current affairs, yet the combined company still struggles for critical mass both financially and in terms of impact. Both Channel 4 and Channel 5 have questioned whether they are viable because of the regulatory obligations placed on viewing. Both Channels have progressively squeezed their news budgets.

The BBC licence fee has been frozen. In his contribution to this series Mark Thomson made some worthy points about investigative journalism. But his examples were drawn from a period of decades. In reality these days *Panorama* is more often a light infotainment programme, and there are constant rumours that even *Newsnight* is under threat.

Meanwhile the existence of BBC products free at the point of use thanks to the compulsory levy on licence fee payers destroys in practice any market for television news. If you can get the BBC News channel 'free' it is difficult to set a competitive price for Sky News. (This is a marked contrast to the United States, where all three cable news channels - Fox, CNN and MSNBC – make healthy profits thanks to the small portions received from each cable subscription.)

In Britain televised news succeeds because of the subventions received from the parent general media and entertainment company. That goes for the BBC, ITV, Channel 4, Channel

5, and Sky. Sky News has expanded revenues and grown as an operation – but this year the parent company BSKYB disclosed that it had "invested" over one billion pounds in Sky News since 1989.

In the early days of Sky News we used to meet print colleagues from Wapping on doorsteps who would jokingly ask "Can we have our money back?". Things have turned around since then. Had the merger with News Corporation gone ahead BSkyB, thanks to its sports and entertainment channels and services such as Sky + and broadband, would have been the company's biggest division, our more than a billion pounds annual profits accounting for over a third of the total. Compare this to the late *News of the World,* which Rupert Murdoch told the Culture Media and Sport Select Committee accounted for less than 1% of his business. (At present FNC, Fox News Channel is the most profitable division of News Corp., accounting for some $700m a year).

My point is not to boast for one medium over another, it is to stress the interdependence of the competing means of production. Journalists continue to practice their trade thanks to the proprietors and managers who use one pot to subsidize another. In recent times the two most successful innovators of this kind have been two highly controversial and much vilified figures: Rupert Murdoch and John Birt, who so brilliantly positioned the BBC to flourish in the digital age. It is worth noting too that the geniuses of the internet age – whether from Google, Apple, Amazon, Yahoo, or Intel – have not contributed themselves to what we call "content", fresh editorial material – however many billions they have made from processing what others have made.

But does the mutual dependence of news media mean that we share the same interests, or even the same moral codes, especially on the matter of freedom?

It would certainly be ungracious for a 'high end' outlet to be squeamish about the 'low end' productions which may subsidize it. But gratitude is not the same as justification. Few of us would want to be sustained by something which we thought was wrong.

Milton warned: "as good almost kill a man as kill a good book". But what of bad books, why not suppress them? Here *Areopagitica* is robust – truth can triumph only by being tried against the alternatives: "so truth be in the field, we do injuriousy, by licensing and prohibiting, to misdoubt her strength. He also doubted whether any would be censors would have the ability to select wisely: "it is not possible for man to sever the wheat from the tares, the good fish from the other fry: that must be the angels' ministry..." Worse, he warns that knowledge kept to the accepted wisdom of the day – "nothing but which is vulgarly received already" - would inhibit progress or as he puts it "be a great jeopardy to the next succession". In bold capitals he writes: "SUCH AUTHORIZED BOOKS ARE BUT THE LANGUAGE OF THE TIMES". Nor he warns would such orthodoxy allow wisdom to be replenished from old works which have fallen out of fashion.

In our times, surely a similar zeal for the truth and an equally fitting modesty about whether we can ever capture it, is surely the reason why we must keep our press and media as free as possible.

In the remainder of this talk I want to argue that this is not the time for fresh restrictions on the British media. In my view the status quo ante Leveson was working. Rather than curbs,

we should, if anything, be wondering how we make the media more free so that the quality of the national discourse can be enriched and enhanced.

I propose to test this against the two most serious current challenges confronting professional journalism in Britain. Firstly, the impact of the "unmediated" digital means of communication, blogging, Tweeting, Social Media et al. Then, the specific and present difficulties which gave rise to the Leveson Inquiry.

Press, radio, television, telephone, internet these are our media, our means of communication. But they are also the names of pieces of technology. When we debate the ethics of journalism, we often disregard the fact that much of what journalists do is not dictated by a conscious moral decision. As in the rest of life, we do things because we are able to, and because technology makes them possible.

My career has been with two start-ups, broadcasters who only came into existence at the time I joined them. More significant than TV-am and Sky themselves, is that they were innovators providing services – breakfast television and 24 hour rolling news – which had never been available before in this country. They happened when they did for two reasons – relaxation of regulation and technological innovation which made their business models viable.

Almost invariably people develop uses for technologies in ways that the inventors had not conceived. There are also unforeseen consequences, as an easier more accessible new technology edges out an older one.

For example, today people here get their information and news primarily from television. Meanwhile listings, classified advertisements and reference information are accessed online.

Who wants tomorrow's papers, let alone yesterday's? The press is having to reinvent itself. Simply migrating editorial content to the paperless world of the internet is not the answer because hardly anyone has made that pay.

Print is having to find new functions – on screen or on paper – so that people still want to read it or pay for it. Subscriptions and pay walls are only working for publications of relatively arcane information – the Financial Times, say, or the Times Literary Supplement. General newspapers are finding it harder to develop a product which consumers will not substitute for, at little or no cost, from other sources. A potentially viable evolution began even before the internet, as the mainstream electronic media pushed the press out of the primary job of reporting into the secondary function of analyzing, extrapolating, and commenting on the news.

This function is even more vital given the exponential increase in the flow of publicly available information from the internet and social media. On our own, few of us can make sense of this factual bombardment, we risk being stunned into the state of entropy – morally ambivalent, unable to tell right from wrong or fact from fiction - identified in the novels of Thomas Pynchon, among others. But print journalism can save us, deploying the traditional skills of the journalist to make sense of the information deluge.

It is no accident that the two biggest recent stories where print outperformed the broadcasting media – MPs expenses and Wikileaks – were both ones in which newspapers operated as super-archivists, sifting the substance from millions of pages. Doubtless to its own gratification, the press also outperformed the internet. Without the careful scrutiny of the Guardian, New York Times, Le Monde and Der Spiegel, the subsequent unmediated dumps of Wikileaks would have had little impact.

Brilliantly nurtured and directed, the Telegraph's purloined CD-roms of expenses data are a gift that goes on giving as Liam Fox and Adam Werritty know to their cost.

Of course in these cases, the data was stolen, money was paid and, in the case of Wikileaks, at least one person was imprisoned. The information disclosed by the papers was of great interest to the public and the consequences of the MPs' expenses revelations was certainly in the public interest – but was the violation of the official sources which the stories were based on indisputably a good thing?

But when the line is blurred between data protection and freedom of information – print journalists help to make sense of it all. Skilled, professional aggregation of the digital information available extends journalists' traditional activities into a new realm. Rather than regulate the internet or journalists, legislators should note that monitoring by journalists contributes to informal policing of the web.

We allow print journalists to mediate what we consume on the web because we trust them, or at any rate, trust their judgment. As the editor of Private Eye Ian Hislop tartly observed to a recent parliamentary Committee Hearing: "the reason why you don't sell newspapers is because nobody believes you".

That relationship of trust – a word and concept closely related to Milton's "truth" - is vital to professional journalism in all media.

There is a lot out there, much of it put out by individuals of their own free will. It seems that wanting to "show and tell" is a basic human instinct. However web and phone cams and social networks make it infinitely easier to communicate. And as elsewhere technology is now transforming our own mores – our views of what is acceptable or not.

Mark Zuckerberg, the creator of Facebook has even suggested that young people are abandoning the idea of privacy as a "social norm". "People have really gotten comfortable not only sharing more information and different kinds," he informed last year's Crunchies Awards Ceremony, "that social norm is just something that has evolved over time."

For reasons we can all understand, British Broadcasting has always banned the ultimate violation of privacy, the showing of the moment of death. That's why there's always a media houhah whenever a documentary maker gets special permission to film euthanasia. Yet we all saw Gaddafi's final moments. If you wanted you could go online and see them over and over again, all probably backed by music.

Yet I know of no newsroom where there was not earnest consideration of what should and should not be shown, when and how many times. The same applied to the footage of New York's twin towers going down. You won't always agree with what we do, but I hope you trust us to behave reasonably and responsibly.

You know who we are and you can hold us to account. You can do that with professional media organisations but you can't do it with the overwhelmingly anonymous and pseudonymous contributions to the blogosphere and Twittersphere. Rightly we are not expected to get angry, partisan or unfair – the very opposite of the tone which characterizes citizen posts.

Milton understood this well. He recommended that those who want to engage in constructive debate should not be allowed to hide in anonymity. *Areopagitica* opposed licensing which would prevent the unregistered from publishing at all, but it supported the existing parliamentary order "that no book be printed, unless the printer's and the author's name, or at least the printer's, be registered".

Journalists working for the mainstream media have come to understand what the new media can do and to use them to find both new sources of information and new consumers for our work. After an initial period of anarchy, when a number of journalists tweeted or blogged before they thought, major news organisations are imposing codes on their employees which insist that they should apply the same standards of judgment and attribution to informal social media as they do to their mainstream work.

From the Arab Spring to this summer's English riots SMS and particularly BBM, the cheap and individually directable BlackBerry Messenger system were central to mobilizing street demonstrations, and, in BBM's case, so-called flash mobs. They may breakdown but in practice it is impossible for the authorities to pull the plug on such networks because too many other groups, including security services, are using them as well.

Innovative Sky News staff used the new communications networks to extend our journalism. For us messaging services were a paramount information source. We digested what was being said so we could tell our viewers what was going on. As a result this August registered the highest ever audiences for our channel. Meanwhile our reporter Mark Stone used his iPhone to film interviews with rioters near his home in a way that would not have been possible with a traditional camera crew. And we made full use of our non-television platforms – iPad, website and chat rooms – to both inform and extend our coverage. For example, Tom Parmenter not only interviewed rioters, via web chat he entered into a lengthy discussion with other viewers of what the rioters (and he) had done.

In the digital era not all journalists produce considered reports, edited and sub-edited after the events described have taken place. Many of us are reporting and analyzing the news live as it is happening. (Only last Friday night I was standing on a rooftop overlooking Cannes Harbour, contributing to our coverage of the vote of confidence in the Greek Parliament.) When you work live you have no script, and only rudimentary editorial guidance. Your audience have to trust you and to trust you to try and get it right. Most of the time we do but we have to constantly remind our viewers that we are not omniscient and to attribute our sources, ie tell them where we are getting our information from.

When we make mistakes, we admit them and correct them immediately – as for example most recently when we (and almost all of the British media) muddled the guilty and not guilty verdicts announced late at night in Perugia in the trial of Amanda Knox. The slogan "never wrong for long" was jokingly coined by Sky News' first head, although the inference that we are often wrong is unfair.

These attitudes are antithetical to those of bloggers and tweeters. When trawling social and internet sources, we have to be ever vigilant to hoaxers and liars. Amina Abdallah Araf al Omari the much praised Syrian Lesbian activist and blogger who turned out to be Tom MacMaster, a 40 year old mature student at Edinburgh University is just one recent example of the lengths people can now go to mislead the public.

In all media, whether press, electronic or digital the unique selling point of mainstream organizations is that they want to tell the truth and attempt to verify all they are reporting. But the individual means of communication are in desperate competition with each other. Individual mediums need to define what they do best. In an era of mass availability of digital recording, broadcast television has rediscovered that its unique selling point is the live event – be it sport, talent competitions, reality TV or, indeed, Prime Ministerial debates.

Newspapers are understandably reluctant to surrender their former role breaking news, even though the electronic media do it better. And desperate competition, or at any rate desperation seems to me to be the best explanation of what appears to have happened at the News of the World. Some at Wapping were prepared to take enormous and illegal risks for very small gain. Just ask yourself what sort of stories were likely to be gained from hacking the phone messages of a missing school girl? Nothing of primary importance I would argue, just some original colour that the telly didn't already have.

Such behaviour was madness. But the essential point about the alleged misconduct at News International, centered on the News of the World is that the system is working without the need for further regulation of the press. ...

Investigations of course are still underway but an informal coalition of police, lawyers, parliamentarians and journalists from rival news organizations have ensured that there have already been severe consequences for the people and organisations implicated in a culture which benefited from illegal phone-hacking and payments to police.

As a result of the first round of investigations two people – a journalist and a private investigator were sent to prisoner. The editor of the News of the World lost his job and subsequently lost his new employment as the Prime Minister's Director of Communications.

Vastly more serious consequences followed the revelations at the end of the Milly Dowler murder trial. Rupert Murdoch was humbled. The News of the World itself was shut down, meaning redundancy for all staff from the editor down. The multi-billion dollar merger of News Corporation and BSkyB was blocked. The current and previous chief executives of News International lost their jobs, so did the Wappping legal team. The Commissioner of the Metropolitan Police resigned. By my own count there have so far been 22 arrests in the course of Operation Weeting (phone hacking) and Operation Elvedon (police payments). Two million pounds was paid to the Dowler family plus a further million personally from Rupert Murdoch – for both personal compensation and payments to charity. Other compensation payments run in to millions already, and, according to Operation Weeting, 5,800 people could have had their phone messages hacked and be in line for financial redress.

The law has been broken and those responsible are facing the consequences – both legally and more widely. The police and parliament are investigating. Quis custodiet ipsos custodes? Durham constabulary is also investigating the conduct of the Met.

So why do we need the Leveson Inquiry? The glib answer would be to hide the Prime Minister's embarrassment at his close links to Andy Coulson, and friendship with others prominent in News International. While MPs and Peers recently so acutely and painfully under media scrutiny for their own misbehaviour could not resist the chance to get back at their tormentors. Certainly there was some spite – as Sir Christopher Meyer so eloquently explained here a fortnight ago, the facts certainly do not support the cross-party assertion that the Press Complaints Commission has "failed".

Of greater concern though is the argument abroad that the press and media have become too powerful, too intrusive, and too unaccountable and that new controls need to be asserted over British journalism. As Mark Thomson remarked here "this is a dangerous period for British journalism". After setting-up the Leveson Inquiry David Cameron may have reassured the group of reporters he was addressing that he had no intention of neutering the press, but there are others who would like to. You have heard from two of them, John Lloyd and Max Mosley, in the course of this series.

We can all agree that over close relations between proprietors and politicians are undesirable and need to be closely monitored. We can mostly agree that super-injunctions are a bad idea, even if judges beg to differ. But what divides us is the question of privacy.

This argument, it seems to me cuts to the heart of what journalism is all about. Mr Evgeny Lebedev's definition of a vigilant press: "to comfort the afflicted and afflict the comfortable" is alluring but I fear that it may claim too much moral high ground. Not all journalism can be unambiguously virtuous: sometimes revelation might discomfort the afflicted – revelations about benefit fraud might be just one example of this.

Facts are morally neutral and they are the commodity we trade in. Our business is revelation, telling you something that you don't know, and, quite often something that somebody somewhere doesn't want you to know because it might empower you.

History and common sense tells us that the personal relationships and appetites of influential people are inherent to what they do, and we should be wary of any new obstacles which prevent them from being disclosed.

I speak as someone whose own marital problems have been exposed on the pages 1,2,3, 6,7 of the Mail on Sunday with accompanying coverage in most other papers. Children, aged relatives, even local restauranteurs were pursued for comment. It's not pleasant but if it reflects what is happening with reasonable accuracy, then the personal issues themselves should be of greater concern to the subjects than any coverage of them.

My purpose is to point out what journalists have in common, not to single out any particular publications. But many people in public life have their Mail moment. Tony Blair admitted that he didn't name the Mail in his "feral beasts" attack on the media because he was afraid the papers would go after his family. But it seems to me that the Mail's activities perform three healthy functions. First to cheer up any readers who feel down trodden that anyone who they might envy, fear or look-up to has feet of clay – be it a weight problem, a dispute

with tradesmen, problems with relatives, or any other mundane trial. Secondly the paper's attacks are modern day versions of the slaves employed at Roman triumphs to whisper in the victorious general's ear "remember you are only a man". Thirdly, and most importantly, the Mail, along with the rest of the press, is a self-appointed watchdog on those who might seek to abuse their position.

Politicians, the rich, the powerful, Film and TV stars should not have their phone messages hacked. It's against the law. If Hugh Grant phones the police to say he's been a victim of crime or mishap, the first responder to arrive should not be a tabloid hack (an unfortunate nickname in this context). Paying the police for tips is illegal too (although I would argue that the police should tell reporters what they are up to for free, since justice should be seen to be done.)

But the Hacked Off campaign, and its supporters including Hugh Grant, Steve Coogan and Max Mosley, seem to want to extend their right to protection under the law into something quite different: a right to be presented by the media to the public only in the way in which they want to be seen – unless they break the law (and even then friends of Grant and Dominc Strauss Khan grumble about the public "perp walk" they were subjected to in the US.) This is an insidious attempt by the rich and powerful to have their cake and eat it. They want to be richly awarded for their work, to give interviews, to endorse causes, to influence opinion, to raise funds but only on their own terms and without criticism or investigation. Such aspirations are undemocratic, almost fascist.

The less individuals play a part in public life then surely the more they are entitled to privacy. Any sensible privacy code protects the private citizen from disproportionate exposure. But those who seek public reward and influence surely have few rights to privacy

beyond protections against intrusion into private spaces. This is an argument well understood in the US but not here – as the costly injunctions secured almost exclusively by the wealthy and well known clearly demonstrate. My advice to anybody in public life, and that includes people who appear on television by profession, is if you are not willing for it to come out in public, don't do it.

We may wish to live in a world of liberal tolerance in which peoples sexual behaviour is disregarded. I for one am happy that politicians no longer have to leave office automatically if they are revealed to have had have affairs (Paddy Ashdown was probably the first example), and that they and other prominent people can be openly gay. (Indeed these days it's staying in the closet which seems to throw up the most problems). And as has been pointed out already in this series, Sado Masochistic orgies are legal. But the other people involved in these activities have rights to talk about them if they want to as well. And there is no right not to be ashamed or shamed, indeed both experiences can be a true tonic.

This is not to say that journalists should have the total freedom to intrude into private life. "Everyone has the right to respect for his private life, his home and his correspondence" in the European Convention of Human Rights. A right which is enforced in law by prohibitions on trespass, intrusion and data protection. In addition media organisations are accountable to their consumers if they behave wrongly. The PCC, BBC and Ofcom all have detailed codes on privacy.

But would a privacy law enshrining such codes help? In my view a law imposing prior restraint through injunctions or prohibition of investigative techniques which are not already banned would be repressive and against the public interest since it would protect

those who might be abusing others. Milton agreed "if we think to regulate printing, thereby to rectify manners, we must regulate all recreation and pastimes, all that is delightful to man", he wrote. Going on to warn "we can grow ignorant again, brutish, formal and slavish", if derived of free speech and the truth.

The Human Rights Lawyer Geoffrey Robertson QC opposes prior restraint but proposes a civil tort of privacy, so that plaintiffs could seek redress in the courts in the same way that they do for libel. He would base such a law on the existing codes and balance it against the public interest.

A reasonable proposal in theory, this idea faces major practical problems. It would certainly create lots more lucrative work for lawyers but it would almost certainly become rich man's justice, like the Libel laws, especially given the cuts and limitations placed on legal aid and no win no fee arrangements.

A more fundamental objection is that the British judicial system has never been enthusiastic about converting limited notions of that vexed concept "public interest" into our own version of the American Bill of Rights. This is not surprising. The First Amendment of the US Constitution explicitly enshrines freedom of the press: "Congress shall make no law... abridging the freedom of the speech, or of the press...".

Article 10 of the ECHR extends no such protection to the media. It concerns the right of the individual, not the institution of the press, to "freedom of expression... without interference by public authority" and, I doubt Milton would have liked this much, it states explicitly "this

article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises."

In this country a Privacy Law would not be balanced by equally strong protection of freedom of the press and the public interest. We meddle at our peril.

Though Milton constantly referenced his arguments to classical and biblical authority, it's probably fair to say that in modern times the debate about the balance of rights between authority, the individual and the media (then only print) began at the time of the English Revolution. Less than 150 years later in America that led to the first amendment.

Britain's political evolution has been extra constitutional. Like most of the rest of the body politic, Freedom of the Press exists not as a right but as an understanding produced from an informal nexus of assumptions, prejudices and common law. The Fourth Estate, which may now be taken to include all mainstream media, is recognized, informally, as a power in the land but in this country it has no formal rights or responsibilities.

Instead rights are asserted and responsibilities lived up to through a code of self-regulation enforced by the market – the reader, listener or viewer's absolute right to consume or not to consume and to use freedom of speech to criticize. We are nothing unless they empathize with us, want to hear from us, trust us,

Ultimately Milton's 'truth' and 'trust' have common roots. Truth and the free media will both prosper if we live by the paramount right Milton demanded: "Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties."