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RJT 28

Richard Thomas

**From:** Lee Taylor  
**Sent:** 05 January 2007 15:21  
**To:** Richard Thomas  
**Subject:** RE: What Price Privacy?  
 Richard

I'll have a go taking the PCC guidance as a starting point. We should acknowledge in our response to the NPA that the Code Committee have responded in so far as they have confirmed that will be looking at our suggested revision to the code at their annual code review which takes place early this year. This was confirmed in a letter from Les Hinton in December.

Lee

-----Original Message-----

**From:** Richard Thomas  
**Sent:** 05 January 2007 15:01  
**To:** Lee Taylor  
**Cc:** David Smith; Mick Gorrill; Philip Taylor; Susan Fox; Robert Parker; james.ford  
**Subject:** What Price Privacy?

This records the substance of an interesting and useful informal meeting yesterday – called at this request - with Murdoch MacLennan, chairman of the Newspaper Publishers Association and Chief Executive of the Telegraph Media Group. Guy Black, now head of Corporate Affairs at the Telegraph and previously (inter alia) Director of the PCC was also there.

- Their responses to WPP and to the DCA consultation provided the starting point. They are (and will remain) opposed to prison sentences. I condemned the illegal trade. They recognised that things must change permanently.
- They are clear that we mean business and that we need to be taken seriously. Messages have been sent around the NPA network to that effect. They are shortly to announce closer links (but not a full merger) with the Newspaper Society, under the combined leadership of David Newell of NS whom we know well. They think this provides an opportunity for fresh approaches.
- All newspapers are currently behaving a great deal more carefully – partly because of our work, but especially because of the Goodman conviction. The sentences there later this month (almost certainly actual or suspended terms) will be very influential.
- I welcomed what they said, but said there is little hard evidence of loud condemnation or concrete action. The Code Committee had not even responded to the suggested change we had put forward.
- ICO is tackling this issue through three main levels – legal change, self-regulation and market forces.
- After discussion, we agreed as follows:
  - ICO should produce the first draft of a simple Guidance Note on section 55 and how journalists can avoid problems with it. In principle, they would be willing and able to give this joint ICO / NPA / NS branding. (This would also go into the Editors Codebook as proposed on page 19 of our 2<sup>nd</sup> report.)
  - ICO would develop separate guidance on the public interest defence. This would be a solo ICO effort and not written for their agreement or for their branding.
  - The section 55 Guidance should include a requirement that before any journalist enters any arrangement to obtain any personal information from a data controller without consent or authority

1. the reason should be recorded in writing with an explanation of the justification

26/08/2011

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- (public interest or otherwise); and
- 2. written authority from the editor should be obtained.

- o These initiatives would be entirely without prejudice to our support for increased penalties, or their opposition to the same. I recognised that they will try to say that the problems can be sorted out through increased guidance, awareness and self-regulation and without legal change. They recognised that we will argue that such initiatives recognise the existence of the problem but provide no guarantee of success or permanence and are not sufficient. Anyway the problems are not confined to the media.
- o I would write to them next week, to record the above in suitable terms and to enclose the text of the Code amendment which we put forward in September.

I would welcome any comment on the above.

Subject to that, as a first step, can Lee please take the lead in preparing a first draft of the section 55 Guidance? This will require Legal and RAD input, but I stress that it should be short and simple. Let us see how that develops (and responses to it) before starting the Public Interest Guidance, which will in any event need to draw heavily upon our FoI Public Interest Guidance.

A further point I would like to consider (probably when we resume contact with the Code Committee) is that the contract of each editor should require compliance with section 55.

Richard

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Richard Thomas

Lee Taylor

26/08/2011

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