

At the outset I would like to make two points; the first being that my willingness to cooperate with the Inquiry and make submissions is voluntary and does not signify an acceptance of jurisdiction of the Inquiry or the authority of the Inquiry to order me so to do. Secondly to draw attention to the fact that this is the second submission requested of me by the Inquiry yet, unlike in the cases of other witnesses, my legal costs have not been covered by the Inquiry.

(1) Who you are and a brief summary of your career history;

Paul De Laire Staines

86-90 Worked in politics, think tanks, campaigns.

89-91 Organised mass attendance dance music raves.

92-94 Professional gambler

95-01 Derivatives broker, bond dealer, hedge fund trader in London, Hong Kong and Tokyo

02-03 Litigant in a protracted commercial dispute

04- Began publishing the Guido Fawkes political blog

06- Investment adviser to online ventures

(2) What material your website "Guido Fawkes" publishes, and Why;

We publish political tittle-tattle, gossip and rumour. We pride ourselves on breaking news stories and our success stems from doing that, time and time again we beat big news organisations to the story. Humour plays some part in our success. We also do a fair bit of commentary on policy and ideology, though that tends to bore the readers who, on the whole, would much rather we stuck to breaking news. We campaign on issues we feel strongly about, mainly political hypocrisy, lying and dishonesty.

Increasingly commentary on and analysis of the media industry is part of our offering to readers. We often publish articles about media personalities and say what others are afraid to say for career reasons. Editors, pundits and journalists are surprisingly thin skinned and there is much sport to be had in teasing and taunting prominent media figures.

I started the blog on a whim with an "anti-politics" agenda, vaguely intending it to be a commercial proposition.

(3) The Inquiry wishes to understand the extent to which your website is based in the UK. Where are your servers located? Do you consider the UK courts to have jurisdiction over the way in which your website is operated in the UK, and how far does this jurisdiction extend?

No physical assets are in the UK, the servers are in the USA. The publisher is a foreign corporation which owns all the intellectual property. It seems to be a simple matter of fact that the UK courts have no effective jurisdiction over a publisher based overseas with no bricks and mortar in the UK.

None of the many threatened legal actions against the website in the UK has ever succeeded in the UK courts. We have regular communications from most of the leading London legal firms specialising in media law. We have repeatedly ignored injunctions and orders issued in the UK courts with no adverse consequences.

(4) How you source stories (there is no need to name individuals) and where you consider the responsibility for checking sources of information to lie, with you, or with the person who has provided you with the information;

We source stories from individuals who are known to us. We occasionally receive anonymous tips which we seek to verify with varying degrees of success. The responsibility for checking sources and the veracity of the information they provide is of course ours alone.

(5) To what extent to which you are aware of the sources of the information which make up the central stories featured on your blog;

I would estimate that some 50% of our sources are personally known to us. The provenance of 40% of our sources we can verify to varying degrees. Perhaps less than 10% are unknown to us, of that much can be checked and is consequently verified or rejected. We are spun/led to by all categories of sources. Politicians blatantly lie to us, most merely seek to mislead us or are disingenuous and dissembling. Experience has made us better at spotting lies and liars.

(6) The extent to which you consider that ethics can and should play a role in the blogosphere, and what you consider 'ethics' to mean in this context;

Our ethical goal is to report the truth as we see it. That should be the ethical goal of all journalists whatever their medium.

(7) Do you have any policy which relates to complaints about articles or web pages which are libellous, defamatory or considered to be an invasion of privacy? If not, do you have any relevant practices? Do you ever remove availability to such pages on that basis? The Inquiry would be grateful for some examples of this (anonymised if necessary). Copies of any policies should also be provided.

We have no formal policy. Our practice is to consider the complaint, if on reflection we think it is possibly untrue or defamatory we take it down. If we believe the story is broadly correct we investigate it further and reconsider, sometimes amending the detail of the story.

One example was a minor member of the royal family having a business associate who became embroiled in a homosexual relationship with a married MP. We featured a picture of a business product in the story. Lawyers for the royal claimed this was defamatory because it implied he was homosexual. The lawyers claimed that a journalist from the Daily Mirror had contacted the royal and asked if he was homosexual, citing our story. We took the story down.

We judge threatened libel writs on a case by case basis. We completely ignore about half without even replying. If we suspect we may have got it wrong we either amend the story or take it down, this satisfies most complainants. Occasionally we tell complainants we believe to be lying to do their worst. We will often redouble our coverage of them.

We take the view that a politician is a public figure and privacy is not in the public interest when it concerns public servants, those in public office or those paid for by the public. Matters which speak to their character are of legitimate public interest.

(8) How do you consider yourself to be regulated?

We are self-regulating and we think it works well. Our readers let us know instantly if we cross the line in terms of taste and propriety. We receive of the order of 500,000 comments on the blog and 30,000 emails a year. That is by any measure a lot of feedback.

The wider blogosphere performs a critical function, every day rival blogs and mainstream outlets critique our stories, dispute facts and try to knock our copy. Our reputation is our most valuable asset, if we got it wrong too often our reputation would be undermined. We are the most successful website of our kind, year after year we have been voted Britain's favourite political website. That position has been hard earned by gaining the trust of our readers.

(9) The Inquiry would also welcome your views on the extent to which the content of Websites, and the manner in which you operate, can be regulated by a domestic system of regulation.

The Guido Fawkes website is based offshore and beyond the jurisdiction of the UK courts because of the oppressive libel law regime in the UK. Fortunately the frictionless and borderless nature of the worldwide web means that unless the UK authorities go down the authoritarian route taken by the Chinese, Saudi and Iranian regimes, there is no prospect of regulating foreign websites domestically. In fact the UK is a signatory to various international treaties which oblige it to guarantee freedom of speech and freedom of the press regardless of frontiers. In particular Article 19 of the United Nations Universal Declaration of Human Rights, which states:

Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Article 10 of the European Convention on Human Rights which has been incorporated into UK law states

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.

The inability of governments in the twenty-first century to restrict their citizen's access to information is a positive development for freedom. Solemn written commitments to press freedom that were once almost impossible to enforce are now, because of technology, unassailable.

Any legal or technological method of censorship will have economic costs not just in terms of the costs of the technology, but for the wider economy. The social media businesses of the future are networks that distribute disintermediated content uploaded by millions of individuals without reference to trained editors, sub-editors, fact-checkers or lawyers. Blogs, YouTube,

Facebook, Twitter and future networked platforms as yet unknown, allow everyone to publish to the whole world at minimal cost. National governments which try to foist regulatory costs and risks on the social media enterprises which deliver that content will be shunned. Enterprises will inevitably base themselves in nations where the legal and regulatory climate is favourable, the USA has a competitive edge in the legal protections and legal attitudes that flow from their constitutional First Amendment rights.

(10) Anything else which you consider will assist the Chairman to arrive at considered conclusions on any aspect of the Terms of Reference, set out above.

Relationships Between National Newspapers and Politicians

The Terms of Reference tasks this inquiry with considering the relationship between newspapers and politicians. In my view the relationship is symbiotic, most journalists have by and large a healthy contempt for politicians and most politicians feel that the media has got too much of the upper hand of late. On the other hand senior politicians, editors and proprietors mix freely all too easily.

Political reporting on a day to day basis is conducted in the main via the Westminster Lobby system. This is an unhealthy and closed system lacking in transparency conducted behind closed doors. The implicit rules of this club - "Lobby terms" - discourage Lobby journalists from rocking the boat too much, the system also encourages a trade in favours. A client media has developed whereby journalists who recycle the party line are encouraged and rewarded with titbits and exclusives, with interviews granted to journalists who please party spin doctors. The Lobby system is effectively an obedience school where the political class brings journalists to heel.

The failings of the Lobby system were well illustrated during the expenses scandal, a story which exploded because of the catalytic efforts of a Freedom of Information campaigner, Heather Brooke, in the courts. Lobby journalists who were embedded in the Westminster system would later claim to well know about the ongoing abuse of expenses over decades, yet they did nothing to expose the scandal. That was a monumental failure by those journalists specifically charged with the responsibility of holding those in power to account. They failed to report on an issue that fundamentally exposed the lack of integrity of our political class. The natural venality of the political class was unchecked by their client media until an outsider rocked the boat and sunk the duck houses.

In my experience newspapers will do favours for their political allies far beyond just slanting favourable coverage, they will suppress the truth, rubbish political opponents and buy up stories, never to be printed, which might embarrass their political allies.

Data Protection

In my experience investigative journalists have no respect for the Data Protection Act even if they are aware of it.

Future Regulatory Regime

The public interest is best served by an unregulated free press. The laws of defamation should be rationalised and the existing criminal laws better enforced. The hacking and blagging scandals of the recent past were illegal under already existing laws, there is no real need for further legislation.

The public interest will not be well served by privacy laws which will effectively create judicial censorship. The privacy laws currently being made from the bench in English courts are a travesty of the intentions of the original drafters of the European Convention on Human Rights. They had in mind protecting the human rights of individuals from oppressive states and agencies of those states. They did not have in mind sparing the blushes of footballers caught having extra-marital affairs or celebrities who have exotic tastes in the bedroom or dungeon.

The popular press is in danger of being shackled by privacy laws and "media standards" which are really a euphemism for censorship. This will undermine the popularity and commercial viability of newspapers, inevitably doing damage to media plurality in the long term. The public interest is best served by having the most competitive and open media markets we can devise. The BBC by its size and method of funding is the biggest threat to media plurality with a dangerous dominance of news. It undermines the commercial sector by undercutting it, local commercial media can not flourish when BBC local radio and television is free at the point of consumption to the extent that it crowds out competition.

Worrying about cross-ownership of the media when newspapers are in an existential crisis seems to me to be a distracting luxury interest at this time.

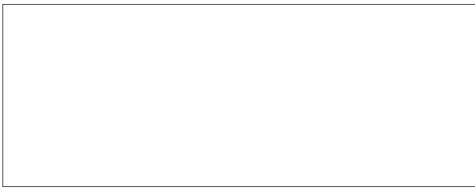
Any future regulatory regime has to consider technological convergence. My daughters watch Children's BBC on my mobile telephone, they watch the US Public Broadcasting Service's children's television shows on my laptop at our French holiday home.

The reality of convergence and cross-border broadcasting via the internet of all forms of content will mean that any regulatory regime will be porous. In the future there will be a regulated sector and an unregulated sector, with the latter prospering all the more if privacy restrictions inhibit the regulated media from covering more and more stories. The readers will go where the news is, the advertisers and the money will follow the readers, the regulators however will not be able to cross borders.

It would be in my commercial interest and to my competitive advantage to see the British media heavily regulated, draconian privacy laws enacted and politically correct "media standards"

enforced. All of which would be cheerfully ignored by the Guido Fawkes blog. It would however be a sad day for press freedom.

I believe that the facts stated in this witness statement are true.



Paul Staines

10 January, 2010