

The Leveson Inquiry:
Culture, Practices and Ethics of the Press

WITNESS STATEMENT OF SIMON RUSSELL CITRON

I, SIMON RUSSELL CITRON, c/o Yahoo! UK Limited, 125 Shaftsbury Avenue, London, WC2H 8AD WILL SAY AS FOLLOWS:

Personal statement

1. Since November 2006, I have been the General Counsel of Yahoo! UK Limited ("Yahoo!"). This role covers a wide range of legal and commercial issues, including those relating to sales, audience and content, product compliance, litigation and other miscellaneous issues such as property and procurement. I sit on the UK management team. Given my role, I am qualified to make this statement on behalf of Yahoo!.
2. I joined Yahoo! in 2005, following approximately seven and a half years at Nortel Networks and, prior to that, approximately seven and a half years at Allen&Overy.

Yahoo! Inc.

3. Yahoo! Inc., together with its consolidated subsidiaries, is a premier digital media company that delivers personalised digital content and experiences, across devices and around the globe, to vast audiences. The majority of what Yahoo! Inc. offers is available in more than 25 languages and in more than 50 countries, regions, and territories. It is a publicly traded corporation, listed on the NASDAQ exchange. Yahoo! Inc. is headquartered in Sunnyvale, California and is the ultimate parent company of Yahoo! UK Limited, which is a wholly owned subsidiary.

Yahoo! UK Limited

4. Yahoo! UK Limited is a company registered in the UK, under English Law. The Yahoo! homepage (uk.yahoo.com – also accessible via www.yahoo.co.uk) is made available by Yahoo!. All of Yahoo!'s web search products targeted at UK consumers are provided by Yahoo! UK Limited.
5. Yahoo! utilises servers located around the world, including in the UK and Ireland, depending on the exact services being provided to the user.

Yahoo! search services

6. The subject of this witness statement is the web search engine service that Yahoo! provides, including through its technology service provider Microsoft Corporation ("Microsoft"). To provide some context on UK market search volume, Google has over 90%, Bing has approximately 3.5% and Yahoo! has approximately 2.5% of the UK overall search volume. (see <http://www.hitwise.com/uk/press-centre/press-releases/google-increases-market-share-of-uk-searches/>)
7. As I read them, the Inquiry's questions primarily concern Yahoo!'s activity as a web search engine, a service that relies upon an index of the world wide web which returns a series of search results in response to queries submitted by users. The main search page on the Yahoo! website can be accessed here: uk.search.yahoo.com. In addition, a search box is provided on every page of the Yahoo! website at www.yahoo.co.uk or uk.yahoo.com.
8. It is important as background for the Inquiry for me to explain how Yahoo! currently provides its search engine service. In 2009, Yahoo! Inc. entered into a search alliance agreement with Microsoft concerning algorithmic Internet web search results and search advertising. The European Commission approved this transaction in February 2010. Under the terms of that agreement, the generation of algorithmic web search results on Yahoo! services is provided by Microsoft using its proprietary algorithms and technology. When a user performs a web search on the Yahoo! website, the underlying results are provided by Microsoft's systems, and presented on a Yahoo!-branded page.

9. For the purposes of this statement, any references to "Yahoo!" search results should therefore be understood to mean those algorithmic web search results generated by the Microsoft systems and index of the web and which are then presented to our users.

Responsibility for content of websites

10. Yahoo! does not consider itself to be responsible for the content on third party websites, including content on third party websites displayed as part of its algorithmic web search results.
11. Under English law, companies such as Yahoo! which operate in the online space do not have a general obligation to monitor the information that they transmit or store, and the European directive on electronic commerce (Directive 2000/31/EC) precludes the imposition of such obligations by member states.
12. English and European Law provides for a system of "notice and takedown" where online intermediaries are granted limited liability from legal action so long as they take action when they have actual knowledge that illegal activity or content exists on their services or have actual knowledge of facts or circumstances from which the illegal activity is apparent, such as if ordered by a court or administrative authority. These processes are used extensively in areas such as copyright infringement, where search engines and other intermediaries take frequent action to remove access to content that infringes the intellectual property rights of third parties.

Access to links appearing in web search results

13. As noted earlier in this statement, the technical implementation of which links are included in the algorithmic web search results provided to Yahoo! is the responsibility of Yahoo!'s search partner, Microsoft. It is possible for Microsoft to remove access to certain links to web pages in a way that prevents the links to those pages from being shown in search results.
14. Microsoft is best placed to outline how it implements the removal of links from search results, and we therefore refer the Inquiry to their response to the Inquiry.

15. While specific links can be prevented from appearing in algorithmic web search results, unless the third party website is disabled or the domain is blocked, Yahoo! cannot stop users from accessing a specific third party website or piece of content directly.

Process to remove access to links in web search results

16. On receipt of a valid court order, Yahoo! will always request that Microsoft remove access to the search result containing a link specified to be removed in the order.

17. Although Yahoo! prefers the certainty of a court order – given a court is the ultimate arbiter of legality – Yahoo! also might request that access to links be removed even though they are not the subject of a UK court order, assuming that Yahoo! receives a well-substantiated, legitimate request that with enough precision identifies the exact URL of concern.

18. For example, Yahoo! requests the removal of links to content without a formal court order in relation to child sexual abuse images. Yahoo! is a party to the industry-led self-regulatory Internet Watch Foundation, which facilitates the removal of these kinds of links to websites from search engines.

19. In the specific case of a defamation or invasion of privacy complaint not subject a court order (for which see paragraph 16) each such complaint must be considered on a case-by-case basis. It will sometimes be clear-cut because material being complained of (in the way I set out in paragraph 17) has already been the subject of a case which has determined that the meaning of the statement is defamatory or that the material is invasive of someone's privacy. There are other times where the legitimacy of the complaint is not so clear and in those situations my team and I, potentially with external counsel, will evaluate the complaint and advise the business whether or not to request the removal of the specific URL link to the content.

20. All requests to Yahoo! mentioned above are conducted by Yahoo! completing and forwarding an electronic form to Microsoft. If the request for removal is directed to

Microsoft, however, the decision whether to remove it from the index would be Microsoft's and not Yahoo!'s.

Yahoo! News Search Service

21. The aggregated news search service is accessible via the Yahoo! search page.
22. Yahoo! (not Microsoft) continues to provide the search results for its Yahoo! News search service.
23. A simple search for "Leveson Inquiry" would generate results that link to the full range of websites referencing that search term.
24. By opting to perform a specific news search (for example, by clicking on the "news" tab at the top of the page), the results relate to news articles published by specialist, professional news providers (for example, the Daily Telegraph, the BBC, or Reuters). All news providers are added to the search system by our editors, who decide which third party news sources to include. Additionally the results include Yahoo!'s own editorial content, which amounts to an extremely small proportion of the content available on the aggregated news search service.
25. Once the sources are added to the search system, the addition of links to specific articles from those sources to the news search index is entirely automated. Yahoo!'s editors do not choose which particular links to third party news articles are presented by Yahoo!'s algorithmic news service search engine in response to a user query.
26. With news search, as with any other form of search, the links to the article take the user directly to the website hosting the third party news content. Yahoo! does not therefore take steps to judge the accuracy of content published on third party websites as it is not responsible for creation of third party content.
27. If a third party news item is later shown to be inaccurate, and therefore removed or amended by its original publisher, the index will either be updated with the link to the amended article, or it will no longer be shown in search results when the web is recrawled and the index is updated. In the event that this process fails for any

reason, Yahoo! has the ability to remove a specific link from the news search index manually.

28. In relation to Yahoo!'s own editorial content, Yahoo! takes all the usual journalistic steps to ensure that the content is accurate and will remove or correct the content if Yahoo! receives a valid complaint of inaccuracy or illegality. The index will then either be updated with the link to the amended content, or it will no longer be shown in search results.

Regulation of Yahoo! UK

29. Yahoo! is registered in the UK, and is subject to the full range of criminal and civil law in the same manner as other UK-registered companies. Yahoo!'s activities as a controller and processor of the personal data of UK citizens are regulated by the Information Commissioner's Office.
30. Yahoo!'s activities as an advertiser are regulated by the Advertising Standards Authority, which is the body responsible for applying the self-regulatory code of the Committee on Advertising Practice.
31. Yahoo! is a member of the Communications and Internet Services Adjudication Scheme, which is an Ofcom-approved dispute resolution service set up to settle disputes between providers of communications services (in Yahoo!'s case, email and instant messaging) and their customers.
32. Yahoo! is also subject to a wide range of self-regulatory codes and guidelines. These include Yahoo!'s involvement in the Internet Watch Foundation as noted above, and in various initiatives led by the Internet Advertising Bureau concerning behavioural and display advertising. In Europe, Yahoo! is subject to self-regulatory codes concerning safe social networking and other child safety programmes.

Regulation of website content

33. Whilst Yahoo! can understand that the open and global nature of the Internet presents challenges to old business models and power structures, that openness has also contributed to a multiplicity of innovative new services and products that deliver huge value to consumers and to citizens. It is the view of Yahoo! that the current regulatory framework balances these challenges with the benefits of openness.

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

Signed



Simon Russell Citron

Dated: 22 December 2011