

- (1) Witness: Tessa Jowell
- (2) First Statement of Witness
- (3) Exhibits TJ/1 (paginated)
- (4) Date Made: 30 April 2012

LEVESON INQUIRY INTO THE CULTURE, PRACTICE AND ETHICS OF THE PRESS

WITNESS STATEMENT OF THE RT. HON. TESSA JOWELL MP

I, **TESSA JANE JOWELL**, c/o House of Commons, London, SW1A 0AA
WILL SAY AS FOLLOWS:-

Background

I make this statement to assist the Inquiry in relation to Module 3 which examines the relationship between the press and politicians. Where the contents of this statement are from within my own knowledge they are true, otherwise they are true to the best of my knowledge and belief. Where I have referred to matters outside of my own knowledge I have identified the relevant source. I append to this statement as my exhibit TJ/1 a bundle of relevant documents, not all of which will have been seen by me or formally submitted to me as Secretary of State. The page references given below in the format [page #] are references to page numbers in this bundle.

1. Who you are and a brief summary of your career in politics.

I was elected to Parliament in 1992 after a long career in social policy, community care development and management, and local government. I had held public appointments as a Mental Health Act Commissioner, and as a member of the training council for Social Work and as the leader for local authorities in negotiation on health and social services with Government.

Following the Labour Party's victory in the general election of May 1997 I was appointed Minister of State for Public Health. I was appointed to the Privy Council in 1998 and then became Minister for Employment. In 2001 I was appointed Secretary of State for Culture, Media and Sport. I was responsible for a wide range of policies, from media and media regulation including the BBC Charter Review, sport, gambling and alcohol licensing to the creative industries, tourism and the arts. From 2002 I was responsible for the bid for London to host the 2012 Olympic Games, and after the bid was successful in 2005 for the preparation for the hosting of the Games themselves.

2. Please assist the Inquiry by explaining the role you had as to media ownership while you were Secretary of State, and how that role developed over the period of your tenure of the post. This should include a brief overview of the policy considerations underlying the development of your role, the relevant legislative powers you held, and an account of all occasions on which you had cause to consider or exercise these powers.

I was responsible, along with Patricia Hewitt, then Secretary of State for the Department of Trade and Industry, for the development of the Government's policy on media ownership. The policy objective, as set out in successive consultation documents, was to preserve plurality of media ownership while not placing unnecessary and unreasonable restrictions on growth and the workings of the market. Our aim was to remove all unnecessary and out-dated rules and retain a small number of key rules designed to protect plurality. This policy was given effect through the Communications Act 2003.

In terms of exercising my powers, the Act enabled me to give effect to the new radio and cross-media ownership rules and I did this through the 2003 Media Ownership (Local Radio and Appointed News Provider) Order (SI 2003/3299). In principle these rules could have been set out on the face of the Act, but detailed discussions with the radio industry were still taking place so it was more practical to deal with this issue in a separate order which was made in December 2003 after the discussions had been completed and final decisions take.

The Communications Act 2003 also gave me the power to change media ownership rules by Order following consultation with Ofcom (apart from where the changes were recommended by Ofcom as a result of one of their periodic reviews of media ownership rules). I had no further occasion on which to exercise these powers.

I was also responsible for a wide range of other media issues during my term in office including:

- The announcement in September 2005 of the policy and timetable for digital switchover:http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference_library/media_releases/3059.aspx
- The agreement of a new Charter and Agreement with the BBC announced in July 2006, which lasts ten years until 2016. The Charter sets out the public purposes of the BBC, guarantees its independence, and outlines the duties of the Trust and the Executive Board. The Agreement sits alongside the Charter and provides detail on many of the topics outlined in the Charter and also covers the BBC's funding and its regulatory duties.
- The decision on the BBC's licence fee in January 2007. This settlement was for six years, with annual increases of 3% for the first two years, 2% in years three, four and five and an increase in the sixth year (2012-13) of up to 0-2%, depending on a further review nearer the time.

3. Please in particular provide the Inquiry with a full account, including relevant documentation, of the process of policy development, legislation and implementation of what became the Communications Act 2003. Your account should in particular explain:

a) how you saw the nature of the public interest in plurality, media ownership and media mergers and how you intended to safeguard that public interest;

A Communications White Paper ("A New Future for Communications") was published by my predecessor at DCMS, Chris Smith, and Stephen Byers in December 2000. This was followed by A Consultation on Media Ownership Rules (November 2001) and The Draft Communications Bill – The Policy (May 2002). These documents contain the best explanation of the nature of these powers as they were proposed. As noted in my answer to Question 2, the overarching policy objective was to preserve plurality of media ownership while not placing unnecessary and unreasonable restrictions on growth and the workings of the market

The key principles and proposals were set out in the Press Notice accompanying the publication of the Bill in November 2002:

"The key principles behind the Bill, which aims to create the most dynamic and competitive communications industry in the world, are:

- ensuring universal access to a choice of high quality services;
- deregulation to promote competitiveness and investment;

- self-regulation wherever appropriate, backed up by tough measures to protect plurality and diversity;
- ensuring that public service principles remain at the heart of British broadcasting.

“The key proposals in the Bill are:

- transfer functions to a single powerful regulator - the Office of Communications (Ofcom) – replacing the existing five regulators (the Independent Television Commission, Radio Authority, Office of Telecommunications, Broadcasting Standards Commission, Radiocommunications Agency);
- introduce a new, more coherent structure for broadcasting regulation in the digital age, allowing greater freedom to public service broadcasters to regulate themselves.
- give Ofcom powers concurrent with the Office of Fair Trading to apply competition rules in the Communications Sector;
- require Ofcom to establish and maintain a 'Content Board' that would ensure that the public's interest in the nature and quality of TV and radio programmes is strongly represented within Ofcom's structure;
- establish a Consumer Panel to advise Ofcom and other people and bodies where appropriate, on matters, including ones of major policy, relating to electronic communications;
- remove the requirement for licensing of telecommunications systems, so removing about 400 licences, and replace it with a new regulatory regime for electronic communications networks, services and associated facilities in line with EC Directives;
- make provision to allow trading of radio spectrum, leading to its more efficient use; and
- reform the rules on media ownership. There would be significant deregulation to promote competition and investment, but a few core rules would be retained to protect diversity and plurality.”

The full press notice is at:

http://webarchive.nationalarchives.gov.uk/20100512144753/http://www.culture.gov.uk/reference_library/media_releases/2809.aspx

The Bill was also subject to the relatively unusual process of pre-legislative scrutiny by a Joint Committee of both Houses of Parliament chaired by Lord Puttnam, which led to further changes. Thus it can be seen that the Bill went through a very extensive consultation process extending about two and a half years prior to its formal introduction to Parliament, where it went through further extensive

scrutiny. All relevant responses were carefully considered at the various stages as policy was developed and refined.

My aim was to create a lengthy process of consultation and deliberation from which a broad consensus could emerge about the best shape of future regulation at a time of such rapid change.

b) whether the development of media ownership policy at the time had specific examples of proposed patterns of acquisition in mind, and if so the details of those examples;

As the consultation made clear, it was my intention that the new rules should be proprietor neutral. So the rules were not designed to target specific companies but I did test the effect of the rules by looking at some specific examples (pp 433-436). Media ownership, more than, say, competition law, is an inexact science and it is more a matter of judgement where the rules should be set. Nevertheless, where possible, I did make an assessment of the possible effects of the rule changes in reaching my decisions.

c) the origin and evolution of the current statutory role for the Secretary of State in decision making about media mergers;

d) the evidential basis for designing that role and the effects it was intended to achieve;

[Answers for c) and d) are taken together below.]

During the passage of the Communications Bill, there were calls to add a media plurality public interest test to the Enterprise Act 2002. This was to enable the regulator and the Government to look at qualifying mergers where there were concerns that the merger might have an adverse effect on plurality in the media.

The Government was initially resistant to such a change as it was felt that the rules proposed in the Communications Bill were sufficient to preserve plurality, and that a new media plurality public interest test could lead to uncertainty in the market which would be bad for the development of the sector. After considerable debate in the Lords, however, the Government agreed to the introduction of a media plurality public interest test. It agreed that the existence of a plurality test could potentially allow the removal of specific rules in future, and could future-proof the Bill against significant changes in the media market. The Government made it clear, however, that, save in exceptional circumstances, it did not expect to exercise the power in the short-term in areas where rules were to be removed by the Communications Act 2003 or where there were no ownership rules. This is set out

in the relevant Government guidance: "Enterprise Act 2002: Public Interest Intervention in Media Mergers" (www.bis.gov.uk/files/file14331.pdf).

e) the extent to which media interests were consulted and made representations in relation to this legislation, and the Government's response;

Media organisations, like anyone else, were invited to make comments at every stage of the process through formal consultation. Where possible these representations were published on the DCMS website. Therefore the views of media organisations were considered alongside all other relevant representations before we reached our decisions.

f) any role played specifically by representatives of News International in that process.

News International was consulted in exactly the same way as any other organisation with a business interest on which legislative or regulatory change would have an impact. This occurred through formal consultations to which they could submit a response and at times through meetings, as was the case for other key industry players. This was entirely appropriate and in keeping with the way any department would handle policymaking of this nature. I had some correspondence and meetings with them (examples of which are included in the bundle of documents) but, given my responsibilities, I met a wide range of media organisations while Secretary of State (examples of which are also included in the bundle).

4. The Inquiry would be grateful for an understanding of how your wider media policy (including, but not limited to, regulatory policy) responsibilities worked in practice. In particular, we would like an understanding of how you managed press relationships in relation to the formulation and execution of media policy, including in relation to public service broadcasting.

As explained in my statement, it is important to define what is meant by "press relationships" in this context. My main media policy responsibilities were two-fold: first, to ensure that there was a robust and stable regulatory framework for the media, ensuring so far as possible that our society's core standards were met while also ensuring that the media could function without political or state interference; and secondly, to promote the economic health of the sector.

In the political world the expression "press relationships" usually means the day-to-day exchanges with working journalists concerned about their next print deadline. These relationships are essentially about managing the short-term media demands

for comment and reaction to stories in the news. Rarely were journalists interested in media policy as such, even when the Communications Bill was before Parliament, or the BBC Charter and Licence Fee were being reviewed. However, senior company executives were intensely interested in both regulatory developments and the economic health of their sector.

When journalists did focus on Communication Bill or BBC matters they pursued their enquiries independently of their managements. At least, I am unaware of any occasion when private exchanges between senior company executives and the Department were passed on to journalists.

It was therefore my determined policy and practice to maintain a rigorous distinction between my role in media policy and my role as a senior minister inevitably dealing with journalists in the rough and tumble of daily media coverage of politics.

a) How were the views of the press received, and then tested?

The views of the press companies were received through the normal channels of public consultation - written submissions, formal meetings if requested, correspondence, and participation in conferences and seminars. Considered views presented in writing or at formal meetings were tested in the usual way, with evidence and argument from different organisations being analysed by the relevant officials and measured against the objectives of the Bill. These analyses were then presented to me for consideration.

b) How, if at all, did that differ from the way that the views of other parts of the media industry are handled?

There were no differences. It was an important part of the Bill, Charter, Licence Fee digital switchover and other media sector policy processes that submissions to consultations were considered in the same way. Of course there is an underlying difference in that the UK tradition for regulating the media varies depending on whether the medium is the press (lightly regulated) or broadcast (more prescriptively regulated). However, the consultative process was treated the same for all organisations.

c) How far was that process transparent or otherwise placed into the public domain?

My policy from the start of the Bill, Charter and Licence Fee processes was to be as consultative, inclusive and transparent as possible. Apart from certain issues determined to be commercially sensitive (see below), all submissions to the relevant consultations were published, and I and the senior civil servants involved

were also scrutinised by the relevant Parliamentary committees and made ourselves available to the scrutiny of interested parties at a wide range of public events, such as the Oxford Media Conference, the Westminster Media Forum, the Royal Television Society and the Edinburgh Television Festival. As referred to above, it was Government policy to publish responses to consultation exercises where possible (in other words where the consultees agreed) with infrequent exceptions for passages marked commercially confidential by the responders. This is in recognition of the practice that, as a general principle, ministers should hold meetings and exchanges with major stakeholders as part of the policymaking process, and often have free-flowing conversations with them that seek to test the policy. It is important that these interactions can be conducted in an open and frank way, and they may therefore at times include reference to commercially sensitive information.

In response to the 2001 consultation we received and published on our website responses from Associated News, Campaign for Press and Broadcasting Freedom, Daily Mail and General Trust, Guardian Media PLC, National Union of Journalists, News International, Northcliffe Newspapers, Trinity Mirror and the Newspaper Society amongst those of other media industry stakeholders.

As part of my general commitment to wide consultation and in recognition of the potential for media ownership proposals to be controversial, I authorised a separate consultation specifically to cover media ownership to inform policy making in the preparation of the Communications Bill.

In the case of the Charter review, there was also an extensive consultation process and the department published papers in response, including 'What you said about the BBC', 'Your BBC, Your Say', an analysis of responses to a DCMS consultation and a summary and analysis of responses to the Charter Review Green Paper. The Charter Review Green and White Papers were, of course, based on the extensive consultation undertaken.

Before offering me advice, the views of newspaper organisations would have been considered by my officials in the same way as responses from other consultees.

d) To what extent did you consult within and beyond media interests, how and with whom?

The consultations were not restricted to the major corporations; we sought views from members of the public and other non-commercial organisations, like Voice of the Listener and Viewer and the Campaign for Press and Broadcast Freedom. The consultation processes were widely promoted, and views were sought from as wide a range of organisations and individuals as possible. Not only were contributions sought but, to illuminate some areas of policy, we also commissioned

market research to ensure that the opinions of those who do not contribute to formal public consultations were also taken into account. In addition to responses to consultation exercises, the Department would regularly receive representations from a wide range of sources on a wide range of issues, which would be considered on their merits.

e) What forms of unsolicited representation were accepted?

It is part of political life that individuals will raise topics of current interest in conversation, at an MP's surgery for example, at the margins of meetings discussing other matters, at professional gatherings or just in walking through the House of Commons. However, any individual who raised Communications Bill or BBC Charter and Licence Fee issues in an informal manner was advised to submit their views through the proper channels.

f) Did you schedule meetings or briefings with relevant parties, and if so with whom?

As part of the consultation process we decided that any group or individual with a strong case, cogently argued, should be given a chance to present their case at a meeting. A large number of meetings were scheduled in the normal way through my diary secretary, on the advice of the senior policy leads in the Department

g) Did any groups or proprietors have particular access to you at these times?

All groups or proprietors were given equal treatment. All the major interests were given proper opportunities to present their case, the only limit being the amount of time available. This meant that some priorities had to be established but a very wide range of interests were heard in the process and no one group or interest was awarded particular preference.

h) The Inquiry would be grateful if you could provide some specific examples.

Consultation processes were long and thorough. Meetings were arranged with the BBC, Carlton, Granada, STV, ITN, Channel 4, Channel 5, British Sky Broadcasting, News International, the Guardian Media Group, Trinity Mirror, the Daily Mail and General Trust, the Telegraph group, the Society of Editors, the Newspaper Publishers Association, the British Screen Advisory Council, Talksport, S4C, Disney, Time Warner, the Radio Authority, Telewest, NTL, the PCC, the Independent Broadcasting Authority, the Voice of the Viewer and Listener, the NUJ, Bectu, the print unions, Pact, and a number of academics including Westminster University media school, Goldsmiths, the LSE and others. Regional

hearings were also organised, to ensure that the London voice was not too loud. In addition, some acknowledged experts were also invited to present their views. These included Peter Bazalgette(then of Endemol), Barry Cox, David Elstein, respected academics and commentators like Professor Steve Barnett, Steve Hewlett, and Professor Ian Hargreaves.

5. Please set out a full account of your awareness of, and/or involvement in, Operation Motorman. Without prejudice to the generality of this question, the inquiry would particularly like to understand the extent to which you discussed Operation Motorman with the Information Commissioner before the publication of his reports “What Price Privacy?” and “What Price Privacy Now?”. After publication, to what extent did you discuss with the Information Commissioner the content, and recommendations contained within, those reports? Please provide as full an account as possible.

To the best of my recollection, did not discuss the report with the Information Commissioner or other Government ministers, nor was I briefed about the report in advance, or discuss the content or recommendations with him or other ministers. I am advised that the DCMS has searched its archive and found nothing that would suggest I was consulted or involved, but it is worth noting that this does not rule out the possibility that there were some exchanges that I have forgotten, and which were not placed on the official record.

Operation Motorman was a police investigation that led to an inquiry by the Information Commissioner. It is important to recognise the role of ministers in these processes. Police investigations must be free from political intervention, as should inquiries of the sort pursued by the Information Commissioner.

6. On the Daily Politics show on 11 July 2011 you said that there was “no good reason” for the last Labour government not to have done more in response to the Information Commissioner’s reports ‘What Price Privacy?’ and ‘What Price Privacy Now?’. Please amplify your views. The Inquiry is particularly interested in your perspective on:

a) Why in your view the Government reacted as it did at the time;

It did not call for changes to the PCC and was not, therefore, a matter for my department. As I recall, the report did not call for any substantial changes in legislation or policy (the existing law was clear), and such changes as there were would have required consideration in the wider framework of criminal sentencing. As far as I recall, I was not asked to comment on his report by the Information Commissioner before he issued it.

Looking at the issues of media regulation more widely, my and my Department's considered view was that on balance the principle of self-regulation was the right one. This was not because we considered the UK's press to be well run or reporting the news in a way which could be considered balanced, fair, well-informed or focused on the most important things in people's lives, but because the alternative of state intervention was unpalatable at the time.

There is no point in pursuing a cure that may well be worse than the disease, and in the case of news reporting we felt that in contrast to the tough regulatory regime for broadcast news meant that the UK's citizens had access to news that was largely of high standard, delivered with professional skill and a genuine commitment to impartial, balanced and fair reporting. This judgement was supported by extensive evidence that people had high levels of trust in broadcast news, especially that of the BBC, which could be considered the gold standard of news reporting in the UK. Surveys indicated that consumption of broadcast news was high and that the vast majority of people were well able to differentiate between the high quality and impartiality of broadcast news on the one hand and the highly opinionated viewpoint-led news commentary that characterises most of the print media, on the other.

b) Any involvement you yourself had in the development of the Government's thinking, and particularly in relation to the Government's decision making on what became section 77 of the Criminal Justice and Immigration Act 2008;

I did feel that the self-regulatory system was not working well, and had called for the PCC to be reformed, to give itself more teeth, to become more energetic, to end the domination of the newspaper editors themselves and to have greater input from independents. The PCC was not willing, and possibly not able, to reform to the degree that is now considered necessary, and there the matter lay until the much later revelations about phone hacking and privacy intrusion in general reopened the debate. I ceased to be Secretary of State with responsibility for these matters in June 2007.

c) The extent to which representations on these matters were made to the Government on behalf of any media interests (and if so, the details of those representations);

The PCC indicated that they remained committed to self-regulation of the press. None took the view that the Government should intervene. However, this was merely the articulation of a long-established position, and could hardly be regarded as a concerted campaign.

d) What in retrospect you consider would have been the right steps for the Government to have taken.

Hindsight is always easy. Given the information available at the time (10 years ago) it is in my opinion right that Government took the view that an unfettered press, warts and all, was better than imposing statutory regulation. It may well be the case that the police should have taken the mounting evidence more seriously and earlier than they did, but that is a judgement for others to make.

7. Prior to the commencement of oral hearings of the Inquiry, in November 2011, Lord Justice Leveson said: “The press provides an essential check on all aspects of public life. That is why any failure within the media affects all of us. At the heart of this Inquiry, therefore, may be one simple question: who guards the guardians?” In answering the questions below, please give your reasons and, where appropriate, examples.

Obviously judgements made in 2003, and the circumstances that prevailed then, have to be reviewed in 2012 in the light of revelations that led to the establishment of this Inquiry and technological changes. The question makes the point that is now widely accepted, that there is a need for a new, independent regulatory body to succeed the PCC, probably established on a statutory basis. In my view it should be free from any control by either press or politicians, who are distrusted by the public in almost equal measure. Tension between press and politicians has always been a feature of public discourse. Print media have always resisted the regulation that has been successful for radio and television. It is not clear, with the acceleration of convergence between platforms, why different media should continue to attract such different treatment.

8. In your view, what are the specific benefits to the public of a relationship between politicians and the media? What are the risks to the public inherent in such a relationship? In your view, how is the former maximised, and the latter minimised and managed? Please give examples.

Some interaction is clearly essential, so that Government policy can be explained and misconceptions corrected. Provided these relationships are properly conducted, there is a public interest in proper relationships between the media and politicians. It is not inherently risky, but can be corrupted if special favours or influence are being sought by either side. Throughout my ministerial career I was often attacked by newspapers for pursuing policies which they did not like – e.g. in relation to gambling and alcohol licensing and teenage pregnancy. As a Secretary of State, you have to take decisions carefully within the context of the values you hold and the Government’s purpose and, of course, the constraints of the Ministerial Code, then to stand firm in the face of sometimes very unpleasant, often *ad personam*, press assault.

9. What lessons do you think can be learned from the recent history of relations between the politicians and the media, from the perspective of the public interest? What changes, voluntary or otherwise, would you suggest for the future, in relation to the conduct and governance of relationships between politicians and the media, in order that the public interest should be best served?

It is essential that politicians and the media engage with each other, for the reasons set out above. It is perfectly possible, however, to tread the proper line, narrow as it may be.

10. Are there any differences between the media generally and the press in this regard?

No, but it is obviously especially important where decisions with potential commercial impact for media businesses are concerned to be particularly vigilant and transparent in dealings with the relevant parties. I tried to observe the proper conventions at all times.

11. Please explain the approach you personally took in the course of your political career to engaging with media proprietors, senior editorial and executive staff, and political editors, within the media. In relation to your period in office as Secretary of State, your answer should cover at least the following - indicating as appropriate whether the information relates to either of these capacities or a private capacity:

a) the nature and frequency of contacts of this nature, whether formal or informal;

As a minister, all formal contacts would have been recorded by my private office. I am advised by the DCMS that my diaries no longer exist. Of course informal contacts are often impromptu and unplanned. Where there was any material discussion of a live policy issue or decision in such a forum I would always seek to ensure that I informed my private office of that discussion the next day.

b) details of any relevant hospitality you gave, received or participated in;

There were a number of occasions during my time as Secretary of State – and subsequently – when I gave or received hospitality with people working in the media. However, hospitality as a minister was regulated and declared as required by the Ministerial Code. I declined hospitality that I considered to be inappropriate. By and large my private office was aware of invitations I accepted or gave as they would form part of my diary.

In addition, over the years I have built relationships with a number of people who work in the media at all levels. Obviously I therefore socialised with them, at events such as weddings, christenings, dinners, parties etc. Examples of these people include: Alan Rusbridger, Dawn Airey, Rebekah Brooks, Les Hinton and Kath Raymond, Jackie Ashley and Andrew Marr, Peter Riddle, Matthew Freud.

c) the value of these interactions to you;

By and large, the benefit of these relationships was that of friendship in varying degrees. They were not occasions for policy discussions.

d) the extent to which political support by the media for any individual, party or policy was discussed at such interactions;

I cannot recall being party to any such discussion where there was any suggestion that political support could be exchanged for commercial advantage.

e) the extent to which the existence and nature of such interactions were or were not placed within the public domain and the reasons for that.

While not every single interaction was recorded if it was principally social - a wedding or a birthday party, for example - none were secret in the sense that the question suggests.

I have had a lot of regular contact with journalists at all levels during my long political career. There a number I would count as friends. However, journalists who are friends are different from other friends. The reason is simple: their relationship with me and mine with them has an element of business about it. Any politician who forgets this does so at his or her peril. In that sense there can be no public or private. If you are an elected politician you have to act on the basis that your conduct must be such that you can explain it to your constituents and fellow MPs without embarrassment at any time.

Conclusion

It is a matter of public record that my mobile phone was extensively hacked by News of the World during 2006. I took a civil action that was settled in December 2011. All details appear in the Register of Parliamentary Interests. I continue to assist with the police enquiry, Operation Weeting, and have already given five witness statements. There is no evidence yet shown to me that the hacking of my phone was undertaken for commercial motives, but rather in pursuance of an obsessive interest in my troubled family circumstances at that time. In any event

the Communications Act received Royal Assent in 2003, some time before it appears that my phone was hacked.

I have also written to the Inquiry clarifying remarks made by Insp. Keith Surtees in his evidence, in which he suggested that I had been unwilling to assist with the prosecution when first informed of the hacking of my phone by the police in August 2006. This is untrue; in fact, as my then Principal Private Secretary's statement to the police confirms, my offers of further help were declined.

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

SIGNED:



Tessa Jowell

On this 30th day of April 2012