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## COMMITTEE ON CULTURE, SCIENCE, EDUCATION AND MEDIA COMMISSION DE LA CULTURE, DE LA SCIENCE, DE L'ÉDUCATION ET DES MÉDIAS

**Reports of sessions 1, 2 and 4 of the committee meeting held in London on 21-22 May 2013**

### **Session 1: Violence in audiovisual media and its consequences on children and society**

**Report prepared by Mr Neil McLatchie School of Psychology, Keynes College, University of Kent, Canterbury**

Children today are using media more than ever before. By the age of six the average child spends 14 hours in front of a screen and by the age of 18, the average child spends 45 hours a week using entertainment media, more time than they spend at school. While television remains the most accessed media source, advances in technology mean people can now access media through devices such as personal computers, tablets, laptops, mobile phones and gaming consoles.

Access to media is not inherently negative. The media can entertain, educate and inform, but as it has become more accessible it has also become more violent. By the age of 18 the average child has seen 200,000 acts of violence on television. 60% of television programmes contain violence, half of which is on during children's programming. Similarly, 90% of films suitable for adolescents contain violence, half of which is of a lethal magnitude.

Videogames are a popular form of media, 97% of adolescents play them. Videogames have been under the spotlight recently because they are growing more engaging and violent. Around 94% of videogames contain content descriptors for violence, and almost 26% contain content descriptors for gore. In comparison to other media sources videogames also have the unique ability to reward specific behaviours such as killing, through goal fulfilment, advancement to the next level, and through social approval.

[The speaker shows two short clips, one from Wolfenstein released in 1993 and one from Wolfenstein released in 2009 – they are noticeably different in terms of realism, violence and gore].

The effects of violent videogames provoke a polarising view amongst the public. 75% of parents that think violent videogames contribute to violent behaviour whereas violent videogame players tend to believe violent videogames have no effect on aggression. A common retort to this discussion involving violence and video games is that violent videogames are "just a game" - just as football games cannot teach players to play football, violent videogames cannot teach players to be violent. Despite its intuitiveness, multiple studies have shown that gamers respond to virtual events as if they are morally relevant, a result which would not be expected if it were "just a game". To illustrate this point one study found that after playing a violent video game, gamers reported feeling more guilty when the violence was not justified compared to when the violence was justified. Additionally, research has also shown that children who play violent videogames view the world as a scarier place, are more fearful and initiate more self-defensive acts compared to children who don't play violent videogames.

There are two specific ways in which violent videogames have been found to cause aggression. Dehumanization refers to the denial of human traits to another person. It is used as a form of moral

disengagement so that when we harm someone we often see them as less human so we do not feel as bad that we harmed them. One example of a study showed that participants who played the violent videogame ascribed less human emotions (e.g. hope, envy,) to a partner compared to participants who played a non-violent video game. These participants that dehumanized after playing the violent videogame then gave a less favourable character assessment of their partner on a mock job application form. This was viewed as an act of aggression since the participants were told that their assessment would directly impact their partner's chances of getting a job.

The second mechanism through which violent videogames lead to aggression is through desensitization. Generally when we see an act of violence we respond emotionally and physiologically. For example, we feel empathy or anger and our heart rate increases and we sweat more. Research has shown that both of these reactions to violence can be desensitized. Children who play violent videogames have less empathy than children who do not play violent videogames. This has important real life consequences as research has shown that it can also make us less willing to help people when they are in need.

The conclusions about the effects of violent videogames on aggression however, are only as good as the research informing them and there is still much that psychologists do not know. In the future, researchers need to work more closely with regulators to provide research that is relevant for ratings as not all groups respond to violent videogames in the same way. For example gender (boys respond more aggressively than girls) and age (children respond more aggressively than adults) influence the way players respond to violent videogames. Current research also lacks the precision required to make informed ratings decisions. We do not have the level of detail in research to distinguish between acceptability of violence towards a human character or non-human fantasy character for a specific age range. Yet, PEGI ratings systems are formed as though we do.

**John Carr, OBE, Member of the Executive Board, UK Council on Child Internet Safety, London**

There is a clear consensus that engagement with child abuse images leads to an increased probability that the person involved in viewing this material, will then go on to commit sexual offences against children. A conservative estimate according to current research suggests that around 15% of the people caught in possession of child abuse images will be actual or potential hands on child abusers. Engagement with these images puts these viewers on the path that may lead them to commit sexual offences against children. It is therefore extremely important to prevent people from finding and becoming engaged with these images.

It is challenging to monitor and regulate the content found on the internet as there is such a vast amount of information available. Many countries around the world have an internet hotline where any member of the public can report illegal child abuse images or pornography and around one third of these reported instances are actually of an illegal nature. Shockingly, last year The Internet Watch Foundation found that 81% of all illegal child abuse images featured children under the age of 10 years old. The Internet Watch Foundation also maintains a list of all of the addresses of websites and newsgroups where these illegal images are being found and it distributes that list to every internet service providers and mobile phone companies. 98.6% of everybody who uses the internet will be using it through a carrier that deploys that list to block access to those sites with illegal images on it, and each internet service provider must demonstrate that it is taking steps to block access to these child pornographic images.

The adult bar is another measure that has been put in place to protect children and young people from accessing inappropriate material via their mobile phones. Since 2004, all mobile phone companies except one have adopted a voluntary agreement where they place legal adult sites containing pornographic, gambling, violence or self-harm related content behind an adult bar, and access is only granted once it is proven that the customer is 18 years or older.

It is also important to filter websites, particularly as free wifi access has become more publicly available. Historically, content protective measures have been sometimes overlooked. For example Starbucks' wifi had no restrictions in place and, although this was remedied when questioned in the UK, the filters have yet to be adopted in other European countries. The UK Prime Minister David Cameron has personally backed content filtering and is working towards all free wifi access to have restrictions in place. However, at present there is no legal compulsion for companies to agree to this.

It is not certain what consequences this widespread exposure to pornography may have on society. Various studies have shown that exposure to pornography is changing the attitude of boys and girls and what they expect sex to be about. Girlfriends are expected to do the same things that professional porn actresses do and, particularly amongst young people, this is coarsening the discourse on sex and relationships.

**Tineke Lodders-Elfferich, President of the Board, Netherlands Institute for the Classification of Audiovisual Media (NICAM), Hilversum**

NICAM - the Netherlands Institute for Classification of Audiovisual Media was founded in 1999. It is a foundation set up with one specific goal - to help parents and educators of children (aged 1-16 years) by providing information on the potential unsuitability of audiovisual productions. To achieve this they introduced "Kijkwijzer", meaning "watch wiser" or "viewing guide". This is a universal classifications system for television programmes, cinema films, DVDs and videogames. Research suggest that up to 90% of parents use the system, as well as children age 9-14 (particularly girls) because they wish to be informed of the potential risks and consequences of watching certain audiovisual media.

As a result of NICAM, audiovisual media providers in the Netherlands take responsibility for the protection of children. We have experience in running cross-media ratings for audiovisual media. It is interesting and stimulating to see that NICAM's approach has spread internationally. Iceland and Finland, for example, will or have adopted the system in their own countries. It is interesting that when we discuss with different groups – both governments and companies with business interests – we always come to a mutual understanding and work together. I hope this continues in to the future. I will now hand over to our director, Wim Bekkers, who will discuss in detail online and offline media content.

**Wim Bekkers, Director, Netherlands Institute for the Classification of Audiovisual Media (NICAM), Hilversum**

It is important to distinguish that NICAM only provides information on the potential unsuitability of audiovisual content and not the suitability of audiovisual content, the criteria of which are informed by Dutch academic experts. It does this by informing adults, parents and children using pictograms indicating minimum age and information about the content of the media (e.g. contains sex, violence, drugs). It is also of note that "Kijkwijzer" is not an independent body but a self-rating system - the classification process is the responsibility of the broadcasters and media distributors.

In spite of extensive online developments, television and cinema are still extremely popular mass media sources. For games, the PEGI system is used in the Netherlands and was established in 2003. PEGI is an excellent example of effective and efficient European co-operation.

Kijkwijzer and NICAM help to make classification possible. NICAM receives half of its funding from the government; the rest comes from public and private broadcasters and DVD and film distributors. Audiovisual media violence can have consequences – watching media violence can promote short-term aggressive behaviour in children and it can also lead to desensitisation to violence and make children more fearful.

The obvious question is how can we minimise the risk of online audiovisual content? The BBFC and NICAM have developed a tool that makes it possible to rate user generated content online. "You rate it" – a prototype, a simple rating tool based on BBFC and NICAM ratings. It is extremely simple and can be embedded in any video upload site to facilitate user generated ratings. Language and appearance can also be fully customised. The ratings can also be translated to local ratings based on the location of the viewer. Ratings can inform users of the content by websites, apps, search engines and filter software enabling users to make selections. Ratings can also be done by the uploader or by the crowd. We feel that this way of self-rating will empower the users and create more media awareness. It is not yet in its pilot stage but these discussions are being had now.

The EU children online studies look at the behaviour and opinions of children and parents – the majority of children say that video sharing sites are the most risky platforms on the internet. The commissioner responsible for the Digital Agenda in Europe outlines five issues to overcome in order to create a better internet: reporting tools for users, age appropriate privacy settings, wider use of content classification, wider use of parental controls and effective removal of child sexual abuse material.

**David Austin, Assistant Director, Policy and Public Affairs, British Board of Film Classification, London**

Since 1912 the BBFC are the UK's regulator of film, and of videos since 1984. The BBFC are self-financing and independent of government involvement. Since 2008 they have been classifying age related content distributed online. All classification decisions are based on published guidelines which are updated every four years following large scale consultations. These typically involve around 10,000 people who take part in interviews, focus groups and fill in questionnaires. The public tells us what level of content they feel is acceptable at different age ranges and we reflect and update this accordingly. Generally the classification systems gives an age rating and content advice to a particular piece of content, but occasionally we do

intervene and make content cuts or reject content entirely. This happens in two circumstances: either because of UK law (e.g. indecent images of children), or because of a potential harm risk (e.g. depiction of violent pornography).

In 2011 we were looking at the policy of the depiction of sexual violence as a number of films were showing this sort of extreme content at the time (e.g. *Human Centipede 2*, *I spit on your grave*, *the Bunny Game*). It was necessary with all of them to intervene; either cutting material out at a scene level, or banning the film entirely (*The Bunny Game*) because of the harm risks that we believe they posed. It is therefore illegal in the UK to supply uncut versions of these films or to supply any copy of *the Bunny Game*.

As a result of this influx of these types of films, we commissioned Guy Cumberbatch to review all the available research of the effects of the media and sadistic, sexual violence. While the majority of studies claim some harm from mediated sexual violence, there are grounds for scepticism over the evidence and it is not always possible to ascertain cause and effect. Many scholars suggest that there may be high risk groups who are especially vulnerable to media influences, for example rapists might show greater arousal to coercive sexual scenes than controls. Again, this does not indicate cause and effect. It is possible to deduce that some media content may harm some people, some of the time. When we commissioned our own research into this area we found that members of the public find certain depictions of sexual and sadistic violence unacceptable, and that this has the potential to cause harm. This concern was particularly acute in relation to young men without much life experience and other vulnerable viewers which could serve to normalise rape and violence, and offer a distorted view of women.

How does all this inform BBFC policy? Like NICAM and PEGI, we keep depictions of strong or glamorised violence away from impressionable young children. In the world of cinemas where there is effective gate keeping, and physical DVDs where it is illegal to supply an age rated video to someone under that age, these protections work well. Research found that over 80% of parents with children under the age of 16 value the work that we do. Online however, many of these regulations disappear. It is expected that online content should be regulated as strongly as offline content. Online, we think there is a case for more co- and self-regulation. The key factors for success of an online regulatory system we believe are: to have child protection at its core, to have effective (trusted and recognised) labelling of content, to have broad coverage that is low cost and efficient, and flexible and innovative.

Since 2008 we have been working with industry to create a number of self regulatory services. "Watch and rate" provides consumers with access to labelling and content information for content that will only ever be distributed online, e.g. *House of Cards*, or *Hemlock Grove* which are only available online through Netflix. Incidentally, Netflix allows parents to then filter this age inappropriate content. Another example is the prototype tool which will allow peer and community ratings of content according to trusted standards. This is hoping to be piloted later this year in Italy. We are also introducing another initiative to provide filtering solutions in line with BBFC classifications for certain internet content, e.g. websites that encourage violent behaviour can then be put behind filters and kept away from children.

Today we know that children must be protected. The challenge is to do so in a relatively inexpensive way without impinging upon liberty or freedom of speech. The success of these initiatives, however, ultimately depends on the public using these tools and filters effectively. The systems therefore need to be trusted and easily understood. Another challenge relates to the use of international context and tools but whilst maintaining national and cultural differences in acceptability.

### **Simon Little, Managing Director, Interactive Software Federation of Europe, Brussels**

The International Software Federation of Europe (ISFOE) was the founder of the PEGI system. Between 1/3 – 1/2 of people aged 6 years or over play videogames, and although this tends to decrease as we get older, almost 1/2 of 25 – 34 year olds play video games. According to our statistics, people tend to play videogames because they view them as entertainment, escapism and fun. Interestingly these are also the top three responses that come to mind when people think of films. We asked parents of children who play games if they thought that they encourage children to do certain things. Almost 60% of parents believed that videogame play has a positive impact on the development of skills in children. Similarly, nearly 50% of parents believed that videogame play has a positive impact on children's creativity. The majority of parents however do not feel that videogame play affects children's aggressive behaviour.

It is important to emphasise that players of violent videogames are not engaging in violent behaviour, but in a game with a theme that includes a violent narrative. The act of pushing buttons is not a violent one. It is also important to highlight a distinction between videogame play and watching a film. That is, it is easy to stop the game by not playing and putting down the controller, it is much harder to disengage in a cinema when

watching a film.

It is generally accepted that violent narratives are not appropriate for children, and it is on that basis that the industry adopted a precautionary principle. 10 years ago the industry developed and launched the PEGI system. PEGI is a Europe wide system of self-regulation, promoting the appropriate sale and use of videogames. It is based on a contractual code of conduct and licenses and was jumpstarted by the European Council Resolution from March 2002. Throughout its life, PEGI has been supported at various stages throughout the commission, the European parliament and national governments from many countries including Iceland and Israel. It is important to note that PEGI is only a classification system - it does not censor or ban games; that is the privilege of each local government.

At its heart PEGI is a two part information system. The first part comprises of age icons which are based on criteria developed by experts in child development, psychology and media fields. To illustrate an age rating of PEGI 3+ the violence would have to be stylised and cartoonish, not recognisable as violence as such. The second part of the information systems comprises of the content descriptors – these are the reasons why a game is given a particular age rating and here sometimes culture influences the acceptability of content. For example, bad language may be particularly important to the English but not to the Dutch. Regardless of local differences, the age label plus the content descriptor creates informed purchasing decisions for parents.

A PEGI 7+ game still appears cartoon like, has features of a scary nature that are not necessarily violent which might still be concern of parents as they do not want their children to have nightmares.

A PEGI 12+ game starts to look more realistic, but the violence remains stylised. Although not strictly covered by this rating, simulated gambling and sexual posturing are usually covered here.

A PEGI 16+ game features violence that looks quite realistic and quite graphic scenes of a sexual nature, drug references and profane language.

A PEGI 18+ game features sometimes quite disturbing scenes on a par with film products. Remember, in the UK at least, it is illegal to sell these games to people that are under age. It should be noted that these scenes can usually be avoided, and tend to only reflect a few seconds of what for experts can be a 6 hour game.

The first step of rating the process is self-assessment as the game creators are in the best position to know about the game's content. Two independent third parties then verify these ratings. Structurally, supporting the management board, PEGI also has an experts group, a criteria committee who are constantly reviewing our criteria and ensuring it remains up to date with public opinion and advances in technology. Supporting those we have a complaints and enforcement division who review complaints that arise from consumers and publishers and correspondingly enforce the contractual penalties we have in place. We can issue a fine of up to EURO500,000 and compulsory withdrawal from the market and/or re-rating and editing of content as is necessary. Furthermore, this is overseen by the PEGI council which is made up of representatives from the PEGI member countries who are likely to be civil servants in the department of media and culture.

In 2012 more than half of the 1,800 PEGI rated games were suitable for young children, and 75% were suitable for pre-teens. Only 9% were in the PEGI 18+ category and only 1% had any reference to drugs. Interestingly these figures do not include any of the thousands of games available on phones and tablets which would tend to be rated predominantly at a 3+ and 7+ rating and used more by casual gamers (as opposed to core gamers frequently using games' consoles).

PEGI is an extremely robust system for rating physical products in retail; however there are now many ways to access games. New platforms often prefer to use their own age rating systems. We are trying to improve our reach for these non-physical retail products and have developed PEGI for apps which is more efficient and cost-effective than traditional PEGI rating methods as the ratings are made during the post-release audit system. Additionally PEGI for apps uses features descriptors for guidance as it has been found that content is of lower concern to parents than certain features, e.g. personal data sharing, social interactivity or location sharing.

Another project PEGI is working on involves co-operating with Europe, USA and Brazil (and hopefully later Japan, Australia and South Korea) to address the global nature of app stores and harmonise the application for a rating which would lead to different national ratings relevant to the specific countries. This project is half way through its life, and we hope to launch later this year in Brazil.

Finally, I did also want to mention the case of the US Supreme Court, *Brown versus EMA* 2011, which ruled that the research on violent video games is unpersuasive and that such research contains many

methodological flats. In this last clip, I would like to show how violent videos never lose sight of how they are playing a game: head shots are there to advance to next levels as part of a game.

## **Session 2: Internet and politics: the impact of new information and communication technology on democracy**

**Report prepared by Ms Helen Margetts, Professor of Society and the Internet, Director of the Oxford Internet Institute, University of Oxford**

1. This session was convened to discuss the relationship between the Internet and democracy, with context provided by the background document by Anne Brasseur, which identified three 'paradigm shifts' emerging from widespread use of the Internet and social media:

- *"The spread of the internet and new social media throughout the world has considerably transformed social practices. Political participation by citizens and social activism have also changed significantly (...).*
- *With the high-speed dissemination of information via new communication technologies, diffusion of any knowledge, including data useful for democratic transparency, but also rumours or disinformation, is amplified in an unprecedented way, producing political effects.*
- *Politicians also see changes in their everyday professional practices: the need to react immediately and electronic means of political campaigning and communication with voters have become major new phenomena that parliamentarians and governments have to address."*

These observations acted as the background to the session, highlighting the need to analyse the structural impact of the Internet and the new social media on democracy; asking to what extent they represent a real opportunity for a stronger and more dynamic democracy and to what extent they undermine it; and provoking a reconsideration of politicians' role as lawmakers, in which they take on the challenges posed by the development of the Internet and ICTs and use these new resources constructively to expand and consolidate democracy.

### **Introduction**

2. The session was moderated by Anne Brasseur (Rapporteur, Committee on Culture, Science, Education and Media of the Council of Europe Parliamentary Assembly, Member of the Luxembourg Parliament) and panellists included Ben Hammersley (journalist and Member of the EU High-Level Group of Experts on Media Freedom and Pluralism, UK Prime Minister's Ambassador to TechCity, London); Douwe Korff (Professor of international law, London Metropolitan University) and Helen Margetts (Professor of Society and the Internet, Director of the Oxford Internet Institute, University of Oxford), who was also the Session Rapporteur. This Rapporteur's report draws out the key insights that emerged from the contributions of the panelists, and the discussion and debate that followed.

### **The Internet is contributing to increased 'popular control', and hence to democracy**

3. Democracy may be defined by two key principles: popular control, and political equality of that control. For the first of these principles, there does seem to be evidence that the Internet is contributing to greater popular control in both democratic and authoritarian states, by enabling political participation and civic engagement. From the mid 2000s, we have seen rapid take up of social media, internet-based platforms where users themselves can generate content, such as YouTube, Twitter, Flickr, Facebook, Tumblr and other social networking sites, and these media are being used for political activity. And there is evidence to suggest that using the internet makes you more likely to vote or to participate politically, that even the amount of time spent 'aimless surfing' is likely to increase your political activity. In democratic states, political information costs have plummeted; co-ordination costs for large groups are massively smaller; and there has been a repatterning of the interest group ecology. For authoritarian states, the Internet is heavily implicated in the sharp rise in political activity, protest and demonstrations that brought about the Arab Spring of 2011 and continues in many countries. It is not possible to claim that the Arab Spring would not have happened without the Internet and social media, and indeed the revolutions of 1989 across central and eastern Europe coped well without it. But it is difficult to see how the Egyptian or Tunisian revolutions could have got off the ground without Internet-based platforms to disseminate images, assemble and co-ordinate and sustain mass demonstrations. The main point is that the way in which they developed—bottom up, in contrast to the 1989 revolutions triggered by changes at the top—was different.

### **Social media are expanding the range of political participation**

4. For popular control therefore, it is possible to make a strong case for social media fuelling democratic participation, through the facilitation of a myriad of small political acts. Internet-based platforms have extended the 'ladder of political participation', widening the range of political activity. Basically the range of *small* things people can do has expanded enormously; political endorsements, status updates, sharing media content, 'tweeting' an opinion, contributing to discussion threads, signing electronic petitions, joining email campaigns, uploading and watching political videos on YouTube, for example. These activities are starting to challenge voting as the political act that people are most likely to undertake. These acts may seem to tiny that they do not make any difference at all, but they scale up to large mobilizations. For example, the nearly 500,000 'likes' on the web site 'We are all Khaled Said' in the early days of the Egyptian revolution sent a crucial signal of viability to those deciding whether to join the 'march of millions', triggering the dramatic events that followed.

### **The Internet's contribution to political equality is more complicated**

5. For the second principle of democracy, political equality, the picture is more complicated. More people are participating outside of political elites, but they still tend to be richer and better educated than those who do not participate at all. Some democratic inequalities are reinforced. If you use the internet, then the chances are that if you want to find a bit of political information – the name of your political representative for example – you will do so using an internet-based platform, and if you do not use the internet, then you will have to undertake much higher costs to find it out. Other inequalities are challenged; younger groups, for example, long associated with low levels of political engagement, are more likely to participate in political activities on social media. Even non-use of the Internet is more complicated than it appears at first glance. Many respondents to surveys who claim not to use the Internet do have partial use through the use of social media on smartphones, or have some kind of proxy use, for example through a friend or relation who uses the Internet. Certainly there are wide variations in people's Internet access, skills and use and if social media means that democracy is changing all the time, many will need help to understand it.

### **There is cultural resistance to the role that the Internet can play in democracy.**

6. Mainstream political culture can be resistant to new forms of participation facilitated by social media, viewing the low costs as symptomatic of lower value than, for example, political party or interest group membership. In 2010, the US commentator Malcolm Gladwell wrote a long and well cited article in the New Yorker entitled 'Why the Revolution will never be Tweeted', arguing that social networking applications such as Twitter could never engender the strong relationships that characterized the civil rights movement, and that the 'weak ties' that exist on social networking sites couldn't make this kind of difference. This argument was strongly challenged by subsequent events; it is precisely because internet platforms allow 'micro-donations' of resources – tiny political acts which when conducted by millions scale up to huge mobilizations – that so many of the democratic events since 2010 could actually take place.

### **This individualized democratic activity leads to a shift away from institutions**

7. We are seeing a new model of democracy emerge, involving a shift from institutions and organizations to individuals. Fundamental societal change is arising from people's capacity, through social media, to interact directly with organizations of all kinds. An individual citizen going to eat at a restaurant can review it straight afterwards, while 20 years ago they would have had that chance only if they had made a much earlier decision to train as a restaurant critic. The idea of paid membership is in sharp decline, for interest groups as it has long been for political parties. Individual citizens who use the internet spend much of their time in what danah boyd has called a 'time-based world stream' of information, pre-selected through their Twitter feeds and email alerts and social networking 'friends'. They can become aware of and participate in mobilizations, sign petitions, demonstrate electronically without ever belonging to anything. Leadership in political action is changing away from the idea of charismatic leaders towards leaderless movements. Social media allow people to cast a harsh light on organizations and institutions of all kinds – from parliament to the bureaucracy to international diplomacy – even or perhaps especially on small new ones, who might not have caught the attention of the conventional mainstream media. The fixed points of democracy have shifted away from how parliamentarians see the world – through the lens of institutions, political parties, legislatures - towards communities and conversations taking place outside the conventional realm of politics. As one panellist put it, new social movements are not threats to democracy – they *are* democracy.

### **The 'dark side' of the Internet tends to be emphasized by commentators**

8. From the mainstream media and political world more generally, we receive a negative view of the Internet.

Indeed in his speech before the session started, the Minister John Wittingdale appeared to attribute the 'destruction of all creative industries' to widespread use of the Internet. One panellist pointed to the 'excessive demands of intellectual PR', pointing out that the music industry was really quite small even in the UK, that Apple could afford to buy it and the perceived need to protect it should not be allowed to destroy the creative potential of the internet. One characterized the Internet as a beautiful chaotic noise, and we must use this new ability to share in a creative way, for example through peer-to-peer education. Many activities for which the Internet gets blamed are already illegal. For example, any discussion of Internet freedom ends up with a discussion of child pornography, but child pornography has always been illegal – so this is not a question of regulating the Internet, but rather a question of implementing a pre-existing policy in a different environment, where child pornography is so much easier to disseminate. Everyone is against child pornography, but the 'grey' cases are difficult to deal with; it becomes critical to define what is acceptable and what is unacceptable.

### **The technology of the Internet is critical**

9. Internet freedom is linked to the very architecture of the Internet, and this infrastructure must be protected for democratic participation. All the panellists pointed to the need for policy-makers to understand the technology of the internet and one suggested to parliamentarians that 'if you don't understand the way the internet works you should leave now, and shouldn't try to censor it – you have no place as a politician.' Whereas all did not hold this strict view, there was general consensus that policy makers should be trained in technology issues, or at least aware of them. Freedom online will only survive if there is understanding of the threats faced; a sharing of knowledge about technology and how it works; and the technological capacity to protect it.

### **The complex nature of technological neutrality.**

10. Some of the discussion revolved around the extent to which digital technology is, can or should be neutral. One panellist stressed how net neutrality, whereby everybody is connected to the Internet has the same ability to receive or add content or web service, must be an essential characteristic of the Internet. When net neutrality is threatened, he argued, Internet activists should move to protect it; we 'need to use participation to protect participation'. Other participants argued that the neutrality of technology was more complex and that it can be dangerous to view it as a straightforward neutral tool, so we should heed the warnings of philosophers: 'Everywhere we remain unfree and chained to technology, whether we passionately affirm or deny it. But we are delivered over to it in the worst possible way when we regard it as something neutral' (Martin Heidegger, *The Question Concerning Technology*)

### **Private entities rather than states control the Internet**

11. The Internet has introduced huge new corporate players to democratic life who (notably Google) are taking on the role of states in some areas, such as anti-terrorism. These new gatekeepers of the Internet also collude with non-democratic regimes in censorship. Even in democratic states, to some extent private companies control what can be accessed: Google for example is dealing with ever increasing numbers of requests from governments to remove material from Google searches. In the UK, the regulation of pornographic content is also carried out by the private sector, through the industry led Internet Watch Foundation, conducting tasks which some argue should be in the hands of courts.

### **The value of an unfettered Internet**

12. Overall, the general feeling was against regulation of the Internet. Several commentators pointed out 'you can't have the good stuff without the bad stuff', and argued for the societal value of an Internet which is 'open, neutral and free'. One panellist observed the distinction between 'regular old media', based on scarcity (such as spectrum or license), and new media which has no such constraint: 'there is no stick and no sanction – and if you regulate, you become like North Korea'. We all have individual responsibilities to preserve the Internet for the public good and the primary objective should be to protect fundamental freedom and the infrastructure for political participation. Regulation is a 'slippery road' and once policy-makers start telling people where they should or should not go on the Internet (as suggested by the Minister in the previous session) there is a danger that they will start telling them to do all sorts of other things. Some laws, regulations and case law will need profound change in this new environment, particularly pertaining to human rights across global jurisdictions. But the real threat is *to* the Internet rather than *from* the Internet. The most important thing to do is to preserve it in as free a state as possible. To attempt to make it more democratic would be inherently undemocratic.

## **Democracy, the Internet and social media are now completely intertwined**

13. In conclusion, the view was that the Internet enables democracy to be more democratic, in the sense that more people have more control. There are fewer indications that it is more equal, but there are ways that we can address the inequalities, rather than failing to reap the democratic potential. Internet-based innovations are now inextricably embedded in democracy. Social media are part of the 'democratic weather' – there is no going back. Rather we need to understand the dynamic nature of democracy in this changed world, where democratic engagement is more volatile, more chaotic and disorganized, and therefore less understandable. The Internet does not change the basic principles of democracy – popular control and political equality – but we need to consider how it may be applied to enhance them. As one panellist put it, social media are neither threat nor opportunity - just what we have now – welcome to the 21<sup>st</sup> century!

## **Session 4: Media responsibility and media ethics in a changing media environment**

**Report prepared by Ms Rachel Craufurd Smith, School of Law, University of Edinburgh**

### **Key Points Arising From Session 4.**

1. The press has both rights and responsibilities, in particular to provide accurate information and to respect the rights of others.

2. A variety of commercial, technological, regulatory and cultural factors are currently undermining the capacity of the press to engage in investigative journalism and in certain instances have led to unethical practices. All these contextual factors need to be taken into account when considering how best to support the media in performing their democratic role. There is no single solution and a broad raft of measures may need to be adopted to ensure that there is both respect for press freedom and compliance with basic ethical and legal standards.

3. Lapses in ethical standards have occurred in developed media markets such as the UK as well as in the evolving markets of central and eastern Europe. Some of the causes are similar, such as financial instability, but there are also marked differences, in the level of political intervention. Given the political, social and legal differences, particular regulatory approaches adopted in one country may be inappropriate in another. Care should thus be taken when transposing solutions from one country to another.

4. Though the Internet now offers many more sources of information and opinion, individuals still need to be able to distinguish what is of value and can be relied on. The role of professional journalists in investigating, selecting and explaining information of relevance to society thus remains of central importance. Similarly, ethical standards remain relevant in the online environment.

5. States should consider the following proposals for action:

5.1 International law, and in particular Article 10 of the European Convention on Human Rights, provides important guidance as to the nature of the rights and responsibilities of the press. State intervention in the media sector should conform to the three part test developed under Article 10, with any constraints clearly set out in law, based on a legitimate policy rationale and be necessary in a democratic society. Draconian criminal defamation rules and other measures that could chill legitimate reporting should be reviewed. In shaping their systems of media regulation, members of the Council of Europe should refer to the guidance already developed in this forum.

5.2 States should formally recognise the importance of freedom of expression and ensure that press freedom is protected across domestic law and practice. In particular, the importance of the public interest in investigative reporting should be clarified in prosecution practice, defences in civil and criminal law and in regulatory codes for the media. Whistleblowers and the confidentiality of journalists' sources should be protected.

5.3 Those states that have not yet done so should adopt freedom of information laws.

5.4 A plurality of media owners can help to expose press misconduct or the suppression of information, underlining the importance of effective media ownership rules. The impartial and independent application of competition rules also helps to maintain open and contestable markets.

5.5 States should ensure that their labour laws offer adequate protection to journalists, in particular protection from dismissal on political grounds.

5.6 States should consider whether further steps can be taken to offer financial assistance to the press. Financial assistance should, however, be offered on a transparent and non-discriminatory basis.

5.7 The independence and editorial freedom of public service media should be promoted and protected.

6. Self-regulation is the traditionally preferred means of maintaining the independence of the press from political interference. In countries such as Germany self-regulation appears to be working well, supported both by industry and the public. Self-regulation can, however, be compromised where the regulator is insufficiently independent from the industry it regulates, has inadequate funding or offers insufficient incentives for the industry to participate. The failure of the self-regulatory system in the UK has led to proposals for a new co-regulatory system. The proposed model is intended to ensure that the self-regulatory body remains independent from industry as well as political forces and is effective. These underlying motives need to be understood to prevent the UK being used as a template for further state intervention in other countries.

7. Press regulators play a particularly important role in establishing standards set out in codes of conduct; providing guidance for the media, and in some cases training, on these standards; and offering an effective system for resolving complaints. Some self-regulatory bodies such as the German Press Council have competence merely to require the publication of a correction, whereas in the UK the power to impose significant fines is currently envisaged. Further study into why self-regulation operates effectively in some countries but not others would be beneficial.

8. Press regulators should be pro-active in addressing new concerns and respond to technological changes. In particular, they need to take into account the impact of the Internet and online services. In order to promote adherence to ethical standards in the online domain, independent publishers and bloggers should be encouraged to participate in existing regulatory schemes. Given the current degree of media convergence, the regulatory obligations imposed respectively on the audiovisual and print sectors may need to be reviewed.

9. Consideration should be given to further support for enhanced dialogue and the exchange of insights and best practices among media regulators at the regional and international levels.

10. Compliance depends not just on external regulation but also on clear leadership and the endorsement of ethical practices within firms, as well as transparency as to sources and journalistic practices. Media organisations should be encouraged to consider introducing reader's editors, internal compliance officers and including conscience clauses in their contracts of employment with journalists. In addition the provision of a hotline by the self-regulatory body, which journalists can contact to report unethical behaviour, provides another avenue of redress where there is insufficient trust in the company itself to raise the issue internally.

11. Industry, regulatory bodies, states and civil society organisations should co-operate to assist the public in understanding the complex nature of the current media environment and the quality and reliability of available sources of information. The importance of the media for democracy and its relationship to the political system should also form part of the school curriculum.

### **Record of Presentations and Interventions**

**1. The moderator for the session Mr. Morgens Jensen, Rapporteur and Vice-Chair of the Committee on Culture, Science, Education and Media of the CoE Parliamentary Assembly and Member of the Danish Parliament, opened the proceedings by underlining the fact that the media have both responsibilities as well as rights.** Freedom of speech is essential for the press to perform its democratic role but this does not mean that the media are without moral and ethical responsibilities. Freedom and responsibility are closely interlinked. Given recent examples across Europe, not only the high profile case of the UK, where these ethical standards have not been met, it is necessary to examine:

- the nature of the accusations levelled against the press and whether they are convincing;
- whether there is a need for further regulatory intervention; and
- how best the media can regulate themselves.

Mr. Jensen noted that these issues would be considered in a forthcoming report for his Committee and were to be the main focus of the following discussion.

## **2. Dr. Rachael Craufurd Smith, University of Edinburgh, then presented some of the findings of the Leveson Inquiry in the UK and considered potential lessons that might be drawn from the inquiry for other European countries.**

Dr. Craufurd Smith noted that the Leveson Inquiry provides a useful resource for those considering how best to realise media rights and responsibilities because of the in-depth nature of the investigation and the detailed and wide ranging nature of the recommendations. Although care should be taken in transposing recommendations for one particular sector or country to another, the final Leveson report identifies key factors that led to ethical lapses in the UK, which merit consideration in other European countries.

### 2.1 Factors Underlying Legal and Ethical Failures in the UK

The Inquiry considered:

- i) *why certain journalists failed to conform to certain basic ethical standards and legal requirements*, engaging in phone hacking, paying for illegally obtained data, insensitive reporting of private information and harassment; and
- ii) *whether regulatory reform alone can address these concerns*, or whether other initiatives are required.

It is clear from the Inquiry that regulatory reform is in fact only part of the answer given the range of cultural, commercial and technological factors at play. Regulation of the press can help to steer behaviour in a positive direction but is unlikely on its own to be sufficient. Factors that appear to have influenced journalists' behaviour in the UK include:

- i) Commercial pressures on the press to come up with exclusive, sensational content in order to drive sales. In a highly competitive environment this may have encouraged editors to either turn a blind eye to, or to condone, unethical practices.
- ii) The precarious nature of employment in the industry, with exclusive reports enhancing a journalist's chances of being promoted or simply remaining in post. Fear of dismissal discouraged journalists from speaking out about unethical practices.
- iii) Technological developments have facilitated covert monitoring that is difficult to detect and may have added to the press' sense of impunity.

There were also limited restraints serving to counterbalance these pressures:

- i) The self-regulatory body for the press was insufficiently independent of the industry, without effective powers of investigation or sanction, operating primarily as a mediator between complainants and the press.
- ii) Industry had not put in place internal compliance mechanisms, though some newspapers such as the *Guardian* do employ 'readers' editors' to review the quality of their content.
- iii) Certain high ranking members of the police and politicians became too close to specific press interests.
- iv) There appears to have been an attitude within certain sections of the press and also the public that celebrities were fair game, thereby justifying intrusive reporting.

### 2.2 Key Leveson Proposals

Lord Justice Leveson recognised the complex nature of the ethical and legal failures in the UK and did not consider simply tightening the laws of bribery or harassment would respond to these concerns. Instead, he proposed a package of measures designed to address many of the concerns identified above. His key proposals relate to reforming the current system of press regulation, making it:

- i) *more independent from the press* itself (and government) in terms of the appointment to, and composition of, the main Board and its Chair,
- ii) *more effective*, with adequate finance and powers to enable meaningful investigations into potential malpractice, coupled with enhanced sanctions, and
- iii) *attractive for the press to join through incentives* in the form of an arbitration system and potential penalties for certain publishers that do not participate, in particular, restrictions on the recovery of costs in court proceedings and exemplary damages. The imposition of these penalties will depend on factors such as whether the firm has put in place an effective system of internal controls.

What makes the new UK system particularly controversial is the proposal that there should be a recognition body to oversee the independence and effectiveness of the self-regulatory body. The new scheme can more properly be characterised therefore as a form of co-regulation. The recognition body is now likely to be set

up by Royal Charter. It is important to note, however, that this body will not be involved in the formulation of the code or any specific decisions taken by the press regulator. Its role is solely to ensure that the body is constituted so as to be independent from both political and press interests and operates effectively, with checks to ensure compliance with these fundamental requirements every two to three years.

Though voluntary, the imposition of potential sanctions on non-members means that it is necessary to consider which publishers should be part of this system. Reform of press regulation has thus raised wide-ranging questions about the reach of regulation in a converging media environment, with both newspapers and broadcasters moving online and offering a mix of text and video content. At present it appears that commercial news providers, covering the provision of news, current affairs and celebrity gossip, will be expected to participate in the UK scheme. These services will have multiple contributors and be subject to editorial oversight. Most bloggers and private publishers will, therefore, be excluded, though multi-authored blogs with a significant commercial turnover may be covered. In particular, section 41 of the Crime and Courts Act 2013 excludes from potential liability for exemplary damages and costs persons who do not themselves post material on a given website. It is possible, however, that publishers falling outside this definition may still wish to join the scheme for reputational and guidance purposes and in principle it should be open to all publishers that wish to do so to participate.

Beyond reform of the press regulator, the Leveson Report also identified the need for:

- i) Measures internal to the industry to enhance compliance. These might include the appointment of a compliance officer within firms; the introduction of conscience clauses in journalists' contracts of employment; and the creation of a hotline run by the new regulator that journalists can contact directly if they wish to raise concerns about unethical behaviour.
- ii) Greater clarification as to the meaning of the 'public interest' and those occasions where it may be ethical for journalists to break the law.
- iii) Further clarification and transparency as to the relationship between the press, on the one hand, and the police and politicians, on the other.
- iv) Greater transparency as to the basis for news reports and supporting data.
- v) Effective measures to ensure a plurality of operators within media markets.

### 2.3 Conclusion. Specific Lessons For Other European Countries

- i) Compliance with ethical standards is affected by a complex mix of financial, institutional, cultural and technological factors. Compliance depends not just on external regulation but on clear leadership and endorsement of ethical practices within firms and transparency where possible as to sources and journalistic practices.
- ii) Self-regulation can be compromised if the regulator is insufficiently independent from the industry it regulates, has inadequate funding, or offers insufficient incentives for the industry to participate.
- iii) Co-regulation, though raising concerns over political intervention, if carefully framed, can help to guarantee the independence and effectiveness of the self-regulatory body, thereby maintaining trust in the regulatory system.
- iv) There should be clear identification of, and legal protection for, public interest investigative reporting.
- v) A plurality of media owners can help to reveal misconduct or suppression of information by other providers, underlining the importance of effective media ownership rules.
- vi) The public should be assisted in making informed choices in relation to the media they use and in assessing the content that is provided.

### **3. Ms. Agnès Callamard, Executive Director, ARTICLE 19, London.**

**Ms. Callamard focused on the nature of press responsibilities and the extent to which these have been enshrined in international law. She also considered the respective roles of national parliaments and government and the particular place of self-regulation in the media sector.** Ms. Callamard emphasised that freedom and accountability are related and that the press has a responsibility to be factually accurate and to respect basic rights, for instance to dignity and equality. This is particularly the case when reporting on contentious matters such as religion and ethnicity.

#### 3.1. The Role of International Law.

There is no one definition of press responsibility but it is possible to obtain some guidance from international documents such as the ICCPR and the ECHR what this might entail. In particular, Article 10(2) of the ECHR provides a list of legitimate grounds for derogations to freedom of expression, which includes national security; public safety; the prevention of disorder or crime; the protection of health or morals; the protection

of the reputation or rights of others; preventing the disclosure of information received in confidence; and maintaining the authority and impartiality of the judiciary.

### 3.2. The Role of National Parliaments.

Ms. Callamard noted that it was first and foremost for the media themselves to decide what these requirements entail in practice. Parliaments, however, play a vital role in creating an enabling legal environment where press freedom is protected. In particular, any legislative or administrative controls should conform to the three part test for the legitimacy of restrictions on freedom of expression set out by the European Court of Human Rights: they must be prescribed by law, pursue a legitimate public interest and be necessary in a democratic society. Parliaments, however, will often be in an adversarial relationship with the media and may not always be the best body to protect media freedom.

### 3.3 The Role of Self-regulation.

Self-regulation is the least restrictive form of intervention designed to ensure compliance with ethical and legal requirements, in line with the demands of Article 10 ECHR and Article 19 ICCPR. Self-regulation is frequently realised through the operation of Press Councils which typically:

- set out a code of conduct and ethical standards;
- assist in the training of journalists;
- deal with complaints.

For self-regulation to work effectively it should:

- i) apply to those in the print media (or media sector concerned) as widely as possible so that the public are protected and there is trust in the system;
- ii) be based on a single national code of conduct to minimise the risk of confusion;
- iii) the code should be wide-ranging in scope and cover, among other things, respect for the public's right to know; sensitivity in the reporting of vulnerable groups; protection of confidential sources; and the rectification of errors

Article 19 supports a right of reply and corrections should be meaningful and given adequate prominence;

- iv) there should also be a complaint resolution body, made up of members of the public and journalists as well as editors and media owners, which operates in a transparent and open fashion.

### 3.4 Press Failures: Causal Complexity.

A strong commitment to meeting journalistic standards is particularly important when covering sensitive or controversial issues. For example, there have been many problems and inaccuracies over the reporting of European affairs and these failings bring into question the viability of self-regulatory systems. Three key causal factors should be noted: firstly, the poor financial state of certain titles and media sectors, particularly the local press; secondly, the overloading of journalists who are required to file increasing numbers of reports across all media sectors; and, thirdly, the lack of knowledge among some journalists and in-house training.

The failure, therefore, of the press to report adequately on certain key issues is often not the result of insufficient press freedom but the poor economic health and mode of operation of certain media organisations; journalists' working conditions; and insufficient training and education. Ms. Callamard, therefore, underlined the importance of understanding the structural context in which the press now operates and that no single measure is likely to resolve the situation – rather, a package of targeted measures is required addressing all these causal factors.

### 3.5 The Role of National Governments.

Governments have an important role to play in creating an environment in which the media can perform their investigative role and also act responsibly. Article 19 recommends that governments ensure that the following forms of protection are in place:

- i) Laws to protect whistleblowers.
- ii) Laws preventing undue concentration of media ownership and ensuring media transparency.
- iii) Support for public service broadcasting, in particular to guarantee its independence and that it is able to meet its responsibilities.
- iv) Freedom of information laws.

Beyond this, governments should thoroughly investigate threats to journalists, thereby sending out a clear

message that intimidation of the press will not be tolerated; support financially and through other means responsible journalism and the education of journalists, in particular in journalism schools; and ensure that the labour laws in their country support, and cannot be used to chill, legitimate investigative journalism.

Ms Callamard ended her intervention by emphasising the role that international law and the many guidelines developed at this level can play in informing domestic media policy; and the need for a wide-ranging contextual approach when seeking to protect and promote free and independent media.

#### **4. Mr. Tillmanns Lutz, Secretary General of the German Press Council, Berlin, then presented the role of the voluntary, self-regulatory German Press Council, with specific reference to its role in relation to online journalism.**

In Germany the press has been involved in reporting a number of highly sensitive or controversial issues, such as the mass shootings of civilians on the Norwegian island of Utoya. These cases raise complex questions about the balance to be struck between the freedom of the press, for instance in covering legal proceedings, the protection of personal privacy and dignity, and data protection. They have also highlighted the increasing role of bloggers and social media as providers of information and fora for the exchange of opinions. We thus need to consider whether these new publishers should be subject to the same rights and responsibilities as mainstream journalists.

In Germany the Press Council focuses on promoting high journalistic standards. It seeks to identify ethical failures and to understand the motives and underlying circumstances that underpin these. It does not impose penalties but operates through elucidating standards in a changing environment, forensic investigation, and the identification of misdemeanours. The Council seeks to balance the media's right to freedom of expression, identified in article 5 of the German Constitution, and its responsibilities to consumers and to those on whom it reports, notably to ensure respect for human dignity, freedom and self-determination and adequate data protection.

The German Press Council is a non-profit organisation, acting under private law. Its members include publishers and two journalists' associations and it investigates and decides complaints relating to newspapers, magazines and, from 2009, online press media. The Council publishes a press code with guidelines for editors and publishers and the application of the code has led to an extensive body of 'case law', with 1,500 people last year contacting the Council with complaints. These range from small cases relating to minor violations of celebrity rights to major cases of unethical reporting with significant financial or individual ramifications. In 2001 the Council also took on the task of providing guidance to editors on the implementation of EU data protection rules and in 2006 it provided new guidelines on the coverage of the stock exchange and financial reporting. Where a complaint is found to be justified, the paper must publish a public reprimand.

##### 4.1 How has the role of the Press Council changed in response to the Internet?

The German Press Council has extended its remit to consider online media services that are associated with the printed press, including forums and posts by journalist bloggers as well as coverage on some social media sites. It is not concerned with online content provided by broadcasters. Citizens expect compliance with high ethical standards in the online as well as offline press and many complaints relate to the reporting online of celebrities and criminal cases. The debate about journalistic standards can no longer be limited to the printed press and new aspects of journalism, such as online archives, need to be taken into account. The Press Code has thus been adapted to take into account the changing nature of the media with attention being given to issues such as the separation of advertising on online content and data protection online.

Mr Lutz then explored three arguments. The first was that ethical and quality standards should be the same regardless of medium. Though these values can be seen to underpin media regulation more generally, he noted that regulators were facing a more complex and challenging environment and that the Internet does call for special attention. There was a risk that journalism was losing its value in this multimedia environment and that editorial standards would be lowered.

The second was that the Internet offers new opportunities for the publication of diverse information and opinions, undermining the need for regulatory intervention. Mr. Lutz noted, however, that it is precisely because the Internet has increased access to a range of sources that individuals need to be able to distinguish what is of value and reliable. The role of journalists in selecting information of relevance for society remains of central, if not even greater, importance.

The third, which follows from the preceding two points, was that quality journalism needs to be promoted in this new environment. In particular, there needs to be investment in the editorial field, in media literacy, and in the exchange of information about production processes and techniques. Self-regulatory systems should pro-actively guide ethical behaviour online as well as off, not merely respond by correcting behaviour reactively, and there should be support for media ombudsmen and compliance bodies internal to the media organisations themselves. In conclusion, Mr. Lutz noted that self-regulation was generally more effective and less open to political influence than legislative intervention in the field.

## **5. The final speaker, Ms. Judit Bayer, representative of the Southeast European network for Professionalisation of the Media, Budapest, considered the development of the media in post-Soviet countries.**

Ms. Bayer reported that the media in post-Soviet countries had not fulfilled their democratic potential. Press freedom was deteriorating and, in particular:

- self-regulation had been of limited effect;
- ethical standards among journalists was low;
- there was a high level of self-censorship;
- there was a lack of investment in investigative journalism.

Ms. Bayer then considered some of the causes for this situation. In relation to failures in the field of self-regulation, she suggested that the self-regulatory bodies needed to be better insulated from political pressures. They also needed to be more open and transparent. International examples were important in this context and she noted that the adoption of a Royal Charter to oversee press self-regulation in the UK could be used as an argument for more state oversight of the press in other central and east European countries such as Hungary.

The position of journalists was particularly difficult because they tend to have a weak socio-economic status in these countries, with no effective protection or job security under applicable labour laws. Representation of their professional interests was virtually non-existent. Economic pressures made their position even more precarious, encouraging self-censorship. Beyond labour law, general laws on defamation, the protection of sources etc. all serve to chill investigative reporting, affording insufficient respect for the democratic role of the press.

In relation to state support for the media, this was frequently distorted by political interests. Advertising contracts and funding of public service media can, and are, used for partisan political ends.

The position of the media in many central and eastern European countries is thus undermined by a mixture of weak democratic principles; insufficient legal guarantees to protect journalists; insufficiently independent and transparent regulatory bodies, and economic constraints. Ms. Bayer noted in particular the need to:

- set and monitor standards to ensure the independence and integrity of public service media;
- review key areas of law that are used to repress legitimate journalism to ensure that they conform to international standards, notably article 10 of the European Convention on Human Rights;
- ensure that financial support for the media is free from partisan political or commercial pressures and operates in an open and transparent fashion.

### 5.1. The Position of the Media in Hungary

By way of example, Ms. Bayer considered the position of the media in Hungary, noting four key concerns:

i) Public service media are supervised by an authority made up of delegates appointed by the Government and with representatives also from the main News Agency. News Agency news is distributed for free, which pushes out other news content. Coverage of foreign news is limited and News Agency coverage has its own biases.

ii) There is a need to address hate speech, even on public service media.

iii) The media market is dominated by the government, with influence over distribution, funding, ownership and acquisitions.

iv) The Hungarian government draws from other countries for possible regulatory models, which is why UK press reform could send out an extremely negative signal for media freedom in her country.

## 6. Questions and Interventions.

After the various presentations Mr. Jensen opened the floor to questions. In relation to the discussion of the Leveson proposals it was noted that many members of the UK Parliament were concerned at the introduction of a Royal Charter and its implications for press freedom. They did not support such a move.

**Mr. Schlegal** asked what further measures should be taken to support ethical standards among journalists.

**Ms. Bayer** reiterated that it was vital that the media self-regulatory bodies were not subject to political intervention and that governments should take positive steps to ensure that journalists are not threatened. Financial viability was a challenge in many states and independent funding schemes operating on a truly non-discriminatory basis would help. **Mr. Lutz** also emphasised the importance of a clear guarantee of press freedom in domestic law and that labour law and anti-trust rules can help to protect journalists and ensure that markets are open and contestable for new players. Self-regulation also needs the support of community groups and the public more generally to work effectively.

**Mr. Severin** noted that disputes between labour and employers in the media sector sometimes related to mundane issues surrounding working conditions that bore little relation to media freedom. Civil society and campaign groups thus needed to pick the cases that they supported carefully to make a convincing case, otherwise there was a risk their intervention could be counter-productive.

**Mr. Wach** questioned whether media education could really help to address some of the complex difficulties relating to media standards in the rapidly changing media environment. **Ms. Bayer** noted that the public in many of the post-soviet countries did not engage intellectually with democratic change and as a result there was a failure to understand democratic structures, the role of governments and parliaments, and the constitutional role of the media. Education both for the general population and for journalists was thus essential.

**Mr. Jensen** asked Ms. Callamard whether there has been any study of journalism over time to determine whether there was in fact a lower level of knowledge and understanding of ethical requirements. **Ms. Callamard** said that she was not aware of such a study but intuitively one would expect that with less time overall journalists spend less time on research and fact-checking. **Mr. Jensen** then asked Mr. Lutz how the German Press Council manages to get the media to make corrections, particularly in the online context, without formal sanctions. **Mr. Lutz** replied that membership of the Press Council indicated a certain commitment to quality and membership thus had a positive value, also for those online publishers that could participate in the system.

There then followed an intervention by **Mr. Gale**, who drew on his 45 years of broadcasting experience to comment on some of the commercial pressures that journalists face today. He noted in particular that in the current pressured environment stories may not be properly checked or investigated. In addition there were very few broadcast news reports of over three minutes in length so that there was consequently also a loss of sustained and meaningful broadcast coverage.

**Ms. Vincent** questioned whether there remained a place for criminal defamation laws, given the failure of self-regulatory systems in certain countries. **Ms. Callamard** replied that she considered the criminalisation of defamation to be disproportionate and that journalists should not be imprisoned for defamatory statements. Ms Callamard concluded by noting that the impact of new technology on the press was variable. Though the press sector had been badly hit, certain high quality papers such as the *Wall Street Journal* or *New York Times* are able to take advantage of the opportunities of international distribution and multiple forms of exploitation so that the picture was not entirely gloomy.

At the invitation of Mr. Jensen, Dr. Craufurd Smith then drew together some concluding observations from the session, which are detailed more fully in the session summary at the start of this report.