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From: Park, Steve [s [REDACTED]
Sent: 05 May 2013 20:27
To: [REDACTED]
Subject: Response to consultation on protecting the independent press from unfair competition
Attachments: Newcastle City Council DCLG consultation response.doc
Please find attached a response from Newcastle City Council to your consultation

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16/05/2013

Draft:

DCLG consultation "Protecting the independent press from unfair competition" - a response from Newcastle City Council

Views on the proposed legislation.

The Secretary of State proposes using valuable parliamentary time to bring forward legislation to address a perceived problem relating to free council magazines and newspapers competing unfairly with local newspapers and other media for advertising revenues and readership.

Newcastle City Council has a number of reservations about these proposals;

- 1. Does the problem actually exist?** It is hard to find any significant evidence of the problem that the consultation proposal seeks to address. The vast majority of councils enjoy positive working relationships with their local media. Where they can still afford to do so, the majority of councils publish information for their local residents in a balanced and accessible way – focusing on information about council activities and performance which helps improve access to services and democratic accountability. These are issues which are important to local residents – but which do not always overlap with the news values of the local press. Few councils publish more than six issues of their magazine a year and, whilst many try to minimise costs by taking advertising, this is rarely on a scale which threatens local newspapers. The premise that local newspapers are being undermined by council newspapers has been generated by lobbying by the Newspaper Society which appears to focus solely on the example of Tower Hamlets Council and the impact their weekly publication has had on the *East End Advertiser*. This is an isolated example and not typical of the rest of the country.
- 2. Regular council newspapers provide a valuable function:** The Publicity Code provides no explanation for the limitation to quarterly publication. The reality is that much of the information which local authorities publish is date-specific. It is required to be published promptly. It is little use to publish Bank Holiday opening hours two months before the Bank Holiday. It would delay the determination of planning applications or the introduction of road safety measures because the authority could only publish once a quarter, or to cease to discharge a function because of an additional three months' delay in advertising and filling a vacancy. So, if local authorities are to publish their own newspapers, there is a logic to publication rather more frequently than quarterly. In many areas, the local newspaper is effectively a local monopoly. In many areas there is only one local newspaper and, in the absence of a local authority publication, it is the only means by which the local authority can secure the publication of statutory notices and other public interest material. Advertising space is

expensive, and authorities have a duty to ensure that they use the most cost-effective means of disseminating essential public information.

3. **Does the solution address the problem?** Any rational business analysis would conclude that the challenges facing local newspapers have little to do with competition with occasional council newspapers. The economic downturn and its impact on advertising revenues, the increasing use of web and social media for news and information, the difficulties in capturing financial benefit from online content, and a host of other issues have a far more significant impact on the plight of the local press. Indeed the Government may potentially exacerbate this situation through the creation of local television franchises across the country which will introduce greater competition in a dwindling advertising market, and which has the potential to place even greater pressure on local newspaper advertising revenue. There is much to be welcomed in the creation of a local television network, but the DCMS appear to have pursued this policy with little reference to the implications for "protecting the independent press from unfair competition". In this broader context, the suggestion that that constraining council publications is the route to 'protecting the independent press' is unlikely to succeed
4. **Do the proposed new powers exceed what it is required?** The consultation paper proposes legislations that provides' the Secretary of State with a power to make a direction requiring some or all councils to comply with some or all of the Publicity code's recommendations, whenever he considers it fit to do so. This is an extremely wide ranging power to address an extremely minor issue. The code applies to all aspects of council publicity and communication and the proposed changes effectively provide the Secretary of State with the power to make directions about all aspects of how councils communicate with their residents. This goes significantly beyond the stated purpose of limiting the potential negative impact of council newspapers on the local press.
5. **Are these powers based on the subjective views of the Secretary of State?** The existing Code of Recommended Practice provides a wide range of general guidance to local authorities under the principles that publicity should be lawful, cost effective, even-handed, appropriate, have regard to equality and diversity and issued with care during periods of heightened sensitivity. With the exception of the legal requirement (which in any event already exists in statute) there is no specific detail in either the code or the consultation about how these principles should be applied in practice. Because they are guidance not legislation these are broad principles open to sensible subjective judgement, not detailed and specific points of law. By making this

broad guidance subject to legal enforcement the proposal would empower the Secretary of State of the day to give legal weight to his own interpretation of how the guidance should be applied. This puts local authorities in the unenviable position of having to second guess the Secretary of State's personal outlook when making judgements about the use of publicity.

6. **Is this a future proof policy approach?** At a time when councils and media organisations are exploring ways to make greater use of web, digital and social media channels to reach their audience it seems anachronistic to introduce new legislation with the intention of placing greater constraints on printed publications. Within a few years most councils and most newspapers will be communicating and sharing content in completely different ways. The shelf life of the proposed legislation is short and fails to consider the changing environment in which the council and the media are operating.
7. **How do these proposals align with the Government's approach to localism?** The Government has made great play of its approach to localism and the devolution of powers and responsibility to the local level. It is difficult to see how this aspiration sits easily with the centralist micro-management inherent in the proposals contained in this consultation paper. Creating new powers to give the Secretary of State an absolute right to constrain how local authorities make sensible local decisions about how they communicate with their local residents seem to be the polar opposite of localism in practice. It would be helpful if the DCLG could articulate how the proposals make any meaningful contribution to the localism agenda.

An alternative to the power of direction.

1. **An alternative perspective:** The local government sector is under increasing financial pressure and constantly striving to find ways to operate more efficiently and effectively. Councils and the Local Government Association have long argued that the statutory requirement for councils to publish public notices in local newspapers in a wide range of circumstances is costly and inefficient. These legal notices are rarely read by members of the public and their legal nature is such that the language which must be used is largely impenetrable to the average reader. These notices provide a useful income stream to local newspapers but serve little other public purpose whilst fact consuming public finances which could be better used to support frontline services.
2. **A meaningful and useful use of parliamentary time.** In an age when virtually everyone has the ability to access information online it would seem far more appropriate for local authorities to publish information about forthcoming planning applications and other official notices on

their websites rather than through expensive and unread public notices in the local press. Rather than spend parliamentary time on introducing legislation which introduces excessive powers to address a problem which barely exists, it might be more appropriate for the DCLG use the opportunity to repeal the array of statutory requirements for local councils to produce public notices – making an immediate saving for the public finances and allowing councils to find more open and accessible ways to share this type of information.

Evidence of circumstances where the code was not met and the implications of this on the local media.

Budget reductions mean that Newcastle City Council does not currently produce a magazine for residents – though we will introduce one if alternative sources of funding can be identified. We are currently exploring options and also focusing our efforts on communicating through the web and social media.

However, four years ago the council produced a monthly resident's newspaper which included reasonable volume of paid advertising. The newspaper would clearly fall outside the new Code of Recommended Practice and could have been subject to statutory Direction by the Secretary of State. The publication was printed by our local newspaper group Newcastle Chronicle and Journal, part of the Trinity Mirror Group, providing them with a lucrative income stream. The council publication co-existed with local newspapers with no tensions.

A combination of the introduction of the new Code and budget reductions led to a gradual reduction in the frequency of the council publication and its eventual withdrawal and the loss of a valuable contract for the local newspaper group. The net impact of the restriction on frequency has therefore been the direct opposite of the stated intended purpose.