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**From:** Peter Morris (Marketing & Communications), [REDACTED]

**Sent:** 29 April 2013 16:04

**To:** [REDACTED]

**Subject:** Publicity Code consultation 2013

**Protecting the Independent press from unfair competition: Consultation**

**Response from Ealing Council**

#### **Why legislate?**

Although the title of this consultation refers to protecting the independent press from unfair competition we note that in paragraph 8 no reference is made to the Independent press actually expressing concern that they are being detrimentally affected as a result of the Code of Recommended Practice on Local Authority Publicity (the "Publicity Code") being guidance.

Rather, it is simply stated in paragraph 8 that it is a matter of concern to the Government that there are cases of councils publishing weekly newspapers or issuing publicity of a political nature. As such, the need to strengthen the current guidance by introducing legislation is unexplained and unproven.

#### **An over-simplistic approach**

Inherent in the thinking behind the Publicity Code, and in seeking to move it from guidance to legislation, are presumptions that effective independent media exist or could exist in all areas of the country, and that utilising these can fully meet local authorities' needs to communicate and to do so in a cost effective manner.

Whilst the desire to help ensure effective scrutiny and reporting by independent newspapers is legitimate, the presumption that this is possible in all areas of the country is wrong.

By being prescriptive in limiting the number of residents' magazines or newspapers a local authority can publish, irrespective of the circumstances of the local press, the proposed legislation could simply limit the effectiveness of council communication rather than support the local Independent newspaper(s).

#### **A fundamental flaw**

Previous legislation such as that regarding the publication of Public Notices has become inappropriate due to evolving developments in the media. In many areas this important information is published in local newspapers that have tiny circulations because the legislation is framed that way. As a result, the way in which information is presented does not actually meet the intention originally conceived; of ensuring it is widely known.

As circulation numbers for virtually all printed publications, and especially local newspapers, are on a consistent downward trend irrespective of the existence of regularly published council residents' publications, limiting councils' ability to select the most effective and cost-effective means to meet their fundamental obligation to communicate effectively with their residents and customers etc. is inappropriate and counter-productive.

Over and above these general considerations, with regard to specific aspects of the proposed legislation we would comment as follows:

#### **Weekly Council Newspapers**

The number of councils publishing weekly is tiny (one?). A few (3 or 4?) publish fortnightly. Some publish up to monthly. The vast majority of councils publish in line with the current guidance (no more than four editions per year).

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Even where more than four editions are published, there is no reliable evidence that this is having a detrimental impact on the independent press.

Enacting legislation in the way that is proposed (creating the ability for the Secretary of State to issue direction applicable to all authorities and not just any that are acting in contravention of the code) is a proverbial "sledgehammer to crack a nut".

In Ealing, the Council has published a magazine that is delivered to all homes and businesses for around ten years. Our local independent newspaper (a weekly free sheet) has never expressed any concern that this is a problem for them. Neither have opposition members on the council or residents of the borough.

The Council supports the local paper extensively, both in terms of providing editorial content and in placing advertising with it. We are one of the paper's biggest customers (by spend), we pay promptly, and we don't go bust. As such we are one of the biggest supporters of our independent press, not a threat to it.

The Council publishes its own residents' magazine because it needs to. Our local paper simply can't meet all of our requirements. The local paper can't cover all the things we need to communicate in the space available for editorial. And its limited distribution does not reach the borough at large. The paper has a circulation of around 60,000 copies which is less than half the number of properties in the borough and some areas are not delivered to at all.

In seeking to supplement the local independent press with our own publication the council has been careful to avoid competing with it. We publish far less often, and in a very different format (magazine as opposed to tabloid). We do not chase advertising income from the same advertisers. And we make no pretence of being an independent local publication (we prominently identify the publication as being from the council).

#### **Political Publicity**

Councils are, by their very nature, political organisations. Local policies and priorities are fundamentally determined according to the results of local elections. The Code seeks to ensure that publicity activity does not inappropriately influence support for particular political parties or policies.

Again, no explanation is provided in the consultation of the exact nature or number of instances of council publicity having an inappropriate political character that necessitate any change to the current guidance. Ealing Council has not mounted inappropriate political publicity, and has not been accused of doing so either.

#### **Existing protection for the independent press**

When considering the commercial environment that the independent press operates in, it must be remembered that the local press already enjoys a significant degree of protection.

A wide range of information is required by various legislation to be published as "Public Notices" in newspapers. Advertising rates for this space are more expensive than other sections of newspapers. Consequently, independent newspapers are not only guaranteed advertising income from councils, but this income is inflated as a result of the monopoly they enjoy (councils cannot for instance place Public Notices in their publications or on their websites instead of independent papers).

Consequently, in so far as an important aspect of the consultation is about (commercial) fairness in the relationship between the independent media and councils, it would be appropriate if the opportunity were taken in considering whether to put compliance on a statutory basis to also clarify that councils should be able to consider the effectiveness and cost effectiveness of different means of communicating Public Notice information rather than being forced to use Public Notice columns on local newspapers.

**What are we trying to protect?**

Part of the reason expressed for wanting to protect the independent media is to ensure that the scrutiny and critique of local councils is preserved. This role has traditionally largely been performed by independent newspapers, but today there are other media, notably local independent news websites, that also do this.

Consequently, protecting independent scrutiny and reporting does not necessarily require local printed newspapers. The Code is, however, constructed solely with local printed newspapers in mind.

**Alternatives to putting compliance on a statutory basis**

The consultation seeks ideas from councils on alternatives to the proposed legislation that would achieve the same desired effect of encouraging/ensuring compliance with the Publicity Code. In this regard we would suggest that:

The Secretary of State could name and shame councils that contravene the Publicity Code. In addition to coverage of this in local independent media, coverage could be required to be published in the offending publication, in the same way that local newspapers already run "corrections".

Alternatively, councils that breach the Publicity Code could be committed to work with their local independent newspaper(s) to develop a mutually agreed working approach that is fair (i.e. does not place the newspaper at commercial disadvantage).

Ends

**Contact at Ealing Council for any follow-up enquiries:**

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Ealing Council

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