Dear Sir or Madam

I write in response to your recent request for information regarding the work of the Press Recognition Panel.

As a former Press Secretary to David Cameron and the Member of Parliament for Camborne and Redruth, I became closely involved in negotiations between political parties a decade ago to identify a sensible approach in the wake of the Leveson Inquiry and I have a number of observations to make.

Firstly, the Press Recognition Panel has established itself as an important institution which must be retained. Although the majority of the larger print press titles have chosen not to seek recognition as provided for under the Royal Charter, some others have and the Press Recognition Panel is performing its function as envisaged by the cross-party settlement a decade ago, albeit despite having to accommodate what can best be described as a boycott by IPSO.

I am aware that many false claims are made in respect of the architecture that the coalition government established in the aftermath of the Leveson Inquiry which should not go unchallenged. It is sometimes said that the Section 40 cost provisions contained in the 2013 Crime and Courts Act, if commenced, would force newspapers to join Impress, one of the recognised regulators. This claim is entirely false. All the provisions would do is create an incentive for IPSO and other publishers not members of IPSO to seek recognition.

I think it was a mistake of the government not to commence the costs provisions in respect of Section 40 of the Crime and Courts Act 2013 which has been a missed opportunity. The cost provisions created a margin of appreciation in favour of publishers who signed up to a recognised regulator and no more than that. As drafted, it provided for publishers like Private Eye who chose not to be a member of anything as long as they had internal processes that were broadly equivalent. The provisions were symmetrical and protected investigative journalism and publishers against the wealthy. Currently someone with huge wealth can threaten proceedings through the courts which will often intimidate impoverished publishers and dissuade them from publishing damaging stories even though they might be very confident in them. Under the architecture Leveson envisaged, there would be protection, not only for members of the public who found their lives invaded by the media, but for publishers too because it would also have forced those with deep pockets to follow the procedure set out by the regulator and it would discourage or block intimidatory legal action or threats of legal action by such people. It is a failure of the newspaper industry not to have recognised this fact.

Those of us involved in the design of the post Leveson architecture and the Royal Charter, also envisaged that such a light touch and flexible regime could enable genuine journalism to be protected and valued and distinguished from the "Wild West" of the internet with its embryonic "fake news". Recognition could become a "kite mark" to denote everything that true journalistic values represent. We also envisaged that such an arrangement could evolve to deal with the increased blurring between broadcast and print press as both forms of media effectively converge online. This trend towards convergence and a breaking down in the boundaries has developed entirely as predicted. It was inevitable that newspapers would move into ever more video and digital content and that broadcasters would put more content in written form online. The idea all along was that there could evolve a recognised regulator for the print press and perhaps other regulators covering online and digital news outlets some of which might not be subject to the Broadcasting Act and some of which might be former newspapers competing in a similar space to regulated broadcasters. It is a tragedy that the industry failed to grasp the opportunity to protect their own brands and distinguish themselves from the "Wild West" of the internet but instead chased social media down a path of decline.

Against these key views and concerns I have, I also recognise that the financial decline of media institutions has accelerated as their business models have fallen apart. It is also a reality that the main political parties, recognising the dire financial straits that the newspaper industry is in, have chosen not to commence the cost provisions. However, the current Online Safety Bill provides an opportunity to revisit some the Leveson architecture put in place by David Cameron and the coalition government but in a different way.

The Online Safety Bill seeks to give special dispensation to recognised news publishers. Clause 50 of the Bill seeks to define what a "recognised news publisher" is. As drafted, Clause 50 subsection 2 will lead to ambiguity and litigation. Sham news outlets could claim to be recognised publishers when they are not and digital platforms or service providers will not have the recourses nor expertise to assess whether or not they meet the criteria. Alternatively, it would be open to digital service providers to take a highly draconian interpretation and refuse to recognise some publications on a precautionary approach. This is not what the government intends.

The solution would be to amend subsection 2 of clause 50 when the Bill returns to the Lords to make clear that a recognised publisher is a publisher signed up to a regulator recognised by the Press Recognition Panel. This would ensure that those recognised are worthy or recognition and ensure that there is a consistent application of the law without the need for recourse to the courts. Subsection 1, which recognises the existing legislative provisions in respect of broadcasters, would remain unchanged. The Government should introduce such an amendment to clause 50(2) when the Bill progresses in the Lords. It is a ready made solution to some of the problems presented by digital media.

Rt Hon George Eustice MP