

Spare me the asinine

Woman's Hour list

Janice Turner

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Comment

A free press must not be bullied by the state

Newspapers are being threatened with a massive stick to sign up to an unfair and unworkable system of regulation

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Karen Bradley is not the woman off *The Apprentice* but probably wishes that she was. Instead of swanning about on telly looking theatrically unimpressed with the antics of millennial selfies-on-legs as Karren Brady does, Ms Bradley is quiet and close-cloistered in the middle of an unpublic public consultation designed to delay the moment when one side or another in the great dispute over press regulation decides that she's a total loser. January 10 will be the end of the public (99.99 per cent blissfully unaware of their historic mission) being consulted, at which point the secretary of state for culture, media and sport — for it is she — has to make a decision.

What decision does she have to make, I hear almost no one cry. Well, a pretty important one, actually. To illustrate its centrality I want to let you in on the one column that I never got published in the last two years. It fell because it was decided, almost certainly rightly, that there was a real risk of a successful libel action being pursued. I knew what I'd said about the well-known individual concerned was fair comment and true, but we wanted neither the reputational problem of losing an action nor the substantial cost involved. I wrote something else.

Readers don't know, but this happens all the time. Rich men and women threaten, companies

threaten, gangsters and dope cheats threaten, aggrieved and time-rich individuals threaten; day in, day out letters before action flow like little streams of menace into our legal department. Almost every single time you expose someone or something, it happens in the context of legal threats. People don't like it if you tell lies about them and they like it even less if you tell the truth.

Which brings me to the most important thing being considered by Ms Bradley. It goes by the tedious name of Section 40 of the Crime and Courts Act 2013 and is something that can be invoked, or not, by the government. It is, in essence, the stick that could be used to get newspapers and publications to sign up to the new state-approved press regulator, Impress.

What it says is that any publication not agreeing to be regulated by Impress will be subject to the costs of a legal action — even where it wins. Really. That's what it says. Call the

Freedom of speech
is the one that
underpins all others

next Lance Armstrong a drugs cheat and even if he loses the case it will cost you hundreds of thousands. Well, no one in those circumstances would take the risk of running the story. These are not days in which newspapers make much if any money and the fastest way to bankruptcy would be to fall foul of Section 40.

And that of course is why, as sticks go, it's a knout, a knobkerrie, a bludgeon. It would have to be because otherwise the British press, from the pinkest metro-sheet to the shoutiest judge-hating tabloid, will not sign up with the government-approved

regulator. Impress was given the thumbs-up by the odd panel appointed under the terms of a royal charter granted by MPs, and therefore opposed on principle by almost the entirety of the British press, which values its independence from government and the legislature above most other things.

There is lots that could be said about Impress. Space and patience forbid, however, except to point out the capriciousness of a decision that recognises a "self" regulator that no selves want to belong to, and not one — Ipso (the Independent Press Standards Organisation) — to which most do. And this despite the fact that the two have adopted very similar procedures for dealing with complaints.

This is absurd. And I don't say that as someone who is *parti pris*, but wearing a rather different hat. This whole business of Leveson and press regulation has been like a driverless bus careering along a mountain road. We all got aboard because of the crime of phone hacking and now we can't get off, despite the fact that we are long past our stops and heading for the cliff.

Leveson came about not because of weakness in press regulation but because a crime had been committed. That crime was prosecuted and people went to prison and others were rightly taken to task for having failed to notice what they should have. What business does government have interfering in the editorial decisions of an independent press on matters unrelated to criminality?

Let me be even more controversial: what business does any regulator have in seeking to intervene in any legal activity by a publication? It seems to have escaped everyone's notice that two of our national



People are free to choose whichever paper they want to read in Britain

newspapers — the *Financial Times* and *The Guardian* — have, for more than two years now, been entirely self-regulating. They're not signed up to anyone. Has the sky fallen in on them? No. Has their readers' trust in them collapsed? It seems not.

Me, I hate many things that are published, broadcast and said. I hate the *Daily Mail* with its attacks on migrants, "Enemies of the People" headlines, its conspiracy theories and cod science. I also hate the Kardashians and *Made in Chelsea* and regard them both as cultural blights.

But no one ever forced anyone to buy the *Daily Mail* and even my daughters couldn't make me watch the Kardashians. The right of nobility experts to publish the prurient "sidebar of shame" is the same right that underpins the

existence of this column. What self-regulation should be is a compact between the publication and its readers about what kind of publications they want to read. If you desire a newspaper that has a fact-checker or a concern for fairness, then buy one like that. Buy one like this. If you don't, don't.

In the old days you could counter this argument with a reference to a monopolistic media which no one could escape. But the internet, cheap publishing and ubiquitous broadcasting have put an end to that. Today Macedonian teenagers can make money creating false anti-Clinton stuff to sell to pro-Trump American news sites. Leveson was obsolete before it began.

In addition to being a hack I've chaired the freedom of expression organisation Index on Censorship for nearly four years. In that time I've seen the variety of ways and the ingenuity of arguments that people use when looking to constrain or limit free speech. It never stops and it's by no means mainly autocrats who seek to do it. There's always a good and urgent reason, but to me it's evident that freedom of speech and expression is the one freedom that underpins all the others. The ring that binds them. So, Ms Bradley, if I may, a politician in a liberal democracy should want to limit or control such awkward and essential freedom only in the most extreme conditions of national emergency. Otherwise be brave and let them alone.

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