

## Bloggers as Amateur Journalists and Their Position under the Regulatory System of the Press in The UK

(Blogger sebagai Wartawan Amatur dan Kedudukan Mereka di bawah Sistem Pengawalseliaan Akhbar di United Kingdom)

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### ABSTRACT

*Blogs are web-based publications that are frequently updated and usually shown in reverse chronological order. They play a significant role as 'watchdog to watchdog' (mainstream media) by providing information from many sources, revealing media bias and influencing opinion on a wide scale vision called 'participatory media'. Sometimes, blogs disseminate first-hand reports and details which the mainstream media ignore or have too little preference or time to investigate. Nonetheless, blogs published by amateurs or individuals who are not associated with any media corporations are merely subjected to general laws such as defamation, sedition and many others, but they are currently not regulated by any specific regulatory regime. This uncertainty becomes more complicated as convergence and digital technology have facilitated journalists from the traditional print media to emulate and establish their presence in the blogosphere as well. And these professional bloggers who are directly attached to media establishments and have their blogs appeared on the companies' websites are subjected to the rules and regulatory controls of the print media which is under the supervision of the Press Complaints Commission (the PCC). As such, this study seeks to highlight the importance and role of blogs in relation to journalism, to analyse the self-regulatory system of the PCC in connection with the governance of blogs in the UK and to evaluate the possibility of applying or extending relevant legal principles and standards to bloggers in the country.*

*Keywords: blogs, amateur journalists, regulation of the press, Press Complaints Commission, United Kingdom.*

### ABSTRAK

*Blog ialah penerbitan berasaskan web yang sering dikemas kini dan lazim dipaparkan menurut kronologi. Ia memainkan peranan signifikan sebagai 'watchdog to watchdog' (media arus perdana) dengan menyediakan maklumat dari pelbagai sumber, mendedahkan kecenderungan media dan mempengaruhi pendapat pada skala yang luas dinamakan 'participatory media'. Kadang kala media menyebarkan laporan first-hand dan perincian yang tidak dipedulikan media arus perdana atau tiada masa untuk selidiki. Blog yang diterbitkan oleh amatur atau individu yang tiada kaitan dengan sebarang syarikat media hanya tertakluk kepada undang-undang am seperti fitnah, hasutan dan lain-lain, tetapi mereka tidak dikawalselia oleh sebarang regim pengawalseliaan yang khusus. Ketidaktentuan ini bertambah rumit apabila tumpuan dan teknologi digital memudahkan wartawan dari media cetak tradisional untuk mencontohi dan turut memperlihatkan kewujudan mereka di sfera blog. Blogger profesional yang terikat kepada syarikat media dan mempunyai blog di laman web syarikat ini adalah tertakluk kepada kaedah dan pengawalseliaan media cetak Press Complaints Commission (PCC). Artikel ini menonjolkan kepentingan dan peranan blog dalamewartawanan, menganalisis sistem kawalseliaan sendiri PCC berhubung tadbir urus blog di United Kingdom dan menilai kebarangkalian mengguna atau memperluaskan prinsip undang-undang dan standard yang relevan kepada blogger di negara tersebut.*

*Kata kunci: blog, wartawan amatur, pengawalseliaan akhbar, Press Complaints Commission, United Kingdom*

### INTRODUCTION

The evolution of the World Wide Web (the read only web) into the new version of Web 2.0<sup>1</sup> (the read – write web) has led to the appearance of various forms of user-generated content (UGC).<sup>2</sup> The emergence of UGC, which is commonly referred to content that is put online

by users,<sup>3</sup> through a wide range of platforms including weblogs (blogs), wikis, social networking sites and other user generated media sites,<sup>4</sup> has bolstered the growth of new media services.<sup>5</sup> Though new media services are expected not to replace but simply to complement and coexist alongside with the traditional print media,<sup>6</sup> this development has a significant impact on the media

landscape as it has empowered Internet users not only to read, but also to contribute and disseminate news and information to the public as well.

The appearance of new media services which largely exist on the Internet has raised a cause for concern in the United Kingdom (the UK). This is because, unlike the traditional media which are either subjected to self-regulatory, statutory or co-regulatory regime, the new media are currently not governed by any specific regulatory system and merely subjected to general laws. This is due to the UK Government's 'hands off the Internet' policy which is contained in the Communications White Paper. The policy explicitly states that the government has no plans to introduce statutory Internet content regulation and excludes Internet communications from the licensed sectors which are governed by Office of Communication (Ofcom).<sup>7</sup> This policy, which mimics the European Union's stance of the Internet governance, was later reiterated by the sponsoring Secretaries of State who provide that 'it is not the intention... to extend regulation into the Internet'.<sup>8</sup> Consequently, the existing UK Internet governance seems to render all Internet communications including blogs to be in vacuum and left unregulated.

Nonetheless, amendment to the remit of the Press Complaints Commission (PCC), the regulatory body for the press, has resulted in bloggers associated with the print media websites to fall within the PCC's power. As a result, their rights, duties and liabilities are recognised similar to the print media journalists and they are now subjected to the same provisions of the Editor's Code of Practice. Unfortunately, uncertainty remains for bloggers who are not related with any press companies. In relation thereof, this study seeks to analyse the importance and role of bloggers in relation to journalism, the self-regulatory system of the PCC and the possibility of applying specific regulatory principles and standards under the PCC to all bloggers in the UK.

## OVERVIEW OF BLOGS

The word 'weblog' was first used on 17 December 1997 when Jorn Barger described the list of links on his Robot Wisdom website that 'logged' his Internet wanderings.<sup>9</sup> Later, the short form 'blog' was coined by Peter Merholz when he playfully pronounced the word 'weblog' into 'wee blog' or 'blog' in his blog Peterme.com<sup>10</sup> on 23 May 1999.<sup>11</sup> The coinage did not spread instantaneously but the circle of early bloggers picked up Merholz's joke and repeated it to one another.<sup>12</sup> As a result, the word 'blog' then grew in acceptance and it is now widely recognised as the shorter form for weblog.

There is little consensus as to the agreed definition of the word 'weblog' or 'blog'. The word is literally

defined as "a frequently updated web site consisting of personal observations, excerpts from other sources, etc., typically run by a single person, and usually with hyperlinks to other sites; an online journal or diary".<sup>13</sup> It has also been defined as a series of web posts from a single web address with a common author or set of authors, often integrated with commentary on the post itself or on other blogs.<sup>14</sup> It was claimed that the word 'blog' is best explained in three distinctive perspectives; namely chronological, diary and amateur journalist definitions.<sup>15</sup>

The chronological definition states that every website that is updated at least once can be considered a weblog as it contains two entries, whilst the diary definition regards blogs as online diaries because they are distinct from regular websites in the sense that the voice of the author or authors comes through. As to the amateur journalist definition, blogs are given a significantly narrower meaning and being characterised as a new form of journalism because they do not require significant investments in physical equipment, technology, office space, personnel and goodwill.<sup>16</sup>

Apart from the foregoing definitions, a number of cases have also offered some assistance by providing the judicial definition of the word. In the US case of *Cahill v Doe*,<sup>17</sup> the court ruled that:

A blog, short for weblog, is an Internet website where users interested in a particular topic can post messages for other users interested in the same topic to read and answer if they wish. When users post information on a blog, they often do so using a pseudonym referred to as a user name.

Similar judicial interpretation was given in another US case of *Klehr Harrison Harvey Branzburg & Ellers, LLP v JPA Dev, Inc*,<sup>18</sup> whereby the court held that blog is:

... is an Internet website where users interested in a particular topic can post messages for other users interested in the same topic to read and respond if they wish.

Regardless of the aforesaid technical interpretations, for ease of understanding, blogs can simply be referred to web-based publications which composed of personal observations and hyperlinks to other sites that are frequently updated and usually shown in reverse chronological order.

In the beginning, blogs were primarily used for self-expression, sharing expertise<sup>19</sup> and maintaining social networks with family and friends.<sup>20</sup> Nonetheless, as the influence and size of the blogosphere continue to grow, blogs have become a global phenomenon that brings about a 'blogging revolution'.<sup>21</sup> They have now surpassed other forms of Internet communications previously used by the digital communities including bulletin board system (BBS), Usenet and electronic mail listings.<sup>22</sup> Thus, blogs have transfigured the mode

of communication and exchange of information and their eminence since then has been established in various fields including journalism, politics, business, academia and other aspects of everyday life.

### BLOGS, FREEDOM OF EXPRESSION AND AMATEUR JOURNALISM

The right to freedom of expression in the UK is expressly stipulated in the Human Rights Act 1998 (the HRA). Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which is incorporated as appendixes in the HRA, provides that:

Everyone has the right to freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by a public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprise.<sup>23</sup>

Thus, it is clear that the right to freedom of expression is conferred on all persons in the UK. Nevertheless, prior to the advent of blogs and other Internet based communications, ordinary members of the public have a very limited avenue in exercising such a right. This is because the right is largely exercisable via the traditional print and broadcast media and these media are hardly accessible to them. Fortunately, this is no longer the case since freedom of expression could now be conveniently exercised via blogs. And this is in accordance with the provisions of the HRA itself which permits such a right to be exercised on any platforms or frontiers.

Apart from providing a new form of expression on the Internet, blogs are also responsible in introducing 'amateur' or 'citizen journalism'. 'Amateur journalism' is associated with a person or an amateur journalist who is either 'not employed at all, or writes as a sideline to some other business'.<sup>24</sup> Meanwhile 'citizen journalism' refers to the concept of members of the public 'playing an active role in the process of collecting, reporting, analysing and disseminating news and information'.<sup>25</sup> Thus, blogs have enabled any would be writers, who previously have only one route to readers and must pass through editors and publishers before publication, to easily become writers or even publishers.<sup>26</sup> The significance of blogs has been aptly highlighted by Chief Justice Steele of the Delaware Supreme Court, writing for the majority in the US case of *Doe v Cahill*.<sup>27</sup> It was observed that:

...speakers can bypass mainstream media to speak directly to an audience larger and more diverse than any the Framers could have imagined. Moreover, speakers on Internet chat

rooms and blogs can speak directly to other people with similar interests...

Amateur or citizen journalism is in stark contrast with professional journalism as the former reflects the unique nature of blogs which is very much different from the traditional print media. In general, most blogs are highly personal in nature and often written in an informal style that reflects the interest, view and personality of the bloggers.<sup>28</sup> The bloggers also have direct access and total control over the content of their blogs as they are not subjected to any control or censorship by editor, webmaster, system administrator or web content manager. As a result, any content or blog postings can be easily modified, added, changed or even deleted by them at their own pleasure. Blogs also vary to a great extent from other forms of the online media such as web magazines and online news since more often than not these media are simply the Internet footprint of traditional media entities, such as newspapers, radio, and television stations.<sup>29</sup>

Despite these distinctive features, blogs have performed a number of important functions in journalism. They play a significant role as 'watchdog to watchdog' (mainstream media)<sup>30</sup> or the 'fifth estate'<sup>31</sup> to the traditional media by providing information from many sources, revealing media bias and influencing opinion on a wide scale vision called 'participatory media'. Unlike the traditional media which are normally limited in scope and coverage, blogs normally provide in depth reporting and coverage with frequently updated news and interactive features. Sometimes, they provide details which the mainstream media ignore or have too little inclination or time to investigate.<sup>32</sup> This can be best evidenced in the occurrence of natural disasters and tragic events such as the tsunami incident that hit a few Asian countries in 2004 and the September 11 attacks on the World Trade Center in New York. These events have turned many passers-by and eye witnesses who have no journalism background and professional training into amateur journalists as they offer first-hand reports with raw pictures and unedited video shoots in their blogs. This 'bottom up coverage' reflects the personal experience of the bloggers who happened to be on the scene during the happening of such events.<sup>33</sup>

Unsurprisingly, blogs have enjoyed a steep rise in popularity and influence over the mainstream media. Despite being perceived as the enemies that bring death knell to the traditional media, blogs have indeed been recognised as part of the mainstream media.<sup>34</sup> Reporters Without Borders claimed that blogging is a form of an independent journalism<sup>35</sup> though they are keen to concentrate on analysis than reporting of facts.<sup>36</sup> It is also argued that bloggers still fall within the general term of journalists and should be rightly treated as amateur journalists.<sup>37</sup> Conversely, some bloggers who style most parts of their blogs as personal diaries do not regard blogging as a form of journalism and are

hesitant to be labelled as journalists.<sup>38</sup> This conflict has resulted in uncertainty as to the status of bloggers.

This uncertainty becomes more complicated as convergence and digital technology have facilitated the traditional media to emulate and establish their presence in the blogosphere as well. Many blogs associated with their journalists have been featured in their websites and a number of freelance prominent bloggers has also been employed either as journalists or columnists by the media companies. The legal position of amateur bloggers becomes more unclear when the remit of the PCC has been amended to include bloggers associated with the print media websites. Accordingly, these professional bloggers are mandated to abide by the same standards and ethics contained in the Editor's Code of Practice that are applicable to journalists of the print media. But doubt remains for bloggers who are not related with any press companies but perform similar functions and duties. Thus, there is a pressing need to examine the legal position of this type of bloggers under the regulatory system of the print industry in order to determine their privileges, legal obligations as well as liabilities under the law in the UK.

#### REGULATORY SYSTEM OF THE PRINT MEDIA IN THE UK

Press in the UK has been subjected to self-regulatory system since the establishment of the Press Council in 1953. Nonetheless, the Press Council considerably failed to perform its functions, particularly in handling privacy issues,<sup>39</sup> and was largely perceived to have 'reached a state of terminal discredit'.<sup>40</sup> As a result, the Report of the Calcutt Committee in 1990 recommended the Press Council to be replaced with a statutory tribunal, but a last opportunity was given to the press industry to set up a self-regulatory body. Subsequently, the Press Complaints Commission (PCC) was established 'with almost indecent haste'<sup>41</sup> a year later to convince the government that the industry can regulate itself without resorting to any form of statutory body.<sup>42</sup> It was also claimed that the PCC was primarily created to guard proprietors against further advancements by the politicians, journalists and public members.<sup>43</sup> As such, it is very much predictable that the regime will never be free from queries and critics since from the early days of its establishment, the system appears to favour the interest of the industry players over the public interest.

Even though the self-regulatory system of the press in the country is closely associated with the PCC, in practice the whole system is not entirely dependent on the PCC alone. There are other separate independent bodies that have been specifically established to complement the smooth running of the system particularly the Editor's Code of Practice Committee (the Code Committee) which is responsible to write,

review and revise the Editor's Code of Practice (the Code), the Press Standards Board of Finance (the PressBof) which is entrusted for setting the remit for the PCC and raising a levy on newspaper and magazine publishers in order to finance the operation of the PCC and the Appointment Commission which is responsible for appointing the PCC members. The PCC, which is an independent body comprising of 17 members (of which ten are public members and seven from the industry) and is headed by an independent Chairman from a non-industry background, plays a central role in the regulatory regime as it is empowered to oversee the system and to adjudicate complaints on alleged breach of the Code from public members that fall within the PCC's remit.

#### THE PCC'S REMIT

The remit of the PCC is set by the industry through the PressBof and it covers all editorial content of newspapers and magazines in the UK that subscribe to the PressBof. Initially, the PCC's remit was only applicable to print publications, but later in 1997 it was extended to online versions of the press that replicate the print form. Due to the convergence of the communication and information media and rapid technological advancement, the PressBof has in 2007 issued a guidance note extending the remit to cover audio visual editorial materials.<sup>44</sup> Consequently, the Preamble of the Code was amended and as a result of the change, the Preamble of the Code of Practice now reads "it is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of publications...".

Later, the PCC's remit has once more been amended by the PressBof in 2009 to embrace freestanding or online-only publications, which are mainly related with online magazines, provided that they are primarily based in the UK and subscribe to the Code and the PressBof.<sup>45</sup> It is submitted that changes to the remit are inevitable and crucial to the survival of the press self-regulatory system so that the PCC could become or at least seen to be a dynamic regulatory body that is amenable and flexible to any latest advancement in the media industry.

Following the aforesaid changes, the PCC has since then been permitted to adjudicate complaints on materials which are originally not available in print form but accessible online via the publications' websites only. Nonetheless, the PCC will only adjudicate complaints relating to any online materials provided that such materials are subjected to editorial control of the media companies and the materials are not pre-edited to comply with other regulatory bodies' standards. The application of the extended remit by the PCC is best illustrated in complaints initiated against

*Hamilton Adviser*<sup>46</sup> and *The Sun*<sup>47</sup> whereby in both incidents, video clips uploaded to the newspapers' website were found to have breached clauses 6 (children) and 10 (clandestine devices and subterfuge) of the Code respectively. Accordingly both complaints were upheld by the PCC.

#### THE EDITOR'S CODE OF PRACTICE (THE CODE)

It is important to highlight that the Code is central to the self-regulatory regime since its provisions are the principal sources in adjudicating complaints against the press. Similar to the PCC's remit, the Code is also independently framed and revised by the industry through the Code Committee which comprises of thirteen editors from national, regional and local newspapers and magazines. Despite the facts that the PCC is required since 1993 to ratify the Code as well as its amendments before the Code could be effective, and the Code Committee is also open and receptive to any suggestions and views from the PCC and the public members in amending the provisions of the Code, the final decision on the actual wording of the Code is exclusively reserved for the Code Committee. Undoubtedly, this arrangement will be seen as a bias towards the industry especially by those who are against the idea of the press self-regulatory system.

Nonetheless, like other self-regulatory regimes, rules prepared by the industry itself would carry more weight and moral authority among its members compared to those formulated by outsiders. As such, it is argued that editors and journalists will be more inclined to respect their own formulated Code<sup>48</sup> and this can be supported by several reports which show that after more than 20 years the Code has been in operation, no editors have failed to publish adverse adjudications awarded against them by the PCC in their publications.<sup>49</sup> Further, non-compliance with the Code is also prone to endanger the regulatory regime of the press and this has been highlighted by the PCC in *McIntosh v Sunday World*<sup>50</sup> that self-regulation could work only by the voluntary participation of the industry. Due to this reason, the PCC has been urged by an independent review on its governance to ensure that adherence to the Code is incorporated into journalists' written contract of all publications<sup>51</sup> though the PCC has since November 1993 stated that the industry was committed with the inclusion and at present majority of editors and journalists already have such provisions in their contracts of employment.<sup>52</sup>

The Code comprises of 16 clauses with inaccuracy and privacy breaches accounted for more than 87 per cent and 21 per cent respectively out of the total complaints recorded by the PCC in its latest annual review. The Code also contains a preamble which

expresses the 'spirit of the Code' and underlines the utmost responsibility of the press to balance the potential competing rights of individuals (especially privacy) with the right to freedom of expression. It is for the sake of maintaining the right to free speech that issues of taste and decency are not governed by the Code as these matters are highly subjective and cover a very broad range of readers' tastes.

It is also important to note that the provisions of the Code neither replace the law nor afford special protections to editors or journalists from other civil or criminal liabilities. In fact, the provisions of the Code impose greater responsibilities on press members than that required by the usual laws.<sup>53</sup> Interestingly, though the Code is distinct from the law, its significance is duly recognised by statutes. This can be illustrated with section 32 of the Data Protection Act 1998 (the DPA) which provides a defence for newspapers against action by the Information Commissioner and others provided that the publication is in compliance with the provisions of the Code. Similarly, section 12 of the Human Rights Act 1998 (the HRA) requires courts to consider compliance with the Code in determining the defence on freedom of speech.

Over the years, the Code has evolved consistently and has undergone several changes, with major modifications were made in 1997 on privacy and press harassment rules following the death of Diana, Princess of Wales and in 2004 when an annual Code review was conducted at the suggestion of the then PCC Chairman Sir Christopher Meyer. Even though numerous changes have been made to the Code, some are still sceptical about protections conferred upon members of the public since a number of provisions in the Code are covered by the public interest exceptions, and freedom of expression is one of the non-exhaustive lists contained in the Code.<sup>54</sup> Conversely, the Editor's Codebook provides that the public interest phrase is deliberately designed to be loose to make it in parallel with the spirit of the Code which requires the provisions neither to be interpreted too broadly nor too narrowly as to discourage investigative journalism. However, it should be highlighted that the Editors' Codebook is not an extension to the Code but it provides a very useful guidance to editors and journalists in understanding the provisions of the Code in its context as it relates the Code with the PCC's previous adjudications.

#### THE PCC'S SANCTIONS

The only sanction that can be imposed when a complaint is upheld by the PCC is publication of critical adjudication against newspapers and magazines that have breached the Code and this sole sanction is clearly stated in the Preamble to the Editors' Code of Practice. Nonetheless, although the PCC is not permitted

to impose financial penalties or award monetary compensation to aggrieved complainants, it has been alleged that publicity from publishing the PCC's adverse adjudication in full and with due prominence is indeed a very influential 'name and shame'<sup>55</sup> sanction. This is due to the reason that no newspaper or magazine would like to make known their errors or mistakes to readers and competitors or even to their own employees. In fact, past year records from the PCC annual reviews showed that majority of the complaints were settled amicably through conciliation and without any formal adjudication by the PCC.<sup>56</sup>

Nevertheless, some critics are adamant that the lack of power to impose fines has resulted in the PCC being toothless and ineffective. Such condemnation is nothing new as it was highlighted by Sir David Calcutt since 1993 and has, over the years, been raised several times in a number of reports including the latest independent review on the governance of the PCC. Various suggestions have been made including an increase in the membership fees for repeated breaches of the Code and to award modest compensation for victims, to impose graded financial penalties ranging from £10,000 for 'extreme violation' to £1,000 for a 'significant intrusion', and in most serious cases to order suspension of printing of the offending publication for one issue. It is also claimed that the imposition of financial penalties is a vital balance as newspapers breach the Code for commercial gains in the form of readership ratings, advertising revenue and many others.<sup>57</sup>

There are difficulties in implementing these proposals as they may require participation from the government to make such power enforceable and consequently may result in a radical change from a self-regulatory regime to governmental control.<sup>58</sup> Even if the implementation of such proposals is designed to exclude government's involvement, the imposition of an extra financial burden is most likely to hit small titles the hardest as major publications with bigger budget can afford to pay any additional expenses. As a result, some publications may choose to opt out of the self-regulatory system and stop paying subscriptions to PressBof.

At present, many notable publications such as Private Eye and Northern & Shell Group publications have already ceased to subscribe to the PCC. Since there are no external incentives to encourage subscription to PressBof and those who have already withdrawn from the system can still operate their publications as usual, there is a clear possibility that the implementation of the proposals will result in more newspapers and magazines withdrawing from the self-regulatory regime. Ultimately, this will cause a grave impact on the funding of the PCC and the press self-regulatory system as a whole.

## APPLICATION OF THE PRESS REGULATORY REGIME TO BLOGS

Due to the amendment to the PCC's remit, the PCC is now empowered to adjudicate complaints involving blogs which appeared on newspaper and magazine websites. This can be best illustrated in *Oli Bird v The Spectator*.<sup>59</sup> In this case, a post on Rod Liddle's blog for the Spectator's website was alleged to have breached the rule on accuracy when it stated that 'overwhelming majority' of street crimes were committed by the African-Caribbean community in London. The PCC in adjudicating the complaint had treated the blogger's opinion on the crime rate in London as a statement of fact. Thus, the PCC ruled that it expected "the same standards in newspaper and magazine blogs that it would expect in comment pieces that appear in print editions". Since the magazine was unable to substantiate its claim, the complaint was upheld to have violated clause 1 of the Code. Nonetheless, it is argued that the PCC's adjudication does not consider the nature of a blog entry which is commonly regarded in the blogosphere as an author's personal opinion. As such, it is submitted that the alleged statement complained of by Mr Oli should more appropriately be viewed as a fair comment instead of a statement of fact.

In a subsequent complaint which occurred seven months after the landmark ruling, the PCC adopted a position in stark contrast to its previous ruling when it considered a blog post about the 'Amazongate' story published by the Guardian On-line as a comment piece because "it had been labelled as the columnist's blog and used the language of comment."<sup>60</sup> Interestingly, the decision by the PCC highlighted common features in blogs, especially involving controversial issues, the use of "emotive terms and strident rhetoric" in expressing views. As a result, the PCC indicated that it would not take any action unless there was factual inaccuracy or misleading statement. This adjudication is commendable since it considered the needs to be clarified, the general features of blogs and the perception of blog readers towards stories posted in blogs. Apart from blog entries published by journalists in press websites, comments by blog readers which are pre-moderated by the paper before being published online are also considered to be within the jurisdiction of the PCC. This echoes the position regarding traditional letters by readers to editors which are published in print editions. Thus, it is apparent that the PCC is aptly capable of adjudicating any complaints involving blogs associated with the print media companies.

Nonetheless, the problem arises as to the status of amateur bloggers who are not associated with any media companies. In relation to this issue, the PCC Chairman, Baroness Buscombe, has in 2009 expressed her desire to extend the PCC's remit to cover all individually operated blogs in the UK.<sup>61</sup> She claimed

that blogs and blogosphere are becoming more like news and newspapers and wondered if blog readers and those mentioned in the blog posts should be accorded with the same redress offered by the PCC for the print industry. Unfortunately, the proposal was immediately greeted with fierce criticism by the majority of the UK bloggers and an open letter was drafted by a group of bloggers urging the PCC not to proceed with the suggestion.<sup>62</sup> It was argued that the ethical standards and practices adopted by the bloggers, particularly regarding instantaneous correction of factual errors, are indeed higher than those practised by the print press, most notably by the tabloids. As such, the PCC was urged not to interfere with the blogosphere until it has effectively controlled its existing subjects. The PCC Chairman had then responded that the self-regulatory system could not be imposed by force and therefore will not be applied if it is openly opposed by the UK bloggers.<sup>63</sup> To date, the proposal has not materialised and only blogs belonging to newspapers and magazines that voluntarily subscribe to the self-regulatory system are covered by the remit of the PCC and subjected to the provisions of the Code.

### CONCLUSION

To sum up, though the status of bloggers as amateur journalists is yet to be clearly resolved, it is submitted that the self-regulatory system of the press operated by the PCC is currently not applicable to amateur bloggers in the UK. Though these bloggers could rightly be regarded as amateur journalists since they also perform similar tasks to the professional journalists, it is apparent that the former are distinctively different from the latter in many aspects. Majority of these bloggers are amateur or citizen journalists who are not monetary oriented and receive no financial gains. As such, it is submitted that since bloggers receive no income from their blogging activities, it is highly probable that they would be reluctant to subscribe to any self-regulatory system that requires them to pay a levy or subscription fee to fund the operation of the regulatory body like the PCC.

Apart from that, extending the PCC's remit to the blogosphere would require a great deal of manpower and finance in order to effectively monitor millions of blogs in the UK. Further, the PCC also needs to come out with attractive incentives that will encourage all members of the press and blogs to subscribe to the self-regulatory system. Until all of newspapers and magazines, particularly major publications who have recently denounced subscription to PressBof, voluntarily subscribe to the self-regulatory regime, it is believed that bloggers would be adamant to refrain from being governed by the PCC.

Further, detailed analysis of the self-regulatory system of the traditional print media in the UK shows that the PCC has no power to adjudicate on complaints in relation to individual or amateur. Only blogs that are associated with the press entities and appear on their websites will be regulated by the PCC. Though proposal to extend the PCC's remit to cover other blogs has been clearly pronounced by its Chairman, of to date the PCC is still not permitted to extend its powers beyond its designated remits and therefore blogs administered by individuals and ordinary public members will fall out of its reach. Thus, it is submitted that the specific regulatory regimes that have been established to regulate the traditional print media cannot be applied to blogs in the UK.

### NOTE

<sup>1</sup> T.O'Reilly, What Is Web 2.0 2005 O'Reilly Media accessible at <http://oreilly.com/web2/archive/what-is-web-20.html>. 30 November 2009.

<sup>2</sup> P. Valcke and M. Lenaerts, 'Who's Author, Editor and Publisher in User-generated Content?' 24(1) *International Review of Law, Computers & Technology*, 2010 p 119.

<sup>3</sup> Katrien Lefever and Evi Werkers, 'Digital Sports Content: The Rise of New Media Players and the Legal Consequences in Terms of Obligations and Liability Risk' (2010) 21(6) *Entertainment Law Review*, p 218.

<sup>4</sup> P. A. Bernal, 'Web 2.5: The Symbiotic Web' 2010 24(1) *International Review of Law, Computers & Technology*, p 26.

<sup>5</sup> New media services is regarded to be synonymous with 'Information Society Services' which is defined in section 2(1) of the Electronic Commerce (EC Directive) Regulations 2002 as 'any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service'. T. McGonagle, 'Does the Existing Regulatory Framework for Television Apply to the New Media?' 2001 *Iris PLUS, European Audiovisual Observatory*, p 3.

<sup>6</sup> M. Feintuck and M. Varney, *Media Regulation, Public Interest and the Law*, Edinburgh University Press, Edinburgh, UK, 2006, p 3.

<sup>7</sup> Department of Trade and Industry and Department of Culture, Media and Sport, *A New Future for Communications*, Cm 5010, DTI and DCMS, London.

<sup>8</sup> Department of Trade and Industry and Department of Culture, Media and Sport, *The Draft Communications Bill: The Policy*, Cm 5508-III, HMSO, 2002, p 48.

<sup>9</sup> J. Wortham, *After 10 Years of Blogs, the Future's Brighter Than Ever* [2007] *WIRED* accessible at [http://www.wired.com/entertainment/theweb/news/2007/12/blog\\_anniversary](http://www.wired.com/entertainment/theweb/news/2007/12/blog_anniversary) (30 November 2009).

<sup>10</sup> P. Merholz, *Play with Your Words* [2002] accessible at <http://www.peterme.com/archives/00000205.html> (30 November 2009).

<sup>11</sup> B. L. Graham, *PeterMe Decides the Proper Way to Say 'weblog' is 'wee'-blog'* [1999] *The BradLands* accessible at <http://www.bradlands.com/weblog/1999-05.shtml/P1925> (30 November 2009).

<sup>12</sup> S. Rosenberg, *Say Everything: How Blogging Began, What It's Becoming, and Why It Matters*, Crown, New York, 2009, p 81.

<sup>13</sup> The Online Oxford English Dictionary accessible at <http://dictionary.oed.com> (11 November 2009).

14 L. E. Ribstein, 'From Bricks to Pajamas: The Law and Economics of Amateur Journalism' (2006) 48(185) *William & Mary Law Review*, p 187.

15 A. Ciolli, 'Bloggers as Public Figures' (2006 - 2007) 16(258) *Boston University Public Interest Law Journal*, p 258.

16 A. Ciolli, 'Bloggers as Public Figures', p 259 - 260.

17 879 A.2d 943, 945 n. 1 (Del. Super. Ct. 2005).

18 2006 Phila.Ct. Com. Pl. LEXIS 1 at \*15 n.9 (Phila. Com. P. LEXIS 2006).

19 M. Sussman, Day 2: The What and Why of Blogging [2009] *Technorati* accessible at <http://technorati.com/blogging/article/day-2-the-what-and-why2> (20 October 2009).

20 K. Hart, 'Portrait of a Blogger: Under 30 and Sociable', *The Washington Post*, 20 July 2006 accessible at <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/19/AR2006071901900.html> (12 September 2009).

21 D. Kennedy, The Blogging Revolution. Breakthrough, Hype — or Both? [2005] *Public/Private: Interactions in New Media* accessible at <http://www.lib.neu.edu/newmedia/dankennedyessay.htm> (25 October 2009).

22 S. Woan, 'The Blogosphere: Past, Present, and Future. Preserving the Unfettered Development of Alternative Journalism' (2007-2008) 44(477) *California Western Law Review*, p 481.

23 Article 10 of the ECHR adopted almost word by word Article 19 of the Universal Declaration of Human Rights (UDHR).

24 L. E. Ribstein, 'From Bricks to Pajamas: The Law and Economics of Amateur Journalism', p 189.

25 S. Bowman and C. Willis, We Media: How Audiences are Shaping the Future of News and Information [2003] *The Media Center at the American Press Institute* accessible at [http://www.hypergene.net/wemedia/download/we\\_media.pdf](http://www.hypergene.net/wemedia/download/we_media.pdf) (7 April 2010).

26 A. Sullivan, The Blogging Revolution. Weblogs Are to Words What Napster was to Music [2002] *WIRED* accessible at <http://www.wired.com/wired/archive/10.05/mustread.html?pg=2> (20 October 2009).

27 884 A.2d 451 (Del. 2005).

28 S. Mercado-Kierkegaard, 'Blogs, Lies and the Doocing: The Next Hotbed of Litigation?' 22(2) *Computer Law & Security Report*, 2006, p 128.

29 M. Russo, 'Are Bloggers Representatives of the New Media Under the Freedom Information Act?' 40 *Columbia Journal of Law and Social Problems*, 2006-2007 p 225.

30 L. McKenna and A. Pole, 'What Do Bloggers Do: An Average Day on an Average Political Blog' 134(1) *Public Choice*, 2008 p 102.

31 The four estates consist of the political nobility (government), the knowledge clergy (academia and research institutes), the popular citizenry and the press.

32 E. Barendt, 'Bad News for Bloggers' 1(2) *Journal of Media Law*, 2009, p 145.

33 S. Allan, *Online News: Journalism and the Internet*. Open University Press, Maidenhead, England, 2006, p 45.

34 M. Sussman, Day 1: Who Are The Bloggers? [2009] *Technorati* accessible at <http://technorati.com/blogging/article/day-1-who-are-the-bloggers1> (20 October 2009).

35 J. Pain, 'Bloggers, the New Heralds of Free Expression' (2005) *Handbook for Bloggers and Cyber Dissidents*, p 5.

36 J.D. Lasica, Blogging as a Form of Journalism [2001] *Online Journalism Review* <<http://www.ojr.org/ojr/workplace/1017958873.php>> accessed (1 July 2009).

37 L. E. Ribstein, 'From Bricks to Pajamas: The Law and Economics of Amateur Journalism', p 189.

38 S. Allan, *Online News: Journalism and the Internet*, p 43.

39 D. Tambini, D. Leonardi, and C. Marsden, *Codifying Cyberspace: Communications Self-Regulation in the Age of Internet Convergence*, Routledge, London, 2008, p 66.

40 R. Shannon, *A Press Free and Responsible: Self-Regulation and the Press Complaints Commission 1991-2001*, John Murray, London, 2001, p 2.

41 C. Munro, 'Self-regulation in the Media' *Public Law*, 1997, p 6.

42 G. Robertson and A. Nicol, *Media Law*, Penguin, London, 2008, p 757.

43 T. O'Malley and C. Soley, *Regulating the Press*, Pluto Press, London, 2000, p 141.

44 Pressbof, PCC's Remit Extended to Include Editorial Audio-visual Material on Newspaper and Magazine Websites [2007] *Press Complaints Commission* accessible at <http://www.pcc.org.uk/news/index.html?article=NDMyMg> (9 September 2009).

45 Pressbof, PCC's Remit Extended to Include On-line Only Publications [2009] *Press Complaints Commission* accessible at <http://www.pcc.org.uk/news/index.html?article=NjEwOQ> (9 September 2009).

46 *Gaddis v Hamilton Adviser*: Report No. 75 of 2007.

47 *A Woman v The Sun*: Report No. 77 of 2008.

48 E. Barendt and L. Hitchens, *Media Law: Cases and Materials*, Pearson Education, Harlow, 2000, p 44.

49 I. Beales, The Editor's Codebook [2011] *The Editor's Code of Practice Committee* accessible at <http://www.editorscode.org.uk/downloads/codebook/codebook.pdf> (14 November 2011).

50 Editor's Code of Practice Committee, *Press Standards, Privacy and Libel: Responses to the Committee's Second Report of Session 2009-10 - Reply from Editors' Code of Practice Committee*, July 15, 2010.

51 The Governance Review Panel, *The Governance of the Press Complaints Commission: An Independent Review*, July 2010, para 46.

52 PCC, PCC Response to the Independent Governance Review, [2010] *Press Complaints Commission* accessible at <http://www.pcc.org.uk/news/index.html?article=Njg1Nw> (4 January 2011).

53 B. Jordan, 'The Editors' Codebook - The Second Edition' (2009) 20(7) *Entertainment Law Review*, p 249.

54 M. Feintucket al, *Media Regulation, Public Interest and the Law*, p 192.

55 S. Sellars, 'Online Privacy: Do We Have It and Do We Want It? A Review of the Risks and UK Case Law' (2011) 33(1) *European Intellectual Property Review*, p 14.

56 Numerous types of remedial actions have been offered to complainants including publication of an apology or correction, removal of offending material from the publications' websites, publication of letters from the complainants and many others.

57 J. Coad, 'The Press Complaints Commission - Some Myths About Self Regulation' (2003) 14(8) *Entertainment Law Review*, p 213.

58 A. Sparrow, *Film and Television Distribution and the Internet: A Legal Guide for the Media Industry*. Ashgate, Aldershot, 2007, p 15.

59 *Oli Bird v the Spectator*, published on 29 March 2010.

60 *Dr. Richard A E North v the Guardian*, published on 26 November 2010.

61 I. Burrell, PCC to Regulate UK Bloggers? [2009] *Independent Minds* accessible at <http://ianburrell.independentminds.livejournal.com/8357.html?page=3#comments> (6 October 2010).

62 Unity, Blogging and PCC Regulation - A Collective Response [2009] *Liberal Conspiracy*, accessible at <http://liberalconspiracy.org/2009/11/17/bloggng-and-pcc-regulation-a-collective-response> (6 October 2010).

63 L. Oliver, PCC Will Not Regulate Blogs without Consent, Says Chairman Buscombe [2009] *Journalism.co.uk* <http://www.journalism.co.uk/news/pcc-will-not-regulate-blogs-without-consent-says-chairman-buscombe/s2/a536557> (24 June 2010).

## REFERENCES

Allan, S. 2006. *Online News: Journalism and the Internet*. Maidenhead, England: Open University Press.



- Barendt, E. 2009. Bad News for Bloggers. *Journal of Media Law* 1(2): 141-147.
- Barendt, E & Hitchens, L. 2000. *Media Law: Cases and Materials*. Harlow: Pearson Education.
- Beales, I. 2011. The Editor's Codebook. *The Editor's Code of Practice Committee*. <http://www.editorscode.org.uk/downloads/codebook/codebook.pdf>
- Bernal, P. A. 2010. Web 2.5: The Symbiotic Web. *International Review of Law, Computers & Technology* 24(1): 25-37.
- Bowman, S. & Willis, C. 2003. We Media: How Audiences are Shaping the Future of News and Information. [http://www.hypergene.net/wemedia/download/we\\_media.pdf](http://www.hypergene.net/wemedia/download/we_media.pdf)
- Ciulli, A. 2007. Bloggers as Public Figures. *Boston University Public Interest Law Journal* 16: 255-284.
- Coad, J. 2003. The Press Complaints Commission - Some Myths About Self Regulation." *Entertainment Law Review* 14(8): 211-214.
- Feintuck, M. & Varney, M. 2006. *Media Regulation, Public Interest and the Law*. 2<sup>nd</sup> edition. Edinburgh: Edinburgh University Press.
- Graham, B. L. 1999. PeterMe Decides the Proper Way to Say 'weblog' is 'wee'-blog'. *The BradLands*, May 23, <http://www.bradlands.com/weblog/1999-05.shtml/P1925>
- Hart, K. 2006. Portrait of a Blogger: Under 30 and Sociable. *The Washington Post*, July 20. [http://www.washingtonpost.com/wp\\_dyn/content/article/2006/07/19/AR2006071901900.html](http://www.washingtonpost.com/wp_dyn/content/article/2006/07/19/AR2006071901900.html)
- Jordan, B. 2009. The Editors Codebook - The Second Edition." *Entertainment Law Review* 20(7): 249-252.
- Kennedy, D. 2005. The Blogging Revolution Breakthrough, Hype — or Both? *Public/Private: Interactions in New Media*, October 13, [http://www.lib.neu.edu/newmedia/dan\\_kennedyessay.htm](http://www.lib.neu.edu/newmedia/dan_kennedyessay.htm)
- Lasica, J.D. Blogging as a Form of Journalism. *Online Journalism Review*, May 24, <http://www.ojr.org/ojr/workplace/1017958873.php> [2001].
- Lefever, K. & Werkers, E. 2010. Digital Sports Content: The Rise of New Media Players and the Legal Consequences in Terms of Obligations and Liability Risk. *Entertainment Law Review* 21(6): 215-220.
- McGonagle, T. 2001. Does the Existing Regulatory Framework for Television Apply to the New Media? *Iris PLUS, European Audiovisual Observatory* 6: 1-8.
- McKenna, L and Pole, A. 2008. What Do Bloggers Do: An Average Day on an Average Political Blog. January 1, *Public Choice* 134(1): 97-108.
- Mercado-Kierkegaard, S. 2006. Blogs, Lies and the Doocing: The Next Hotbed of Litigation? *Computer Law & Security Report* 22(2): 127-136.
- Merholz, P. 2002. Play with Your Words, May 17, <http://www.peterme.com/archives/00000205.html>
- Munro, C. 1997. Self-regulation in the Media. *Public Law* 6-17.
- O'Malley, T. and Soley, C. 2000. *Regulating the Press*. London: Pluto Press.
- O'Reilly, T. What Is Web 2.0. [2005] *O'Reilly Media*, September 30. <http://oreilly.com/web2/archive/what-is-web-20.html>.
- Pain, J. 2005. Bloggers, the New Heralds of Free Expression. In Reporters Without Borders (ed.). *Handbook for Bloggers and Cyber Dissidents*. <http://www.rsf.org/IMG/pdf/handbookbloggerscyberdissidents-GB>.
- Ribstein, L. E. 2006-2007. From Bricks to Pajamas: The Law and Economics of Amateur Journalism. *William and Mary Law Review* 48: 185.
- Robertson, G. and Nicol, A. 2008. *Media Law*. 5th Ed. London: Penguin.
- Rosenberg, S. 2009. *Say Everything: How Blogging Began, What It's Becoming and Why It Matters*. 1st Ed. New York: Crown.
- Russo, M. 2006-2007. Are Bloggers Representatives of the New Media Under the Freedom Information Act? *Columbia Journal of Law and Social Problems* 40: 225.
- Sellers, S. 2011. Online Privacy: Do We Have It and Do We Want It? A Review of the Risks and UK Case Law. *European Intellectual Property Review* 33(1): 9-17.
- Shannon, R. 2001. *A Press Free and Responsible: Self-Regulation and the Press Complaints Commission 1991-2001*. London: John Murray.
- Sparrow, A. 2007. *Film and Television Distribution and the Internet: A Legal Guide for the Media Industry*. Aldershot: Ashgate.
- Sullivan, A. 2002. The Blogging Revolution. Weblogs Are to Words What Napster was to Music. *WIRED*, May <http://www.wired.com/wired/archive/10.05/mustread.html?pg=2>
- Sussman, M. 2009. *Day 1: Who Are The Bloggers?* *SOTB 2009*. Technorati, October 19, <http://technorati.com/blogging/article/day-1-who-are-the-bloggers1/>
- Sussman, M. 2009. *Day 2: The What and Why of Blogging - SOTB 2009*. Technorati, October 20 <http://technorati.com/blogging/article/day-2-the-what-and-why2/>
- Tambini, D., Leonardi, D. and Marsden, D. 2008. *Codifying Cyberspace: Communications Self-Regulation in the Age of Internet Convergence*. London: Routledge.
- Valcke, P. and Lenaerts, M. 2010. Who's Author, Editor and Publisher in User-generated Content?

Applying Traditional Media Concepts to UGC - Providers. *International Review of Law, Computers & Technology* 24(1): 119-131.

Woan, S. 2007-2008. The Blogosphere: Past, Present, and Future. Preserving the Unfettered Development of Alternative Journalism. *California Western Law Review* 44: 477-481.

Wortham, J. 2007. "After 10 Years of Blogs, the Future's Brighter Than Ever." *WIRED*, December 17 [http://www.wired.com/entertainment/theweb/news/2007/12/blog\\_anniversary](http://www.wired.com/entertainment/theweb/news/2007/12/blog_anniversary)

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