

The Scandalous Power of the Press: Phone Hacking in the UK

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Much news media thrive on scandal. But what happens when the scandal is about the media itself? In 2011 *News of the World* journalists stood accused of illegally hacking the phone of murdered schoolgirl Milly Dowler. This proved to be the tip of a very large iceberg as the scandal uncovered industrial-scale phone hacking taking place across the tabloid press. Rather than open up their practices of news production to scrutiny and accept the recommendations of an independent inquiry, the news industry closed ranks and hid behind the banner of 'press freedom'. This story reveals the enduring power of the press and its ability to control scandal, direct the national conversation and set the agenda. It also reveals the continuing entanglement between press and politicians who still seek favour with those they think have the potential to influence voting behaviour. This chapter reflects on the power of news corporations to defy the public interest whenever it suits them and the role of mainstream news journalists as part of an elite power complex. Ultimately the chapter argues that media scandal, wherever it is found, is all about power and commercial priorities.

Introduction

It is journalism's job to expose wrong-doing, hold power to account, to flush out corruption, immorality or illegality where it exists. In doing so, it is argued that scandals help to set the parameters of ethical practice, moral conflict and consensus (Adut 2008). Who or what is declared as 'scandalous' is not a neutral endeavour. As Entman (2012) notes, journalists' responses to transgressions of apparently equal gravity or triviality vary considerably. This variability is deeply problematic because it reveals a media bias that calls into question journalistic practice itself – why has that politician or that celebrity been singled out for particular media treatment when others are entirely overlooked? Which scandals are elevated and which squashed or side-lined can tell us much about where power lies and the sorts of power that can be held to account. The role of elites is crucial here – how various groups block, deflect, or promote scandal is indicative of broader power relations and dynamics at play at any one time (Nyhan 2014). Recognising the media as one of these elites is at the heart of this chapter. Taking this approach has implications for the study of scandal more broadly: not only does it seek to recognise and interrogate the key role of journalists in the social construction of scandal but it also acknowledges the media industry as a crucial power broker deeply entangled in a particular political-economic system made up of a combination of elites each seeking to advance or protect their own interests.

Thompson (2000, 13-14) marks out 5 distinguishing characteristics of scandal: transgression of moral codes, norms or values; an element of secrecy denoting a violation that makes outsiders suspicious; disapproval of the act by outsiders; public denunciation of transgression; and potential damage to the reputation of

transgressors. The media can elevate and accelerate, demote and side-line any of these factors at any one time and not all of them need be present at once. In this chapter I consider what happens when the transgression is found within the media industry itself; when secrecy involves media collusion with officials of state power such as police and senior members of cabinet; when disapproval by the public elides with plummeting levels of public trust in sections of the mainstream media leading to potentially devastating damage to the link between news media and democracy. Revealing the ways in which mainstream media respond to scandals within their own backyard, brings to the fore how journalists are part of a political economic complex and illustrates how the media function in collusion with elites to manage the potential damage to their reputations, their profit margins and ultimately to their own power-base.

The Scandal of Phone Hacking

In the summer of 2011 the *News Of the World*, owned by Rupert Murdoch, stood accused of illegal, unethical behaviour through the systematic phone hacking of politicians, members of the royal family, celebrities, murder victims and their families. Murdoch subsequently closed down the *News of the World* and several ex-editors and journalists found themselves under criminal investigation. The UK Prime Minister, David Cameron, publicly embarrassed by his employment of Andy Coulson, a former Editor of *News of the World: 2003-2007*, as his Director of Communications,¹ then called for a public inquiry chaired by Lord Justice Leveson to investigate the issue.

Hackgate, as it became known, revealed in full technicolour through live web-streaming of courtroom evidence, the mechanisms of a system based on the corruption of power – both of governing elites and of mediating elites and the relations between them. During the Leveson Inquiry it was revealed that a member of the UK Cabinet had met executives from Rupert Murdoch's empire once every three days on average since the Coalition was formed². The Inquiry also heard that on 7 October 2009, the day before David Cameron addressed the Conservative Party conference, Rebekah Brooks, then chief executive of News International (2009-2011) and former Editor of *News of the World* and *The Sun*, sent Cameron the following text message:

‘But seriously I do understand the issue with the Times. Let’s discuss over country supper soon. On the party it was because I had asked a number of NI [News International] people to Manchester post endorsement and they were disappointed not to see you. But as always Sam was wonderful – (and I thought it was OE’s [Old Etonians] that were charm personified!) I am so rooting for you tomorrow not just as a proud friend but because

¹ Andy Coulson was arrested by the Metropolitan Police Service in July 2011 for allegations of corruption and phone hacking and later charged.

² 20 Cabinet ministers met senior Murdoch executives 130 times in the first 14 months of office. See the full list on Number 10s website: <http://www.number10.gov.uk/transparency/who-ministers-are-meeting/>

professionally we're definitely in this together! Speech of your life? Yes he Cam!'³

The Brooks-Cameron relationship was seen as indicative of a culture of press-politician mutual interest in which media executives and party leaders work together to 'push the same agenda', in Cameron's words. The inquiry also revealed the systematic invasions of privacy by headline hungry journalists that wrecked lives on a daily basis (Cathcart 2012); the lies and deceit of senior newspaper figures; and a highly politicised and corrupt police force. Rebekah Brooks admitted to paying police for information in a House of Commons Select Committee in 2003 but denied it in 2011 (BBC News UK, 15 April 2011) and we discovered that over a quarter of the police public affairs department were previous employers of the *News of the World* (Warrell 2011).

Alongside the Leveson Inquiry the criminal trials of journalists accused of phone hacking were taking place. The scale of the trials was huge. They involved more than 3 years of police work; 42,000 pages of crown evidence; seven months of hearings; up to 18 barristers in court at any one time with 12 defendants facing allegations of crime spreading back over a decade. Rupert Murdoch funded the defence of Rebekah Brooks and Andy Coulson at a cost that ran into millions of pounds with an entourage of barristers, solicitors and paralegals plus another team monitoring all news and social media. On the other side, the Crown Prosecution Service consisted of one full-time solicitor and one administrative assistant. By the time the trial finished, News International had paid compensation to 718 victims of phone hacking with many more following.

The phone hacking debacle fulfilled all of the definitional characteristics of scandal but perhaps of more concern to the media was that it revealed their own duplicity: that the real scandal was a media that wilfully and incessantly manufactured scandal through lies and distortion for the benefit of sales, through illegal practices and corrupt relationships with the police and through invidious entanglement with political elites. Their self-acclaimed primary function of holding power to account was exposed as illusory. Rather than watchdogs at the grand gates of democracy, these were the rats of the gutter press using their own power to distort democratic practice rather than enhance it; bringing misery and pain to the powerless through the hacking of a murdered teenager's mobile phone messages. In the process, they exposed the contradictions in their own practices: where commercial imperatives drive news production amidst ever decreasing profits, the ethical underpinning of journalistic practice is quickly swept aside.

As such, the problem phone hacking scandal exposed extended far broader and deeper than any slippage in ethical practice seemed to suggest. This may have accounted for the desire by the industry to pin the problem on a few "rogue

³ *Transcript of Morning Hearing 14 June 2012*. pp. 82-83. [pdf] Available at: <http://www.levesoninquiry.org.uk/wp-content/uploads/2012/06/Transcript-of-Morning-Hearing-14-June-2012.pdf> >

journalists". Media organisations played the long game - admitting limited guilt early on and then attempting to derail the consequences at every opportunity that followed. More than any other organisation, they were well aware that the public often tire of scandals quickly (Waisbord 2004; Thompson 2000) and News International were happy to make large settlements to litigants to prevent cases being heard in a court of law and ensure that the number of those found guilty could remain as low as possible.

But even with these forms of containment the scandal revealed the dirty underbelly of a thoroughly marketised, deregulated, corporate system of news production. With a broken business model for newspapers still struggling to recover from the shift of classified advertising to new online sites; with news produced and distributed at a faster rate than ever before and often on several platforms at once; maintaining profit margins and shareholder returns has resulted in fewer journalists with more space to fill. Doing more work in less time has led to a greater use of unattributed rewrites of press agency or public relations material and the cut and paste practice that is now commonly referred to as churnalism (Davies 2008). Churnalism does not lend itself well to ethical practices. Combine the faster and shallower corporate journalism of the digital age (Phillips 2014) with the need to pull in readers for commercial rather than journalistic reasons and it is not difficult to see how the values of professional journalism are quickly cast aside in order to indulge in sensationalism, trade in gratuitous spectacles and deal in dubious emotionalism. The phone hacking scandal brought this fundamental transgression of professional journalism ethics into full public view.

As Trevor Kavanagh, Associate Editor of *The Sun* noted in his own evidence to Leveson:

‘...news is as saleable a commodity as any other. Newspapers are commercial, competitive businesses, not a public service.’ (6 October 2011): <http://www.guardian.co.uk/media/2011/oct/06/trevor-kavanagh-leveson-inquiry-speech>.

The scandal many newspapers sought to cover-up is that news is primarily for profit – a marketplace that operates on market principles. But of course, news is no ordinary commodity – it offers the possibility of directing the public conversation and hence is of relevance to politicians keen to convince voters of the benefits of their particular policy formulations. This is where the characteristic of scandal as secrecy denoting violation of moral codes comes into play. The phone hacking scandal didn't reveal a media holding power to account rather it exposed a media in bed with power. ⁴

⁴ Although this turn of phrase is used metaphorically here to reflect on the nature of scandal there were also suggestions that it was literally the case when it was alleged that Rupert Murdoch was divorcing his wife Wendi Deng because of an affair with Tony Blair (who was Godfather to two of their children).

Deflecting and diverting scandal

After an inquiry lasting nearly a year and a half, Lord Justice Leveson delivered his recommendations in November 2012. The report discussed in detail how the newspaper industry had become too powerful, distorting policy-making and the democratic process, and that meaningful reform was needed to restore public confidence in the press. Leveson was clear to emphasise that his recommendations were about enshrining press freedom and ensuring that any subsequent regulatory system was independent from government, albeit underpinned by statute. He also had to satisfy the many victims of press abuse that his recommendations would bring about an independent regulatory system with teeth that could hold the industry to account when necessary while ensuring that the press could not, as was popularly remarked, mark their own homework (Leveson 2012).

A common response from much of the news industry was to direct responsibility for phone hacking towards the law and inadequate policing, claiming that it was not the concern of the media industry but rather a result of failures in criminal investigations and prosecutions. The solution must lie therefore with the police and the enactment of the law and not through further regulation of the profession or industry which should remain 'free' to do effectively, as it pleases.

The language of free speech became the main tactic of deflection of scandal by the press lobby. Cries of the "end of 300 years of press freedom" littered the pages of newspapers. This prompted the prime minister, David Cameron, who had initially said he would implement the Leveson recommendations unless they were 'bonkers', to state that even statutory underpinning – a law to enact the costs and incentives of a new system with no interference whatsoever in the actual running of, or decision making of the new independent self-regulatory body – would be 'crossing the Rubicon'. In other words, the sacrosanct position of a free press in a free society would be irreparably undermined – there would be no going back.

'Freedom of the press' regardless of whether they have democratic intent or not, became the primary means of defining the debate. This kind of corporate libertarianism (Pickard 2014) that aligns freedom with established and vested power interests and their ability to do whatever they like within the law, means that any form of regulation that may encourage news organisations to behave in particular ways, is assumed to be detrimental to democracy even if its purpose is to refocus news practices on democratic intentions. Furthermore, involvement of the state in any form whatsoever in relation to the press (even at the hands of an entirely independent regulator) becomes nothing more than state censorship.

Thus to avert the potential damage to the good name of journalism and to preserve their own ability to manufacture scandal to suit their own purposes, the press lobby insisted that they alone were beyond accountability. That the press were successful in their deflection of the consequences of scandal was due to their willingness to peddle it hard and shut down debate wherever possible and is testimony to their enduring power. The scandal of phone hacking was

ultimately contained by the news media because of the industrial and ideological power of the industry itself.

It is no surprise then, that the journalist who broke the hacking scandal story (Nick Davies *The Guardian*, 8 July, 2009) was an investigative journalist of high esteem deemed to be an outsider to the Fleet Street cabal. He writes:

“This is a story about power and truth [...] about the abuse of power and the secrets and lies that protect it [...]. In an established democracy, abuse of power cannot afford to be visible. [...] In this case the concealment had an extra layer, because the news organisations which might otherwise have exposed the truth were themselves part of the abuse, and so they kept silent, indulging in a comic parody of misreporting, hiding the scandal from their readers like a Victorian nanny covering the children’s eyes from an accident in the street [...]. Some did this because they were linked to the crime by common ownership or by their own guilty secrets about law-breaking in their own newsrooms; some turned away for fear of upsetting their political allies. Too many journalists had simply ceased to function as independent truth-tellers, separate from and critical of the people they were writing about. The crime reporter made common cause with the police and also with criminals. The political correspondent developed a loyalty to one party or faction. The media reporter became a tool for his or her owner. The news executive turned into a preening power-monger, puffed with wealth and self importance, happy to join the elite and not to expose it.” (Davies 2014: xiv-xv)

Unpicking how the distinction between private interest and public good has become blurred in news journalism is fundamental to a critique of how media scandal operates. ‘Freedom of the press’ as an ethical practice does not somehow magically transcend the market it is part of. Rather, it has become embroiled in a particular neoliberal political-economic system that enabled the media elite to use the rhetoric of freedom to close down further interrogation of journalistic malpractice. ‘Freedom of the press’ came to stand in for freedom of private industry. A free market discourse that tells us that productivity is increased and innovation unleashed if the state stays out of the picture and lets businesses get on with it. Productivity in the market and hence news as a commodity takes precedence over the social and political concerns of news as a mechanism of democratic process. In other words, the less ‘interference’ in the form of regulation, the more liberalised the market, the better the outcome (Jessop 2002). Freedom of the press expressed purely as the need to get the state to butt out and give commercial practice free reign is about nothing more than enabling market dominance to take priority over all other concerns. Freedom of the press expressed in this way is not a precondition or even a consequence of democracy so much as a substitute for it (Fenton 2014).

With a general election creeping ever closer, Cameron bowed to the rhetoric of ‘press freedom’ and opted for setting up a new press self-regulatory body not by statutory underpinning but by Royal Charter. The Royal Charter sets out a mechanism for independent self-regulation of the press overseen by an

independent body called the Press Recognition Panel (PRP). The job of the PRP is to ensure that any organisation that regulates the press and seeks recognition is independent, properly funded and able to protect the public. Any recognised regulator must meet the 29 criteria listed in the Charter. These criteria were designed to secure press freedom and protect the public interest. In order to respond to criticisms of government interference in press regulation it was agreed that the Charter can only be amended by a two-thirds majority of each of the House of Commons, the House of Lords and the Scottish Parliament and with unanimous agreement of the PRP Board.

Initially, it looked like the press lobby were willing to accept this, it was, after all, devised in response to their concerns, but when their own version of the Charter was not accepted, powerful press interests soon backtracked and found excuses to repudiate this mechanism making it quite clear that they had no intention of ever agreeing to a system that they were not able to fully control. Instead they revamped the discredited Press Complaints Commission and called it the Independent Press Standards Organisation (IPSO) – an organisation run by the industry, that meets less than half of Leveson’s recommendations. IPSO has so far refused to seek recognition and only meets 12 of the 29 criteria (Media Standards Trust 2013).⁵ The majority of the UK national press has signed up to this non-recognised regulator, flouting democratic process and flying in the face of public interest. Every attempt by media reform campaigners to try and get full implementation of the Royal Charter framework was met with a Press propaganda offensive to try to ensure it failed.

Hypocrisy and hype

Herman and Chomsky (1988) evoke the idea of ‘manufacturing consent’ whereby propaganda is used to naturalise ideas of the most powerful groups in society and to marginalise dissent. Their propaganda model depends on five ‘filters’ working on the media that ensure a structural bias in favour of dominant frames: concentrated private ownership, the power of advertising, the domination of elite sources, the use of ‘flak’ (sustained attacks on oppositional voices), and the construction of an enemy, here – so-called “liberal leftie luvvies” hell-bent on media reform (Fenton and Freedman 2018). The hacking scandal revealed that mainstream media are tied to current relations of power and involved in distorting, suppressing and silencing alternative narratives to capitalist power. During the period of public consultation over the full implementation of the Leveson recommendations the press engaged in an industry-wide shutdown of debate over media reform. This was not a struggle for organisations whose fundamental mission is to hold power to account -far from it. This was about hanging on to power and defying any form of accountability.

⁵ Another regulator IMPRESS did seek recognition and does meet Leveson’s recommendations but to date no national newspaper has signed up to it.

Thompson (2000) notes that scandal can be defined by disapproval from outsiders and public denunciation as well the potential damage to those at the centre of the scandal itself. During the height of the hacking scandal persistent public opinion polling came out in favour of the need for press regulation. Constant polling since has shown high levels of support for media reform and a firm rejection of press manoeuvring. A poll in January 2017 undertaken by YouGov for Hacked Off⁶ (the campaign group set up in the wake of the hacking scandal), after an onslaught of anti-press regulation coverage across all news media, still showed that 73 per cent of the public thought press behaviour had either got worse or not changed since the Leveson enquiry. Public disapproval was beyond doubt. The failure for the press to adequately cover the scandal did not prevent mud from sticking.

Media scandal has also contributed to the demise of trust in the media. In 2017 the Edelman Trust barometer said that trust in the media in the UK had plummeted to an all-time low of 32 per cent - this was repeated in 2018 with only 23 per cent of UK youth saying they trusted the media. More interesting perhaps are the 64 per cent of people who agreed that 'the average person does not know how to tell good journalism from rumour or falsehoods'. The same survey noted that 33 per cent are reading or listening to the news less and 19 per cent are avoiding the news altogether because they believe it is too depressing (40 per cent); too one-sided or biased (33 per cent); or controlled by hidden agendas (27 per cent).

In May 2018 exactly one week after the government announced that it would repeal Section 40 – a key part of the Royal Charter framework - and abandon Leveson Part 2 because the first part of the Leveson Inquiry 'had done the job and the world had moved on', another story broke involving a whistleblower - John Ford. This was the first time a broadsheet paper, also from the Murdoch stable, faced serious allegations of illegal behavior on a grand scale. Ford revealed his work as a former "blagger" for the *Sunday Times* over a period of 15 years from 1995-2010, during which he says his activities included hacking, impersonation, fraud, deception and data theft relating to thousands of people including leading politicians, celebrities and hosts of ordinary people. Although the story got very little media coverage, several Members of Parliament immediately questioned the wisdom of abandoning Leveson 2. A Conservative MP, Kenneth Clarke, who was Justice Secretary when the Leveson Inquiry was established, queried whether the Minister could 'really think that there is no longer sufficient public interest in new allegations of this kind or in knowing which newspapers were bribing which policemen because it was as long ago as seven years? Does he think that the best newspapers in this country would accept that judgment for a moment if it was applied to any other sector of the economy? We have public inquiries in hand at the moment looking into much older things—allegations of sexual abuse, the haemophilia tragedy, and others—

⁶ Declaration of interest: the author of this chapter was Vice-Chair of Hacked Off Board of Directors from 2012-2018.

so will he not wait until we have a new allegation that is post-2011 before at least thinking again a bit about his decision?' (Hansard 2018).

Although no-one mentioned the Hillsborough disaster and its coverage by *The Sun* in the discussion, it offers a good example of the time it can take for the truth to become established and the role the press can play in suppressing it when the scandal relates to them. Beneath the headline 'The Truth' *The Sun* claimed that some Liverpool supporters urinated on police and stole from dead bodies causing tremendous distress and anger and contributing to the length of time it took to finally get the official verdict of unlawful killing and exonerate the supporters some 27 years later. The Minister's reply effectively denied such hard-fought histories and was indicative of a long-standing refusal to shine a light on any potential wrongdoing in the newspaper industry and a relationship of collusion between press and politicians: 'I am concentrating on what we need for the future, not on what happened more than seven years ago' (Hansard 2018).

However, the Minister and the Media mistakenly saw these scandals as any others that would blow up and blow over. What they did not account for was continued public support engendered by determined campaign groups. In both the case of the Hillsborough disaster and the corrupt relationship between the media and police that was finally exposed after years of campaigning by friends and families who had lost loved ones in the disaster; and the case of phone hacking that also launched a campaign peopled by victims of phone hacking and press abuses relating to invasions of privacy, misrepresentations and lies that wrecked lives, citizens showed they were unwilling to settle for fudges and obfuscations, that they would not forget these media scandals and they were determined to gain justice, however long it took.

Conclusion: corruption and competition as easy bedfellows

Tumber and Waisbord (2004: 1036) argue that corruption "scandals bring out the duality that underlies political life: the gap between what is said and what things are, between idealized politics and down-and-dirty politics, between the norms that are publicly legitimated and upheld and actual behaviour." Corrupt media practices are nothing new but the contradictions between what is claimed and what is seen to be the case may be perceived as more stark and less easily dismissed in a climate where the power of elites is ever more challenged (Davis 2018). The hacking scandal uncovers a system of political communication involving a sordid entanglement of media and political elites warring to fight and protect their own interests. How a scandal involving the media itself is portrayed and then dealt with is deeply dependent on the political and media context in which it occurs.

Entman (2012) argues that whether scandals blow-up and then spread and endure depends on the skills of the partisan competitors as well as the norms and incentives governing news production rather than the nature of the offense itself. This chapter has shown that we must also pay attention to the relative power of each competitor, their entanglements and their ability to shift the focus

and terms of the issue, as well as the ability of the public to challenge and contest it. The UK press are competing for economic survival but also to hang on to notions of journalistic prestige that are fast slipping through their fingers. They also want to retain political influence. The rhetoric of freedom of the press gave them this bridge. The irony is that the more the media make claim to press freedom the less likely they are able to deliver on its promises. Thus, the more likely scandals involving the media are likely to reoccur.

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