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From: [REDACTED]
Sent: 10 January 2022 17:25
To: journalismcode
Cc: Bond, Michael
Subject: News UK submission - ICO draft journalism code of practice
Attachments: News UK response - ICO consultation on Journalism Code of Practice - 10 January 2022.docx

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To whom it may concern,

Please find News UK's response to the consultation on the draft journalism code of practice attached to this email. To note, this submission is marked as private and confidential. Should you wish to publish the response in full or in part, please contact us in advance.

Should you have any queries related to our submission, please don't hesitate to contact us.

Kind regards,

Alex


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Alex Stepney
Head of Policy and Public Affairs

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News UK response to the ICO consultation on the draft journalism code of practice

1. News UK News Corp UK and Ireland Ltd ('News UK') is committed to investing in high quality journalism. We provide UK citizens choice in print, in radio and online. Our titles reach approximately 30 million people each week and include The Sun, The Times, The Sunday Times and The TLS. News UK is also home to News Broadcasting, encompassing UK national radio stations including talkSPORT, talkRADIO, Times Radio and Virgin Radio. In an expansion of our broadcasting presence, we plan to launch talkTV in 2022.
2. News UK welcomes the opportunity to respond to the Information Commissioner's Office ('ICO') 'consultation on the draft journalism code of practice' ('the consultation'). Journalism involves a constant balance between the rights of individuals in respect of their personal information and the importance of a free press to report in the public interest, informing and entertaining its readers and viewers. A free press is central to democracy and relies on a free flow of information including from third parties and whistleblowers. Protection for the processing of information received and gathered by journalists should be at the heart of any guidance on data protection.
3. While the draft journalism code of practice ('the Code') contains a comprehensive overview of how journalism engages data protection laws, we are keen to ensure that the balance in law is reflected in the Code which for the first time will be put on a statutory footing. The Code should be clear and unambiguous and should not go further than the law.
4. At present the Code gives prominence to compliance with data protection law, without reference to the countervailing position in freedom of expression in several places. This diminishes the importance of freedom of expression and could well lead to unintended consequences for professional journalism, for news publishers and broadcasters. There is insufficient emphasis on the public interest in journalism itself. We recommend that the Code includes a clear statement in every section which emphasises the balance that has to be undertaken. Where examples are used of data rights taking precedence, an example could also be included of the public interest to demonstrate this balance, and to ensure that no undue weight is given to data subject rights. Where examples are given it is paramount that they are not seen as exhaustive and this must be clarified within the draft. Otherwise, practitioners are likely to take an overly cautious approach, stifling freedom of expression, even if this is not the ICO's intent.
5. News publishers have increasingly seen the inappropriate use of data laws by claimant lawyers who protect the reputations of wealthy individuals or organisations. It would be unfortunate if the Code were to be used to that end. News UK titles are concerned that any directions and specific recommendations cited in the Code will be used by complainants as requirements which now have a statutory footing. In

particular, we believe that it is for publishers to determine the processes that it will put in place to record its compliance obligations with data protection laws. It is not realistic to include recommendations in respect of records or policies relating to daily publishing. There are no such requirements in data laws and their inclusion potentially conflicts with industry codes and the changing laws relating to privacy. If construed as compulsory on a daily basis over and above the requirements in industry codes it would put an onerous burden on journalism which would be a disproportionate interference. Any guidance on this should be included only in a document which has no statutory force.

6. As a general point, publishers and broadcasters in the UK are subject to other regulatory codes, which also deal with journalism and privacy matters. News UK titles are subject to the Editors' Code¹, which is overseen and enforced by IPSO. News UK broadcasting operations are licensed by Ofcom and therefore subject to the Broadcasting Code². These codes set out in detail many of the requirements for publishers and broadcasters. The repetition of those matters in this code could cause confusion for journalists and undermine the codes. As such, the Code should make reference to the role of these other regulators and clarify that the ICO will not intervene where another regulator has a more appropriate remit.
7. We are also concerned that intrinsic parts of journalism have not been sufficiently considered and are misrepresented in the draft. The use of undercover reporting is said to be "likely to be unfair" without any reference to how such intrusion could be justified in the public interest (page 55). The naming of a confidential source is considered to be "very unlikely" without any reference to the Contempt of Court Act 1981 which sets out the protection in law for sources (page 78). We do not consider it appropriate for the ICO to be providing guidance in a document with statutory force on how journalists should be checking its sources or reporting sources (pages 61 and 62). It would be sufficient to emphasise that accuracy is an integral factor in publishing.
8. Mention of freedom of expression is notably absent from the individuals sections on managing the rights of data subjects. We would suggest again that directions on how publishers record challenges on accuracy are a matter for individual publishers (page 82).
9. Given the potential for unintended consequences we consider it essential that the final draft is issued for consultation before publication. We are willing to clarify any matters raised here further if required.
10. We endorse fully the detailed comments in the submission by the Media Lawyers' Association to which we have contributed.

News UK, 10 January 2022

¹ IPSO Editors' Code, Clause 2, available here: <https://www.ipso.co.uk/editors-code-of-practice/>

² Ofcom Broadcast Code, Section 8, available here: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>