

FREE Press

No 164 May-June 2008

£1 Journal of the Campaign for Press and Broadcasting Freedom

Court limits police powers to seize source material

By David Crouch

Journalists must go to the authorities if they suspect that a source has information about terrorism, but the police have no right to conduct speculative “fishing expeditions” to force journalists to hand over their notes, according to a High Court ruling.

A high-profile appeal by freelance writer Shiv Malik, backed by the NUJ and the *Sunday Times*, saw a ruling on June 19 that threw out a demand by Greater Manchester Police for Malik to hand over all his source material.

In defence of journalists, the judges concluded: “A balance has to be struck between the protection of the confidential material of journalists and the interest of us all in facilitating effective terrorist investigations.”

However, they also invited the police to “satisfy the court that the balance should be struck in favour of making a production order” forcing Malik to hand over his notes. A final ruling on the permissible scope of the production order is expected on June 26, as *Free Press* goes to print.

Malik welcomed the ruling, noting that the court had limited the powers of the police. He told *Free Press*: “It’s a victory for common sense in that, from the wider perspective, we can protect confidential sources – that’s a big victory.”

“The High Court said production orders are allowed, but in my case they really do have to be precisely drafted, the police can’t just go on fishing expeditions.”

“Protecting journalists’ sources should be paramount, and now the High Court has said even in terrorism cases journalists are allowed to maintain confidential sources.”

The NUJ also emphasised how the ruling sent a clear signal to police that they can’t see journalists as “simply another tool of intelligence gathering”.

Speaking outside the High Court after the ruling was announced, general secretary Jeremy Dear said that Greater Manchester Police had “failed to recog-



Shiv Malik: ‘A victory for common sense’

nise the special nature of journalistic material. Rather than take the time to consider what information they really needed, the police went fishing, hoping a general order would dredge up something of use.”

Malik is an established freelance who has written extensively on terrorism for national newspapers and magazines. He is working on a book with the former Islamist Hassan Butt, who is linked to a forthcoming terrorism trial in Manchester in the autumn. Greater Manchester Police, who raided Malik’s home in March in pursuit of his notes, have also served draft production orders on the BBC, the *Sunday Times*, *Prospect* magazine and CBS demanding that they hand over materials they believe to be connected with the case.

A range of high profile figures and organisations have supported Malik’s case. On March 19 leading figures from journalism and civil liberties organisations, including Jonathan Dimbleby and Shami Chakrabarti, signed a letter to the *Times* warning of its implications.

Malik’s High Court appeal is the first

major test of the application to journalism of the Terrorism Act 2000, sections 19 and 38B of which make it a criminal offence to withhold information. Formerly police had to satisfy a judge that the information they sought from a journalist was closely related to a “serious offence” – the 2000 Act contains no such restriction.

Malik said: “This makes it almost impossible for journalists working in the field of terrorism. It’s been a scythe hanging over our necks since it was enacted in 2000. Journalists in the field have been breaking the law and hoping they won’t get prosecuted.”

He believes the issue came to a head because the police decided he would be in no position to defend himself, so they imposed a wide-ranging production order. But the NUJ and the *Sunday Times* agreed to pay his costs.

However, as it stands the ruling contains several hostages to fortune – all eyes will be on the court on June 26.

Passages of the law may still be used to still incriminate Malik. The maximum term for contempt of court is two years, and five years for providing information that should have volunteered to police.

Significantly, however, the High Court ruling specifically invites Greater Manchester Police to grant Malik immunity from prosecution in this case.

Malik said: “That will really clarify it, whether the police say they will still intend to prosecute. If they do, that will cause massive uproar.”

As the ruling states, the police interest in Malik is in what he can tell them about Hassan Butt, and not in whether he has committed offences under sections 19 or 38B. Moreover, according to the Court, on May 9 Butt was arrested and extensively interviewed by police; he told them his earlier public statements about involvement in Al-Qaeda were untrue. He has now been released without charge.

The stakes are high. Given the broad-brush definition of terrorism in the Terrorism Act 2006 – which includes

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Undercover Mosque wins libel victory

By David Henshaw

Journalists don't like to sue. They're used to the role of defendant, uncomfortable as complainant. But with "Undercover Mosque" (Channel 4 *Dispatches*), important issues were at stake. First and foremost, the right of any of us to undertake legitimate investigative journalism without fear of censorship and the threat of malicious interference from public bodies. Our victory in the High Court, and the abject apology obtained from the Crown Prosecution Service (CPS) and the West Midlands Police, has ensured that – no matter how high and mighty – the official forces of law and order will think twice before trying to bully journalists into silence.

When we made the programme, broadcast in January last year, we thought the hate-mongering preachers we secretly filmed hadn't actually broken the law. They were just repellent and hypocritical – claiming publicly to be committed to interfaith dialogue while privately promoting an atavistic cocktail of misogyny, homophobia, and hatred of unbelievers. Under pressure from politicians, the police seized all our rushes with a view to prosecution. We weren't surprised when none followed – what did surprise us was to be quite deliberately ambushed with half an hour's notice by allegations of distortion and fakery. And this on the basis of no evidence whatsoever.

This was a calculated attempt to cash in on the moral panic over TV fakery, and for a short while the media duly lapped it up. The police and CPS's motive appeared to lie in the phrase "community cohesion". Quite apart from the alleged



David Henshaw: 'All our colleagues knew this was dangerous'

distortion, our programme had apparently had an impact on the community and the cohesion within it. It certainly had. Women, gays, and non-Muslim members of the community will have been horrified at many of the comments – that women "are born deficient," that homosexuals should be thrown off mountains, and that all non-Muslims are liars.

What heartened my production team and Channel 4 was the subsequent support for us published right across the media, by commentators from every part of the political spectrum. At some visceral level, all our colleagues knew that this was dangerous and had to be confronted. And it was the most powerful example to date of the dangerous lack of understanding by police and prosecutors of what legitimate journalism is, and its role in a democratic society. Any of us who have worked in the US will have welcomed the shock of understanding that over there, as a journalist, you have a part to play, you are inherently legit. They may hate you, but they don't doubt your proper role and

right to investigate. Here – as the recent case of Shiv Malik also demonstrated – we are still on the margins, a nuisance, whose role is neither understood nor appreciated.

This is dangerous. And the reason we and Channel 4 decided to pursue the libel case was that, even after we had been fully vindicated by an official Ofcom enquiry, no

apology was forthcoming from either the West Midlands Police or the CPS. Perhaps they didn't expect us to take it further, in which case they underestimated our determination to obtain justice.

My company suffered as a result of these utterly unfounded allegations. To be labelled a television faker last summer was highly damaging. The fact that these allegations were made on the basis of no evidence at all should, I would have thought, caused the two chief protagonists in this sorry affair – Assistant Chief Constable Anil Patani, and CPS prosecutor Bethan David to consider their positions.

The National Secular Society and a number of media commentators have called for a public enquiry. They're right to do so.

David Henshaw was executive producer of "Undercover Mosque" and is managing director of Hardcash Productions

Impartiality and the Tories

By Julian Petley

In April the Tories published the discussion document *Plurality in a New Media Age: the Future of Public Service Broadcasting*.

It contained a recommendation absolutely guaranteed to damage both plurality and PSB but to delight Rupert Murdoch, namely that, "impartiality should remain a central public service obligation on public service broadcasters. However, impartiality requirements should be relaxed for broadcasters

not receiving public funds or spectrum subsidies".

In June, in a speech to the Convergence Think Tank, the Secretary of State for Culture, Media and Sport, Andy Burnham, responded: "I take directly the opposite view... I feel we should preserve standards of accuracy, impartiality and trustworthiness rather than dismantle them." Rupert Murdoch is absolutely itching to turn Sky News into an English version of Fox News. I wonder which party his papers will be backing at the next election?

Are new media killing journalism?

This year's World Press Freedom Day UK event, organised by the UK National Commission for UNESCO and the Press Freedom Network, was an Oxford Union-style debate on the motion 'New media are killing Journalism' at the Frontline Club on 2 May. **Frances Balfour** reports

William Horsley, Chair of the Association of European Journalists, UK, chaired. At the outset he defined the motion more precisely by stating that it is not enough to argue that the mainstream media – newspapers and broadcasting – are losing circulation and audiences. It must be shown that journalism itself is being undermined

Andrew Keen (author of *The Cult of the Amateur: How the Internet is Killing our Culture*) argued that journalism is the collection and distribution of information for which one is paid and which is delivered through an accountable and reputable source: a publisher, with editors, fact-checkers and the like. The new media, facilitating citizen journalism and unpaid bloggers, bypasses all these gatekeepers.

Kim Fletcher (Chairman of the National Council for the Training of Journalists), emphasised that the economic model is the central issue. The BBC has a “lovely” economic model. But elsewhere someone has to pay for the social purpose of journalism: shedding light on dark corners, investigating the activities of Government, observing and reporting in the local community.

Now money is trickling out of journalism. Newspapers are asking their journalists to concentrate on online material rather than reporting. This is particularly true of local journalism. The *Telegraph* is also asking its journalists to concentrate on online material.

Newspapers are producing more material but are not employing additional journalists. Financial constraints and concentration on online material is undermining “paid for” journalism.

Jeremy Dear, general secretary of the National Union of Journalists, pointed out that proprietor investment decisions are a cause of many of the economic problems. The problem is not lack of money. Trinity Mirror made £250,000 profit every day last year, but paid the profits out to shareholders rather than investing. The economic model is potentially there if employers choose to invest in quality content.

Nicholas Jones (author and previous BBC industrial and political correspondent) supported the motion arguing that the use of the internet threatens impartial political reporting in broadcasting.

Audio-visual content equivalent to broadcasting is not regulated. Political programming on newspaper websites is unregulated. The Government has agreed to that. Regulated mainstream broadcasting is starting to use website material. The long-standing European and British tradition of balanced reporting will be destroyed.

A further speaker stated that mainstream news is deteriorating as a result of internet bloggers and a speaker from Hungary complained that new media is leading to a prevalence of sensational material and a lack of news in the indigenous language.

Robin Lustig (journalist and radio broadcaster on the BBC World Service and Radio 4), speaking against the motion, maintained that more people are accessing news all over the world than ever before.

Firstly, people can now access journalism on-demand, at times and in locations that suit their schedules; secondly, journalists have access to far more information. Skilled reporters are producing traditional journalism. User-generated content now exists but it is still not journalism; the vast majority of bloggers are only read by themselves.

The message, he maintained, is more important than the medium. He considered that the economic model can be made to work, particularly if classified advertising, jobs, cars and houses, is attracted to the net.

Nazenin Ansari, (Kayhan Publishing Iran/UK, and President of the Foreign Press Association) in exile from Iran, spoke of how the new media has liberated Iranian journalism.

Journalism was severely repressed after the 1999 student uprising in Tehran. Many journalists moved abroad to continue their work in the external media in Persian.

The new media means that Iranians now have new opportunities for news and information: they can access both the outside world and outlets from Iran.

Information received via videos and internet blogs from Iran can move onto newspapers and broadcasts. Iranian journalism now thrives with the help of new media.

Other speakers reinforced the view that the new media is having an enabling effect under other oppressive or controlling regimes.

Journalism in Africa, in particular, has been transformed by the mobile

phones, internet cafes and cheap laptops. John Kelly (from the *Washington Post* and Reuters Institute Visiting Fellow), maintained: “The new media is here and journalists have to acknowledge that and incorporate new methods of journalism.”

Charlie Beckett (Director of Polis, LSE) held a similar view that journalists will have to work in a more networked way, using all the new resources, and with less authority, to provide a journalism that people want.

Ashley Norris (co-founder and Director of Shiny Media) pointed out that for the young in the UK now “It is a debate”. Someone tells you their truth and the recipient responds with their truth.

It was also argued that some of the best reporting now is online from NGOs and pressure groups such as International Crisis Group, The Institute for War and Peace Reporting, and Human Rights Watch.

At the vote the motion was defeated with 13 in favour, 43 against and with four abstaining. The debate had brought to the fore all the exciting possibilities created by the new media.

But the debate highlighted the damaging effects of the decrease in financial resources for training and employment in “paid for” journalism and the threat the new media poses to the British tradition of impartiality and fairness in broadcasting.

UNESCO website:
www.unesco.org.uk

The John Ivinson Memorial Prize for Freedom of Expression was awarded at the event to Stuart James Ross for his podcast entry for the student journalism competition: “Far from killing journalism, new media is helping it to flourish”.

WHAT PRICE CANDOUR?

Last year was not a good one for press intrusions into privacy — yet, writes **Julian Petley**, the Press Complaints Commission's latest annual report is relentlessly upbeat

Last year saw Clive Goodman, the royal correspondent of the *News of the World*, jailed for paying a private investigator to tap Princes William and Harry's mobile phones, and hounding the former's girlfriend Kate Middleton. The Goodman affair spurred a number of journalists to tell the *Press Gazette* the practice was widespread both at the *News of the World* and elsewhere in the press, and also caused attention to be turned to two reports published the previous year, to deafening media silence, by the Information Commissioner's Office. These were *What Price Privacy?* and *What Price Privacy Now?*, both of which alleged that numerous journalists from major newspapers and magazines had systematically obtained information in contravention of data protection legislation. These events led the Culture, Media and Sport Committee to announce a review of the self-regulation of the press in February 2007. They also caused the Press Complaints Commission (PCC) once again to come under the spotlight, with the *Press Gazette*, February 16, running a two page feature headed "Meyer fights back as PCC comes under increasing scrutiny over its effectiveness".

But according to the PCC's glossy new annual review, 2007 was a pretty spiffing year for the Commission. Thus in his prefatory chairman's report, Sir Christopher Meyer stated that "in 2007, the Government and the Select

Committee on Culture, Media and Sport came out in favour of self-regulation and against a privacy law" (well what a surprise!) whilst the review itself noted that the Committee's report reinforced the "considerable progress that has been made in recent years in striking the right balance between protecting privacy and publishing information in the public interest," and concluded that "the Select Committee's endorsement of our approach and the principle of self-regulation generally marked a significant moment in our history".

However, it's not exactly difficult to produce a considerably less Panglossian reading of the Select Committee's report. For example, it states: "Although we express our support in this report for the principle of self-regulation, we are not in a position – on the basis of limited oral evidence – to give a comprehensive view of the extent to which the system operated by the PCC is achieving its objectives from the standpoint of both the public and the press as a whole." And whilst it paid tribute to what it saw as the PCC's strengths, the Committee also noted:

- The PCC does not command absolute confidence that it is fair.
- There is debate about whether the PCC should be more willing to accept third-party complaints.
- There remains scope for the PCC to increase awareness of what it can do, as its Director acknowledged to us.
- There are criticisms that the PCC

applies the Code of Practice with far too light a touch and that it should do more to enforce the Code and take editors to task for breaches'.

On the specific matter of the hounding of Kate Middleton, which the review doesn't even mention, the Select Committee stated: "The Press Complaints Commission took too long to protect Kate Middleton from clear and persistent harassment. We note that the public sympathy enjoyed by Kate Middleton may have been a factor behind News International's decision to stop using paparazzi photographs. Others who may not have the same public support nevertheless are entitled also to protection, and the PCC needs to be even more vigilant on their behalf. The Commission should be readier to depart from its usual practice of issuing a desist notice only in response to a request."

Regarding the Goodman affair, Meyer's report briefly notes that the PCC subsequently published a "major report into subterfuge and newsgathering" and that this "made a number of recommenda-



Regulation

tions – subsequently endorsed both by the Government and the Select Committee – to try to ensure that there will be no recurrence of this deplorable incident.” True, but what the review doesn’t reveal is that when Goodman was arrested in 2006, the PCC naively took at face value the assurances by Andy Coulson, then editor of the *News of the World*, that he knew nothing of Goodman’s illegal activities, and that these were a one-off. However, as rumours grew that Coulson knew more about Goodman’s activities than he’d let on, and that similar activities were widespread at the paper, the PCC announced it was writing to Coulson “with a number of questions arising from the matter”. But when in January 2007 Goodman was imprisoned for four months, and Coulson’s “resignation” was immediately announced, the PCC argued that as he was now a “private person” it could not interview him and would no longer pursue its enquiry into the paper’s conduct in this affair. Nor would there be an investigation of whether phone-tapping or hacking had occurred at any other paper.

For some reason the review fails to note that Select Committee member Paul Farrelly argued that “the PCC all too meekly sidestepped its responsibilities by not requiring Andy Coulson to give evidence. If that had happened with any other self-regulatory body, the press would be crying cop-out or stitch-up,” and the report itself criticises the PCC’s failure to interview Coulson as “extraordinary”.

Furthermore, in the separate, but nonetheless related, matter of the Information Commissioner’s reports into the use by journalists of material gathered illegally, the Committee is strongly critical not just of the press but also, by implication, of the PCC: “The fact that an agency which was regularly accessing databases illegally was being used by journalists throughout the industry, without any apparent questioning from editors, is very worrying. We find claims that all of the transactions involving journalists were for the obtaining of information through legal means to be incredible and it is a matter of great concern that the industry has not taken this more seriously. The lack of any prosecutions or convictions of journalists is no defence. One of the principal arguments for self regulation is that it is more effective than statutory controls. If the industry is not prepared to act unless a breach of the law is shown to have occurred already then the whole justification for self regulation is seriously undermined. If self-regulation is to continue to command confidence and support, editors will need to be seen to be pro-active in investigating any potential breach of the Code of Practice.”

Hardly a ringing endorsement of the PCC’s approach to self-regulation.

Unrequited love



RUPERT'S ADVENTURE IN CHINA: HOW MURDOCH LOST A FORTUNE AND FOUND A WIFE
Bruce Dover
Mainstream
Publishing £18.99

By Granville Williams

How *The Times* changes! When the Dalai Lama visited Britain for an 11 day tour in May, a visit to No 10 was not on the itinerary. Instead he met Gordon Brown at Lambeth Palace. This prompted a hard attack leader in *The Times* which referred to the “crude blackmail” by the Chinese leadership, who denounce Western leaders for meeting the Dalai Lama. And for Gordon Brown, underplaying the Tibetan leader’s political role by meeting him at Lambeth Place, “The decision is a disgrace. It smacks of pusillanimous fudge”.

All of this is a far cry from the restraints Murdoch placed on his global media empire during the 15 years he devoted to conquering China’s immense, lucrative television broadcasting market. It all began in May 1993 with his purchase of a 64 per cent stake in STAR TV from Richard Li, the son of Hong Kong’s wealthiest billionaire. Murdoch incidentally did not bother to inform his board about the deal, costing \$525m. More importantly Richard Li had not thought to consult with Beijing about the deal either.

From Murdoch’s perspective this deal was about assembling one more piece in a global television empire. But as *Rupert’s Adventure in China* demonstrates, with all of the vivid detail which Bruce Dover acquired as a privileged insider, Murdoch’s ability to suborn politicians and involve himself in a nation’s politics was to fail abjectly in China.

Murdoch’s first mistake was the speech he gave at a lavish event in Banqueting House, Whitehall on 1 September 1993. He extolled the achievements of the new satellite communications technology and stated George Orwell’s *Nineteen Eighty-Four* had got it wrong – mass communications technology was not in fact a totalitarian means of subordinating the individual, but a liberator and an “unambiguous threat

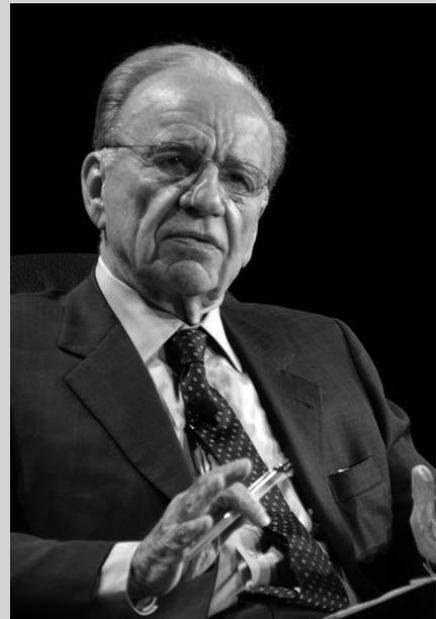
to totalitarian regimes”.

This did not go down well with the Chinese leadership, especially Premier Li Peng, a hardliner who played a key role in the repression of the Tiananmen Square protests of 1989. Murdoch’s remarks were interpreted as a threat to Chinese sovereignty, and in less than a month Premier Li signed a decree banning the distribution, installation and use of satellite reception dishes anywhere in China.

From 1992-99 Dover was Murdoch’s man in China, seeking to nurture the crucial political links and support. He re-tells all the familiar stories about Jonathan Mirsky, the East Asia editor for *The Times*, who retired after most of his reports were spiked; Chris Patten’s memoirs which were dumped by Murdoch’s publishing arm, HarperCollins; and dropping the BBC News Service from STAR TV.

But the most revealing parts of the book describe the lengths to which Murdoch was willing to go to break into the Chinese broadcasting market. Money was thrown at joint business ventures, for example with the *People’s Daily*, and Murdoch began to temper any criticism of China in his global media group.

But all for naught. Dover concludes: “After a decade and a half of trying, Rupert Murdoch’s attempted seduction of China has ended in a case of unrequited love.” That is, of course, except for Wendy Deng whom he met during his China forays and who became his third wife.



Murdoch: string of Chinese failures

Challenging big media in the US

By Granville Williams

You can measure the impact of America's Free Press Media Reform Movement in a number of ways. Its fourth conference, held in Minneapolis in June, was impressive for the sheer number of people (over 3,500) who attended from all over the USA. It has become a powerful media reform movement, reflecting deeper concerns about the values and direction of US media, politics and society.

Fox News certainly thought so. It had a camera crew stalking former CBS news anchor Dan Rather and Bill Moyers, the veteran journalist whose weekly programme of interviews and news analysis, *Journal*, is broadcast on PBS, the US public service network. *Journal* tackles topics which are invisible on many American television networks, such as the media and Iraq, poverty and inequality or the world of work and trade unions. Moyers, a powerful speaker, is a strong supporter of media reform.

The presence of Rupert Murdoch's Fox News provoked angry outbursts from conference speakers who are familiar with its aggressive style of attack journalism.

Sure enough, Fox News presenter Bill O'Reilly used selective clips to launch his attack. He said the people attending the conference were "loons", "unstable", "a threat" and "fascists" and asked why Dan Rather was speaking at the conference. Free Press commented: "The O'Reilly ambush is typical Fox News fare. Murdoch uses his media empire to attack his political foes and not to inform citizens or tell the truth."

But the significant point is that Free Press, in the space of five years, has built a formidable movement with an active Washington office busy tackling media policy issues like the renewed threat by the Federal Communications Commission (FCC) to lift media ownership limits or the campaign to protect net neutrality. Bill O'Reilly and Rupert Murdoch want to undermine the growing support for a reform movement which strikes right at the heart of the free-market, conservative world-view they promote, and which places profits before the public interest in broadcasting.

Free Press is an activist organisation which relies on an extremely effective system of email alerts to disseminate information and appeals for action amongst its members and supporters. In April the *New York Times* exposed a secret Pentagon campaign to infiltrate the media with pro-war propaganda.

The scheme reached all the way to the Bush White House, where top officials recruited dozens of "military analysts" to spread favourable views of the war via every major news channel – without revealing they were working from Pentagon scripts and often lobbying for major military contractors. The analysts exposed by the *New York Times* are fixtures of war coverage on CBS, NBC, ABC, CNN, Fox News Channel and MSNBC. The front-page *New York Times* article revealed the many ways that the Pentagon fed them pro-war talking points and misinformation. The White House even has a name for these covert propagandists: "message force multipliers". Free Press organised a direct appeal urging supporters to write to Congress demanding an investigation into the "propaganda pundits" and fund-raised to place an advert in the congressional newspaper *The Hill* and on influential web sites.

Another example, from mid-May, was the Senate vote, unimaginable a decade ago, when the initiative of Democratic Byron Dorgan led to a near unanimous voice vote to nullify an FCC attempt to permit radical media consolidation, including scrapping the historic bar to newspaper-broadcast cross-ownership. The reason for the vote was that hundreds of thousands of Americans contacted their senators urging them to act against media consolidation. But there is another aspect. Why did Byron Dorgan take the initiative on this? Well he has had direct experience of the consequences of media consolidation, as the senator for North Dakota.

Clear Channel owns over 1,200 radio stations and more than 30 television stations in the USA. US media critic Eric Boehlert has produced some devastating analyses of the dubious business practices of the media group. "Cyber-

jacking," he writes, "has eliminated hundreds, if not thousands, of DJ positions (and saved tens of millions in salary) by simply having one company jock send out his or her show to dozens of sister stations. Thanks to clever digital editing the shows still often sound local."

One consequence of automated radio stations is they do not have anyone on the spot when disaster strikes to inform people about safety precautions. On 18 January 2002 a Canadian Pacific train carrying a toxic chemical derailed near Minot, North Dakota. Thirty one cars in the Canadian Pacific train went off the tracks and five tank cars ruptured, releasing more than 835,000 litres of ammonia. One man was killed and hundreds of people reported injuries ranging from burns to breathing problems. Clear Channel owns all six commercial stations in Minot but the police were unable to reach anyone by phone at the local radio station, KCJB, which was the designated emergency broadcaster. So much for local radio.

There is now an added sense of urgency in the work of Free Press. Two of the founders, Robert McChesney and John Nichols, argue that the organisation has of necessity been defensive during the Bush years but now it must prepare to promote a wide range of structural forms: "We must require corporations that reap immense profits from the people's airwaves to meet high public-service standards, dust off rusty but still functional antitrust laws to break up TV and radio conglomerates, address over-the-top commercialization of our culture and establish a heterogeneous and accountable non-commercial media sector." Based on the solid foundation-building so far Free Press is now well-placed to realise these ambitious aims.

CPBF AGM 2008

This year's AGM will be held on Saturday 19 July
from 10am at:
NUJ Headquarters
Headland House
308-312 Gray's Inn Road
London WC1X 8DP

Brown needs an open and upfront spokesperson

By Nicholas Jones

Despite some notable absences when the going got rough under Tony Blair, Gordon Brown has now become a constant presence on our television screens. He spent much of the first year of his Premiership giving instant but often tortured responses to any and almost every news event and in the process devalued his own authority.

Instead of pruning as promised No. 10's corps of spin doctors, Brown has presided over a further expansion in the number of unelected Downing Street "sources" and despite shouldering more and more of the daily burden of responding on behalf of the Government, he has done nothing to stem the flow of un-attributed and often damaging quotes.

Such is the depth of Labour's unpopularity that there is little immediate likelihood of Brown being able to take control of the news agenda once again. He is being abandoned even by the newspapers of Rupert Murdoch and his only chance of fighting back effectively is to challenge a hostile news media head on.

What the prime minister needs is an official spokesman – or spokeswoman – who is capable of promoting Government policy, preferably by holding televised news briefings. If Brown could only delegate the task of providing immediate responses to an open and upfront spokesperson, he could then devote more time to preparing himself for far fewer, but more effective, news conferences and interviews.

By opening up the process of communication rather than continuing to put so much emphasis on the micro-management of individual news stories – often through un-attributable briefings and the leaking of Government announcements – the prime minister might find he was spending less time fretting about the daily headlines and instead have the space to develop a policy programme which could command far more attention in the long term.

Despite all the hype surrounding his installation as prime minister, he has failed to honour the undertakings which he gave that his Government would turn its back on spin. The more desperate the situation has become, the



Brown: transparency is his best bet

more dependent he has been on the discredited techniques of the Blair years.

He has increased the number of anonymous Downing Street spin doctors (officially known as special advisers); he has continued to authorise the un-attributable leaking and trailing of Government announcements; and he and his ministers have peppered the pages of the national press with ghost written articles which have been nothing more than sticking plaster on gaping wounds and whose only consequences has been to ease the conscience of newspaper editors who have otherwise done their utmost to encourage their columnists and commentators to reinforce the line that Brown is a loser.

In recent months, whenever I have seen or heard a harassed prime minister giving yet another hurried response to the running story of the moment, I have thought back to the days when Labour were in opposition and when, as shadow chancellor, Brown's slavish application to the daily news agenda bordered on the fanatical. He was constantly on the attack, regularly leaving the party's publicity staff trailing in his wake, unable to keep pace with an unending flow of press releases, newspaper articles and non-stop television and radio appearances.

Attempts to lighten his burden were frequently rebuffed and it was only after repeated warnings about how all his efforts were becoming self-defeating

that he finally began to wean himself off the need for a daily dose of publicity. Although Brown finally understood that he could achieve greater impact with fewer personal appearances, he remained the ultimate control freak and come what may he insisted on micro-managing the work of aides.

That culture of supplying un-attributable briefings to trusted journalists is deeply embedded in Brown's psyche and as events have shown in recent months it is the off-the-record spin which has so often spiralled out of control, damaging Labour's political fortunes and causing deep resentment within the party.

By appointing an official spokesperson who could be upfront and open Brown could begin to break free from the spin and subterfuge which dogged the Blair years. Now that most of the press has turned against him, the prime minister has nothing to fear by encouraging full transparency.

Any advantage which the Government once enjoyed from doing deals with individual newspapers has been lost in an avalanche of negative publicity. Instead, if all journalists and media outlets were provided with the same information at the same time, ministers would be able to steer clear of quick fixes and perhaps find it easier to isolate and neutralise damaging un-attributable briefings.

What is needed is a spokesperson able to fight the Government's corner and promote and explain its policies. Alastair Campbell tried for a few months to be upfront in his briefings, arguing the Government's case, but his "openness" was exposed as a sham when political correspondents found they were being double-crossed: Campbell gave one line to the lobby and another to the select group of trusted correspondents to whom he was prepared to supply information on an un-attributable basis.

Brown has no hope of squaring up to the hostility of the press if he still thinks it is still possible to divide and rule. If the whole operation was fronted by an official spokesperson who could be held publicly to account, the prime minister would not only refresh his relationship with journalists but might also begin to start restoring trust in his Government.

News

We need to talk to Burnham

By Granville Williams

The Culture Secretary, Andy Burnham, was busy on 11 June. In the morning he gave a speech to the Convergence Think Tank (CTT), a joint Department of Culture Media and Sport /Business Enterprise and Regulatory Reform initiative to develop policies for the new online, converged multi-channel media world we are moving into. Later he spoke at the AGM of Phonographic Performance Ltd, a music industry organisation collecting and distributing airplay and public performance royalties in the UK.

He made some important points in both speeches, and highlighted issues which he has clearly given a good deal of thought to. They are also the issues which we need to debate and clarify at our own AGM on 19 July, as part of the Media Ownership in the Age of Convergence project. Briefly, the project aims to develop a set of policies on media ownership and regulation which will update our core aim to promote diverse, democratic and accountable media for these changed times.

Burnham, in his CTT speech said: "I don't see a path of smooth transition to

the future but something of a cliff edge. And faced with this, I worry that people are beginning to take decisions that, as a society, we may regret in the long term." My interpretation of his speech is that he wants to move away from policy discussions solely framed by the imperatives of media, telecommunications and online businesses. He insisted on the theme of standards: "What do I mean by standards? I'm thinking of guiding principles like impartiality and accuracy in TV and radio news, the integrity of programme making and the 9pm watershed, protecting against harm and offence... These are principles that have stood us in good stead over the years."

Burnham is opposed to product placement, he said: "I think there are some lines that we should not cross – one of which is that you can buy the space between the programmes on commercial channels, but not the space within them."

He also robustly challenged business models on the internet which were about empowering the consumer but noted, "what is good for the consumer can be bad for the citizen," and suggested, "it is the time to ask ourselves some fundamental questions and challenge some of the assumptions of the consensus on which it is operating before it takes root".

Burnham, in contrast to the last two Culture Secretaries, is raising important issues about the role of media. After our AGM, once we have agreed the policy issues, we need to be talking to him.

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"glorifying" terrorism and possessing terrorist materials without the intention of committing an offence – a ruling against Malik would mean most Muslims would perceive journalists as a direct extension of the police. Anyone with genuine information about the terrorist milieu would know that talking to a reporter was the same as talking to the police.

In consequence, journalists would be prevented from researching the roots of Islamist extremism in Britain. Policies aimed at preventing terrorism would come to rely even further on the shadowy secret services and the ill-informed prejudices of the Murdoch press.

Moreover, the line between legitimate support for resistance to western intervention in Iraq and Afghanistan and supporting "terrorism" would be further blurred, increasing the stigma attached to the Muslim community, where hostility to government foreign policy is strongest.

At a June 16 conference organised by *Index on Censorship*, Home Office minister Tony McNulty agreed to open a dialogue with journalists on counter-terrorism legislation and journalistic freedoms.

Quoted in the *Press Gazette*, detective chief superintendent Tony Porter, head of Greater Manchester Police Counter Terrorism Unit, said: "GMP recognises the vital role journalists play in reporting on crime and security, and understands the concerns they have raised. However, we have a responsibility to investigate terrorism and we will use all appropriate legislation to do that."

June 19 High Court ruling: tinyurl.com/5g79dq

Free Press is edited by Julie-ann Davies on behalf of the National Council

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