Dear Damian,

Thank you for the response provided by your Committee to the Government’s consultation on the Leveson Inquiry and its implementation. Your views on this subject were very much appreciated and taken into account as part of the consultation process. Following the close of the consultation, the Government’s position on these matters was set out in full by my statement to the House on 1 March 2018 and in our published response to the consultation, which can be found here: https://www.gov.uk/government/consultations/consultation-on-the-leveson-inquiry-and-its-implementation.

As promised by the previous Secretary of State while giving evidence to your committee on 11 October 2017, this letter provides a detailed response to the points raised in your submission. As you know, the Government has announced that we intend to repeal Section 40 of the Crime and Courts Act 2013 without commencing it and has ended the Inquiry without undertaking Part 2. In reaching this decision, we have considered all the evidence and responses to the consultation and believe this course of action is the most appropriate and proportionate way forward.

As you rightly acknowledged in your letter, there are a number of new challenges affecting the future of the press in this country, such as disinformation and changing trends in news consumption. As such, it is more important than ever to protect the provision of high quality journalism at both a national and local level and ensure that we have a well-functioning, properly self-regulated media, which is so vital to our society and democracy.

**Independent self-regulation and Leveson criteria**

Press self-regulation has changed significantly in recent years and has led to the raising of standards across the industry independently of Government.

IPSO, which regulates over 95 percent of national newspapers by circulation, has
processed more than 40,000 complaints in its first three years of operation and has ordered multiple front page corrections or clarifications. As you note, it has also been found by Sir Joseph Pilling to be largely compliant with the Leveson recommendations in the main areas around effectiveness and independence. You outlined a number of areas in which IPSO could make improvements and while there are still improvements to make, I hope you will welcome the significant progress that has been made in these regards since the Pilling Report and your submission to the consultation. For instance, IPSO now offers a low-cost arbitration scheme, including for data protection claims. On the basis of the committee’s suggestion and Pilling’s recommendation, IPSO has cut fees for arbitration so a claimant will now only pay £50 for an initial ruling and no more than £100 overall.

In terms of strengthening its financial independence, IPSO has begun discussions with industry to codify its financial security in its Articles of Association. With regard to the Committee’s recommendation concerning the funding of investigations, it is important to note that IPSO also holds a further £200,000 cash in reserve for the conducting of investigations in addition to the £100,000 identified by the committee. IPSO has also begun discussion with industry to enable complainants to challenge its rulings on not just procedural grounds alone. Finally, IPSO has briefed an advertising agency and is planning a new campaign to advertise its role and services, including low-cost arbitration, to raise public awareness.

As you note, IMPRESS became the first self-regulator to gain recognition under the Royal Charter in 2016, and it is continuing to grow with 93 publications applying for membership last year. More widely, publishers have enhanced their guidelines on a range of topics including accuracy, harassment, and anti-bribery, and have also made improvements to their governance frameworks in relation to their internal controls, standards and compliance.

The impact of Section 40 on investigative journalism and local publications

As you rightly recognise, the media landscape has also changed in the years since the Leveson Inquiry. High-quality journalism is under threat from the rise of clickbait and fake news; from falling circulations and difficulties in generating revenue online; and from the dramatic and continued rise of largely unregulated social media. When the Inquiry was set up, it was impossible to envisage the extent to which the online market would have grown, the growth of citizen journalism, and the number of new online publications - the vast majority of which are not regulated at all. With this increased competition, and declining revenues, traditional publishers are facing ever increasing financial pressures.

As so few publishers have joined a regulator recognised under the Royal Charter, and are adamant they would never do so, if Section 40 were to be commenced they would be vulnerable to spurious legal cases where they might be forced to pay costs regardless of the merit of the claim - an aspect that a number of respondents to the consultation felt was counter to natural justice and provided enough justification for repeal.
As such, a large number of consultation responses emphasised concern about the ‘chilling effect’ Section 40 would have on investigative journalism. They argued it may stop publishers from undertaking valuable investigative journalism, or publishing stories that are critical of individuals, for fear of being taken to court and risking paying both sides’ costs. While the Committee in part rejects this argument, it is a major concern at a time when publishers are under growing financial pressure. Investigative journalism, and the ability to hold power to account, is a vital element of open and robust democratic discourse at the national and local level.

You also questioned the arguments on the impact mandatory arbitration would have on local and regional publications, on the basis that the Royal Charter creates an ‘opt out’ for local and regional publishers should the provision of an arbitral process cause serious financial harm. While paragraph 7(c) in schedule 2 of the Royal Charter does allow for this, the exemption can only be granted during the cyclical review of a regulator, the first of which does not happen until two years after registration. This means that no regulator would have this exemption in place at the point when it first gains recognition by the PRP. Its application is also discretionary and not universal. Taken together, this means that the ‘opt out’ in the Royal Charter does not eliminate the potential financial pressures of mandatory arbitration on local and regional publications in the short to medium term - and even then its application is not guaranteed.

Given the reforms to the self-regulatory system the Government has concluded that commencing Section 40 is no longer necessary, and repealing it will help support the future security of traditional publishers, especially at a local level. Doing so will protect the free press and the tradition of investigative journalism that is an essential component of our democracy, ensuring the powerful are held to account without fear or favour.

We did carefully consider the Committee’s recommendation that Section 40(2) should be partially commenced, however, the consultation responses were overwhelmingly in favour of the full repeal of Section 40. Leaving Section 40(3) on the statute book would be tantamount to continued government interference in press regulation and freedom, as any government could commence it for all publishers at any time.

Finally, your submission questioned why the broadcast media is more strictly regulated than the press. Broadcast regulation evolved in a different way whereas freedom of the press without government interference is seen as a fundamental principle of democracy, and a system of self-regulation has been largely acknowledged as the most appropriate form of regulation of the press in democratic society. Given the Government’s commitment to a free and independent press, we do not want to force a publication to join a regulator if it does not want to and do not want to potentially force any publications out of business through the cost provisions in Section 40.

We find ourselves in a much improved position from 2011 thanks to the work of the Leveson Inquiry, and while these things take time, matters continue to move in the right
direction. We will continue to watch closely for further positive changes to the press regulatory landscape over the coming months and years.

Leveson Part 2

In the Committee’s submission, you rightly argue that it would be wasteful to go over ground that has already been dealt with by Lord Justice Leveson and the courts. Indeed our analysis shows that the terms of reference for Part 2 have already been largely met - through a combination of the comprehensive nature of Part 1, and the three detailed police investigations that followed the phone hacking scandal.

Given this we believe the potential benefits of continuing with the Inquiry would be outweighed by the potential costs. Whilst we recognise this is a disappointing decision for the victims of historic press abuse, the culture that allowed phone-hacking to become “the norm” has drastically changed and the government must take decisions on the basis of what is proportionate and in the public interest. Through the public consultation process we provided an opportunity for victims to provide their views on the best way forward, and we have taken these into account when making a final decision.

After assessing all of the evidence, the Government does not believe that proceeding with Part 2 of the Inquiry would be the most appropriate or effective vehicle to address the substantial new challenges that have emerged since the Inquiry was established - with the huge increase in largely unregulated digital and social media which has transformed the way in which news is provided and consumed. Indeed, your own committee is currently engaged in an investigation considering some of these issues, including fake news, and I am looking forward to contributing to that process.

As outlined above, the Government is committed to developing a Digital Charter to respond quickly to these challenges. As part of this, earlier this week I announced the Cairncross Review, its panel and the terms of reference to preserve the future of high quality national and local newspapers in the UK. There will also be consideration of how to ensure the reliability and objectivity of information online and how best to tackle issues such as ‘fake news’ and online harms. We are developing an Internet Safety Strategy that will help make the UK the safest place in the world to be online, and the Law Commission will launch a review of current legislation on offensive online communications to ensure that laws are up to date with technology. We will continue to listen to all views, including those of victims, in developing our response to the challenges of today.

The Rt Hon Matt Hancock MP