

Guardian News & Media briefing on Data Protection Bill - new clause 20

Summary

- Proposed changes to the Data Protection Bill would further erode press freedom and have a severe chilling effect for the news environment in the UK.
- The new clause 20 would mean that normally, those publishers that were not regulated by a recognised regulator would have to pay both sides' legal costs in a data protection claim, whether they won or lost that claim.
- The inclusion of Condition A has been widely interpreted as ensuring that news organisations structured along the lines of the Guardian and the Observer should be excluded from the scope of the broader clause. This clause was not discussed with Guardian News & Media and we disagree with attempts to impose a selective sanction on the media.
- There is an important debate to be had about press standards, but the Data Protection Bill should not be used as a vehicle for imposing an unfair and partial system on publishers.

Background on Data Protection Bill amendments

In the context of the Royal Charter settlement on press regulation, GNM has consistently outlined its concerns about provisions that are set out in the Crime and Courts Act 2013 which seek to impose penalties if publications do not join a regulator. The Data Protection Bill has been subject to a number of attempts to impose penalties upon publishers that have not joined a recognised regulator.

New clause 20 of the Data Protection Bill

New clause 20 would impose court costs on a publisher that didn't join a recognised regulator - meaning that normally, those publishers that were not regulated by a recognised regulator would have to pay both sides' legal costs in a data protection claim, whether they won or lost that claim.

The new clause 20 also seeks to exempt news organisations on the basis of the location in which they publish, their ownership structure, or their levels of turnover. Such arbitrary exclusions set an unwelcome precedent in the context of press freedom. What is needed is a system that is fair for all - the current proposals are not.

The inclusion of Condition A has been widely interpreted as ensuring that news organisations structured along the lines of the Guardian and the Observer should be excluded from the scope of the broader clause. This clause was not discussed with Guardian News & Media and we want to make clear that we disagree with attempts to impose a selective sanction on the media.

While the model used by the Scott Trust is recognised in the amendment as maintaining high standards of journalism, it is a structure that is unique among UK publishers and rare globally as a model for news organisations. We do not believe that singling out one model of ownership for news organisations in this way is a constructive approach. We live in an age of diverse ownership, constitutions and business models underpinning news organisations in this country and around the world. This amendment implies that just one ownership model can result in the production of high quality journalism, which is simply not correct.