

## **Annual Report of the PCCSL 2007**

### **Introduction**

The PCCSL is the outcome of the Colombo Declaration on Press Freedom and Social Responsibility of 1998, which followed an international seminar held in Colombo organized by the Newspaper Society of Sri Lanka, The Editors' Guild of Sri Lanka and the Free Media Movement in association with the Sri Lanka Working Journalists Association, the World Association of Newspapers, the Commonwealth Press Union, the International Press Institute, Article 19 and the Media Institute of Southern Africa.

The PCCSL is a self-regulatory mechanism set up by the Newspaper industry of Sri Lanka, which comprises the Newspaper Society of Sri Lanka, The Editors' Guild of Sri Lanka and the Free Media Movement.

It works on the principles of conciliation, mediation and arbitration under the Arbitration Act No 11 of 1995, and is largely modeled along the lines of the Press Complaints Commission of UK, Sweden and South Africa. The High Court of Colombo enforces the PCCSL arbitration award, in the event a newspaper fails to publish the decision, and if a complainant decides to pursue the matter to a conclusion.

The Press Complaints Commission of Sri Lanka entered its fourth year in 2007. Significant progress has been achieved yet several challenges remain. Foremost among them is to secure the participation of a section of the press, particularly the Sunday Leader and Sunday Observer, Morning Leader and Irudina newspapers. These newspapers have not subscribed to industry efforts to establish a self-regulatory mechanism for the dissemination of news.

However, we are pleased to record that in the case of other newspapers that belong to the Lake House Group viz., Daily News, Dinamina and Thinnakaran, there is full co-operation with the PCCSL process.

Although newspapers have been printed in Sri Lanka for well over 150 years, the self-regulatory system is new to the country. In this respect the PCCSL continues to carry out workshops with journalists on the Editors' Code of Professional Practice and the PCCSL process, in order to create awareness in the newsrooms.

The impact of the PCCSL can be measured in many ways. One is the number of complaints received and the attention given to those complaints by the Commission, which is tabled below. Another impact of the PCCSL is the increased number of corrections, right of replies and apologies published by Sri Lankan newspapers without formally involving the PCCSL. The advocacy work done by the Commission has made readers write direct to editors and have their 'right of reply' printed outside the PCCSL process, which is positive and helps reaching the objective of a professional media.

To mark the fourth anniversary of the PCCSL, the PCCSL along with the Ministry of Education conducted an All Island Essay Competition in all the three languages on Saturday, September 15 in the Sri Lanka Press Institute. The first part of the competition was conducted by the Ministry of Education where 72 Grade 12 students who came first, second and third in each of the eight Provinces (North-East been one Province) were selected to come to Colombo and write a 750-word essay from one of five topics within 1 ½ hrs. They were treated to breakfast and so were their parents. From each language three winners were selected with the nine winners receiving gift vouchers from Ms. Lindsay Ross, Executive Director of the Commonwealth Press Union. The prizes consisted of book vouchers. First Prize was for Rs. 5,000, second for Rs. 4,000 and the third for Rs.3,000. The prize winners along with one guardian were paid a traveling stipend.

Newspapers have also improved their content with better laid out pages, clear and simple headlines that could be easily understood, less disturbing photographs and especially in the English-language newspapers, the stories are sourced which gives that newspaper greater amount of respect and credibility. The Tamil newspapers have also shown a great degree of responsibility in accurate reporting. Unfortunately, statistics show that most complaints of Code violations come from the Sinhala print media.

### **Gender issues**

It is unfortunate that at all the training programs for journalists and civil society workshops, participation of women was limited. The ratio of women to men at such workshops was 3:20 at best. One of the reasons for this could be attributed to the distance to travel from their home to the point where the program is being held. Another factor was that women journalists were not encouraged by their parents/husbands to participate in residential training programs which lasted three days and two nights on an average.

### **Moves to re-activate Press Council**

In August 2007, the PCCSL met the Director of Information, Mr. Anusha Pilapitiya where the background leading to the setting up of the PCCSL and its present role was discussed. This was a follow up to media organizations and the SLPI making representations to the Ministry of Information and Mass Media against an attempt to reactivate the Press Council.

### **Complaints**

During the period under review (January to December 2007) the PCCSL received **125** complaints. The following is a breakdown of the complaints as against each language newspaper.

- \* Against the Sinhala language press: **92** complaints.
- \* Against the Tamil language press: **13** complaints.
- \* Against the English language press: **20** complaints.

As the breakdown indicates the most number of complaints received is against the Sinhala newspapers which also enjoy the largest readership in the country.

The Sinhala language media comprise 70 per cent of the daily and weekly newspapers in the country and the PCCSL has had some success in winning the cooperation of the Sinhala language editors to comply with the Code. While the Commission has had full cooperation from the Editors of the Tamil language newspapers, three of the English language newspapers chose not to comply with the Rules and Procedures of the PCCSL.

Given below is the break down of the types of complaints received during the period under review:

#### ***(1) Types of complaints received:***

- \* Outside the Code of Professional Practice (not valid): **56** complaints. These complaints do not fall within the purview of the Code, for example complaints against advertisements, the positioning of advertisements beside serious articles and mix up of articles written on the same subject by a news room reporter and a provincial journalist.
- \* Resolved: **25** complaints. This is an improvement when compared to 2006. It works out to 36 per cent of the complaints applicable are resolved.

\* Closed: **44** complaints. These were where the complainants did not follow through with the process, *sub-judice* or as in three cases where the response from the Editors was unsatisfactory.

**(2) Complaints were received against the following newspapers:**

- \* The Associated Newspapers of Ceylon Limited: ANCL (Lake House) Newspapers: Daily News, Dinamina, Sunday Observer, Silumina and Thinakkaran.
- \* Wijeya Newspapers Limited: Sirikatha, Lankadeepa, Irida Lankadeepa
- \* Upali Newspapers Limited: The Island, Sunday Island, Divaina and Irida Divaina.
- \* Sumathi Newspapers Limited: Lakkbima and Irida Lakkbima.
- \* Ravaya Publishers Limited: Ravaya.
- \* Leader Publications (Pvt) Limited: Sunday Leader
- \* Mass Media Syndicate (Pvt) Limited: Sudar Oli and Uthayan.
- \* Rivira Media Corporation (Pvt) Limited: The Nation.
- \* Express Newspapers Ceylon Limited: Virakesari.
- \* United Newspapers Limited: Thinakkural.

**(3) Other complaints:**

The PCCSL also received a few complaints against advertisements published in newspapers, editorial mix up of articles sent by provincial correspondents, Non-payment of salaries as well as news items and other programs in the electronic media. These were forwarded to the relevant authorities.

**(4) Rights of readers:**

The "Rights of Readers" announcement was sent to all newspapers for publication. The Wijeya Newspapers, Express Newspapers, United Newspapers and the Sumathi Publications carried the announcement. The same was published as a news item in the Thinnakaran of Lake House.

**Dispute Resolution Council**

The Dispute Resolution Council (DRC) met on nine occasions and it was decided to have one meeting once in two months. The Chairman of the 11-member Dispute Resolution Council is former Secretary General of Parliament and Ombudsman Mr. Sam Wijesinha. At the Annual General Meeting held in October, the one-off three year term of office of the Chairman of the DRC was extended to two, three year terms. The press representatives on the DRC are: Ms. Mallika Wanigasundera Mr. Siri Ranasinghe, Mr. G. S. Perera, Mr. Jayatilake de Silva, and Mr. Pramod de Silva. The non-press representatives on the DRC are: Ms. Sithie Tiruchelvan, Dr. Devanesan Nesiah, Mr. Lucille Wijewardene, Mr Javid Yusuf and Mr. Dion Schoorman.

**Code of Professional Practice Review Committee**

Mr. Ian Beales, Secretary of the British Editors' Code Committee was in Sri Lanka from October 17 to 23, 2007 as a guest of the Sri Lanka Press Institute (SLPI) and the Editors' Guild of Sri Lanka (TEGOSL). He re-visited the Code of Professional Practice and submitted his report to the Guild, which in turn circulated it among the key players of the Industry, including the PCCSL (A copy of which is annexed to this report – Annexure 01).

A parallel review committee was also appointed by the PCCSL on a request made by the Guild to review the three-year old Code of Professional Practice for print media journalists. The Committee comprised Ms. Sithie Thiruchelvam, member of the Dispute Resolution Council (DRC), Mr. Javid Yusuf, member of the DRC, Mr. Ayub in place of

Mr. Nisthar Cassim, Editor of the Daily Mirror at the time and now editor of a business weekly Bottom Line and Mr. Uvindu Kurukulasuriya, member of the Free Media Movement (FMM) and Board member of the PCCSL.

The Parallel Code Review Committee was appointed in view of the original Code Committee chaired by Judge Christopher Weeramantry and comprising several eminent members of civil society, and senior media personnel were unable to provide the Editors' Guild with any recommendations. That Committee had met once but due to several reasons, especially its members being overseas on official work, not been able to file a report.

The Editors' Guild took both reports viz that of Mr. Beales and the Parallel Review Code Committee Report in making their final review (A copy of which is also annexed herewith – Annexure 02).

### **Code of Professional Practice for TV journalists**

The PCCSL, through the Sri Lanka Press Institute, facilitated meetings with MTV, ITN, ETV, Swarnavahini, TNL and Derena TV Stations to formulate a Code of Professional Practice for television journalists. While the PCCSL is not mandated to draft a Code for the TV industry, it was on the request of TV stations that the PCCSL lent its good offices to facilitate this process.

### **Membership of PCCSL**

Following the death of Mr. Ajith Samaranayake Editor-in-Chief of Lake House English language publications, Mr. Bandula Jayasekera, Editor of the Daily News was nominated by the Guild to the general membership of the PCCSL. However, Mr. Jayasekera resigned his post as editor and as a result the position fell vacant. Mr. Kamal Liyanaarachchi, the Free Media Movement nominee as a member of the PCCSL resigned to join the PCCSL as the new Sinhala language Complaint's Officer. His vacancy was filled by Ms. Tharidi Fonseka. The membership of the PCCSL stands at 49 as of December 31, 2007.

### **Awareness Programs**

#### ***PCCSL Promotion Campaign:***

\* A promotional campaign was submitted for approval by the PCCSL Board. It included a brochure of the PCCSL, A "Right of Reply" advertisement to be published as a public service notice, a radio and Television ad campaign, a newspaper ad campaign and the display of four hoarding board ads in Bambalapitiya, Kirullapone, Pettah and the Kandy Road.

\* Translation of a brochure of Frequently Asked Questions (FAQ) about the PCCSL has been finalized and will be printed.

#### ***Workshops/Seminars:***

\* Several presentations on the role of the PCCSL were held for members of the public in Bandarawela, Badulla, Ratnapura, Kegalle and Chilaw. These programs were fairly well attended by teachers, government officials, local government institutions, academics and doctors. They were eager to know more about the PCCSL and how it works.

\* Two-day workshops on media ethics for provincial journalists were also held in Bandarawela, Badulla, Ratnapura, Kegalle and Chilaw.

\* Workshop for Inter-news and Radio journalists was held in Matara on Media Ethics.

A presentation was made to the synod of the Diocese of Colombo, Church of Sri Lanka on the role of the PCCSL. This took the form of a power point presentation where the audience was taken through the process of solving complaints.

- \* Presentation to the International Federation of Red Cross and Red Crescent Societies – Movement Coordinators on the role of the PCCSL.
- \* Presentation to the Consortium of Humanitarian Agencies (CHA) on the role of the PCCSL. A program similar to the above was presented to them but the audience were advised to exercise great caution when addressing journalists as they could be often misquoted and therefore to rely on press releases.

***Orientation/training:***

- \* From September 18 to 22, the CEO attended the Alliance of Independent Press Councils of Europe Conference (AIPCE) in Edinburgh, Scotland on an invitation by the British PCC. The CEO presented the Annual Report of the PCCSL for 2006.
- \* In September following the AIPCE Conference, the Chief Executive Officer visited the Press Complaints Commission of the UK for an orientation.

***Visit to Editors:***

During this period the CEO and his three Complaints Officers visited newspaper offices and held discussions with editors and news room staff on the Code and the activities of the PCCSL.

***Website of PCCSL:***

A website designed along the lines of the UK Press Complaints Commission which has been in operation since the latter part of 2006 was updated. Complaints can now be lodged online. The web page gives the Code of Professional Practice as well as steps taken in resolving complaints.

***AGM and Board meetings***

The PCCSL Board of Directors continued to meet once every month. The Annual General Meeting (AGM) took place on October 02, 2007. All the nine directors were re-elected to serve on the Board of Directors of the PCCSL for another 12-month.

An amendment was passed in the Memorandum of Association of the Press Complaints Commission of Sri Lanka Article 65 D where the Office of the Chairman of the Dispute Resolution Council (DRC) was extended to cover two three-year terms.

***Board members:*** Mr. Ranjit Wijewardene (Chairman, nominee of SLPI), Mr. Nimal Welgama (nominee of the Newspaper Society of Sri Lanka), Mr. Sinha Ratnatunga (nominee of the Editors' Guild of Sri Lanka), Mr. Uvindu Kurukulasuriya (nominee of the Free Media Movement) Mr. Manik de Silva and Mr. Waruna Karunatileke (nominees of the SLPI), Ms. Namini Wijedasa, Mr. M. N. Ameen and Mr Sundara Nihathamani de Mel elected by the general membership of the PCCSL.

***Staff members***

The year 2007 saw the PCCSL running at full strength, with regard to its staff, with Sukumar Rockwood, joining as the CEO, and Kamal Liyanaarachchi recruited as the Sinhala Complaints Officer. The two vacancies had occurred with the resignations of its first CEO Manique Mendis in 2005 and Consultant cum Sinhala Complaints Officer S. Dammulla in December 2006.

In November 2007, Ms. Kshama Ranawana, the English Complaints Officer, was transferred to the SLPI as Manager, Advocacy and Media Freedom and handling of English complaints was assigned to Mr. Rockwood. Tamil press complaints are handled by Mr. Ameen Hussain.

## **ANNEXURE 01**

### **PRESS SELF-REGULATION IN SRI LANKA: A REVIEW**

*IAN BEALES: NOVEMBER 2007*

#### **Executive Summary**

The original purpose of my October visit was to assess the current PCCSL Code of Practice and assist in necessary revisions. However, it rapidly became clear that the Code was not the problem. Sri Lanka's promising start down the road to press self regulation appears stalled due to a fundamental misunderstanding of its ultimate purpose. That is, to set up an acceptable, light-touch regime providing an adequate remedy to the public's legitimate grievances against newspapers and magazines, without resorting to - or imitating - the worst excesses of statutory regulation, which are inimical to press freedom.

Due, perhaps, to changing personnel and circumstances within the PCCSL, the Editors' Guild, and the industry at large, that objective seems to have been lost. The PCCSL feels ignored and that tougher rules are the remedy. Not only is that strategy against the voluntary spirit of self-regulation, it is also likely to have the reverse effect: driving editors out of the camp, rather than enticing them in.

The self-regulatory project needs revamping urgently if it is to get back on track. It will take a major effort – virtually an unannounced re-launch – to regain lost ground. It would need a fresh commitment by the PCCSL, its secretariat and the Editors Guild to re-identify the common aims behind the original launch:

- The PCCSL should re-evaluate its purpose and initiate a twin track educational campaign to raise its profile both with the public and the industry. Persuasion - by flagging up enlightened self-interest - should be used, rather than coercion or threats.
- The industry, at both publishers and editors' level, should work to embrace changes that would make the current self-regulatory regime more acceptable to those remaining outside it, and thus provide the universal (or at least majority) compliance that would make it credible. This should include establishing a more inclusive Code Committee to review, revise and write the Code.

The political climate makes the goal more difficult, but success more urgent. The current vacuum could allow the state to reverse its current support for self regulation and reinstitute a press council. A failure by the industry to offer full-hearted commitment to the current project would be a setback that might also have long-lasting repercussions for future bids for donor funding.

And, of course, a genuine opportunity to provide a lasting symbol of self regulation in action would be lost to the region, where Sri Lanka is still its only major flag-bearer.

#### **1. Introduction**

The PCCSL has been in place for four years. In the context of self-regulatory regimes internationally, that alone is cause for congratulation. Some systems wither and die, or are snuffed out by apathy, neglect, poor leadership, internecine industry wrangling, lack of funding or government pressure – or a combination of all of those - within months. So mere survival, especially against the background of a worsening political situation, is no mean achievement. But it is not enough. If it is to be effective in the original aim of providing a viable alternative to potentially oppressive state intervention, or long, expensive and often hostile judicial proceedings, the PCCSL can't simply plant a symbolic flag in the moral high ground of free expression. It has to erect upon it a

defensive wall of free, fast, fair and independent measures that provides the public with effective redress for genuine grievances against the press.

This should command wide public support, sufficient to deter all but the most determined and oppressive governments - which would fear neither internal odium nor international isolation - from meddling in the principles of freedom of expression. That is self-regulation's ultimate purpose.

Without the people's support, the press can be little more than another self-interested commercial pressure group. Yet together they form a formidable coalition. An authoritative and respected self-regulatory system provides an important basis for such an alliance, in which the public identifies a powerful self-interest in having an independent press regulator rather than an intervening state agency, which undermines trust in what is published.

That is never more important than when there is internal conflict and ethnic polarity, which can be exploited by either side.

Yet, despite a promising start, the PCCSL appears not to have established itself as such a champion of press and people. There is no obvious coalition. After four years, the self-regulatory process has become becalmed. A low level of complaints suggests low public awareness and confidence. At the same time, the PCCSL's relations with the industry seems uncertain and its role unclear.

There are also alarming signs of distrust and disinterest within the industry, which arguably has most to gain from a successful self-regulatory regime. If the system is trusted neither by the public, whom it is meant to protect, nor the industry that created it, what future has it? Why is it there?

These issues need to be addressed and remedied urgently, if the PCCSL is to succeed. It is not too late. But time is running out.

## **2. What is going wrong?**

It is impossible, in a brief visit, to be certain of the cause of the malaise. But it emerged very soon that – whatever else was wrong - it was unlikely to be the Code of Practice, which simply had not been sufficiently tested by adjudications for significant weaknesses to be exposed. Lack of compliance was certainly cited as a problem – but that seemed due not to what the Code said, but the manner in which it had been adopted. Ignorance of the Code was also a difficulty, but this appeared to be simply part of a wider lack of understanding of the precise reason for, and role of, the PCCSL itself.

While a failure to review the Code is remiss, it is not catastrophic. The document remains relevant and robust – although would be certainly more so if updated.

(Some suggestions are included in Appendix B). However, the failure to review annually appears to be only a symptom of the problem. For the disease itself, we must look elsewhere.

A random survey of opinions – some undoubtedly less representative than others – suggests the system is suffering from many of the symptoms that have proved terminal in other fledgling self-regulatory regimes: apathy, internecine wrangling and lack of direction.

There is evidence of widespread confusion inside and outside the newspaper industry, and within the PCCSL itself, of what it is there for. Some sample views (often contradictory) below indicate the extent of misunderstanding:

- It hasn't made enough impact. Ordinary people don't know about it, so there are too few complaints.
- No one has told the journalists why we need it – they don't know.
- Editors routinely ignore their own Code. Why should anyone else follow it?

- Non-Guild Editors aren't bound by it, so universal compliance isn't possible.
- Why should it be the Editors' Code anyway – and not the journalists' code?
- The Code isn't explicit enough and should be expanded.
- It's too long – it needs to be shorter.
- The PCC doesn't communicate with editors.
- The Editors don't communicate with the PCC.
- Neither of them communicates with ordinary journalists!
- The PCC is overstaffed and too expensive for the industry to maintain, once the current funding runs out. And, most worryingly...
- What was wrong with the old statutory Press Council anyway?

These are just sample comments. However, there is supporting evidence for some of the more relevant assertions.

First, a lack of universal compliance, with some editors boycotting the PCCSL altogether while others opt in and out inconsistently, suggests a lack of identity with, or confidence in, the system.

Second, the Editors' Guild, while generally supporting the organization that it was so instrumental in creating, has not sustained the level of its original enthusiasm. A symptom of that is the failure to review regularly the Code, of which it has ownership. An external review by the Parallel Code Committee was not successful and, indeed was a risky departure. While external endorsement of the Code can give it greater authority and credibility within civil society, that is easily neutralized if it simultaneously reduces confidence (and compliance) within the industry. Ownership of the Code by the industry – through an Editors' Code Committee or similar body - is traditionally a way of encouraging compliance.

Thirdly, newspapers are disunited even on the need for self regulation. The State Lake House newspapers seem divided, with the Daily News taking part, and The Observer, not. Elsewhere, the Leader newspaper appears to remain opposed. All this undermines credibility with the public. It suggests that the newspapers themselves do not really know why the system is there; nor indeed that they are intended to be protected by it! For the avoidance of doubt, we should state it here: The PCCSL is meant to be a conciliator – admittedly with ultimate adjudicating powers – rather than a policeman. The object of the operation is to provide a viable alternative to state intervention, or long, expensive and often hostile judicial proceedings.

However, the PCCSL itself appears to be not always aware of that. The response of Complaints Officers to low levels of co-operation by newspapers was to suggest making the Code tougher and more explicit – essentially punishing editors, rather than persuading them. That indicates a lack of understanding of the nuances of the system.

To compound the problem, journalists from the free media movement and unions complain that ordinary journalists feel excluded from the system: that they are neither educated in it, nor consulted upon it. They also accuse editors of cynically ignoring their own Code and even of encouraging their staff to do the same.

There are clearly risks of blatant axe-grinding in these comments, and of people advancing highly politicised personal views. However, this is at base a hearts and minds operation and a system so fragmented and confused has little chance of inspiring the public confidence so necessary for success.

### **3. What are the solutions?**

As previously suggested, all this is cause for alarm, although not yet necessarily for panic. The development of a relatively new concept such as a self-regulatory regime that

aims to provide a non-legalistic, free conciliation service to give redress to people who feel they have been wronged by the press is not going to happen overnight. It needs to be explained. Perception is often reality, and popular misconceptions need to be corrected. There is probably a need for some cultural change, too. People should be coaxed and persuaded, rather than ordered or cajoled – as in the old state system.

But if this is truly a hearts and minds battle, there are too many people who are not aware of what self-regulation is and why it is important; or indeed how it works for them, whether they are complainants with a grievance against the press, or an editor or journalist. Much more progress should have been made in the last four years. There is a lot of catching up to do.

Urgent action needs to be taken separately and jointly by both the industry and the PCCSL. At the centre of it should be an educational programme:

- Explaining the proper role of self-regulation in a democratic society, and outlining how it helps the public, protects the press and, indeed, is a sign of good governance.
- Spelling out the price of failure: the risk of exposing the press to state controls, more fines, lengthy and expensive court cases and depriving the reader of a cheap, accessible alternative remedy to the courts.
- Flagging up how any perceived failure of commitment to success on the part of the publishers and editors could damage the standing of the Sri Lankan media with the donors who have supported the self-regulatory exercise with their cash.

These messages need to be conveyed at all levels:

**1. within the industry itself**, so that it can combat stubborn or unthinking resistance and try to create a semblance of unity and cooperation. This would need to be driven from the top down – from publishers via editors. To combat accusations of elitism, it would make sense to ensure that this time the process is more inclusive. A Them and Us culture, either in the newsroom or between rival editors, could be corrosive. Specific recommendations on possible ways to achieve this and make the Code and the system of drafting it more inclusive are listed below in Appendix A.

**2. within the PCCSL**, where staff changes have meant that the original culture of self-regulation – as principally a conciliation service, rather than an adjudicatory system - has not become ingrained. Any notion that the Commission should be some sort of Thought Police is alien and must be discouraged. The PCC should be a robust, independent arbitrator – more a critical friend of the press than its natural enemy. See Appendix A for specific recommendations.

**3. to the public and civil society** at large. Clearly this is mainly the role of PCCSL staff members, who need to be retrained to perform it convincingly. The public relations exercise can be successful only once the staff understands fully what they, and the PCCSL, are supposed to be doing. They could then embark on a campaign of awareness-raising, via the publication of educational literature, including answers to frequently-asked questions (Sample questions are detailed below in Appendix C); and roadshows to meet the wider community.

**THE TIMETABLE** is largely self-determining. There is a sequence in which the retraining of staff and the public and industry-wide educational initiative must proceed, and this needs to dovetail with the reforms to the Code Review process. This would take a little time.

However, a possible schedule to speed matters would be for:

- The Editors' Guild to quickly reform the Code Committee to make it more inclusive, and then invite suggestions from the public and industry on how the Code might be revised in its first major Review.

- At the same time, the PCCSL should be setting its house in order in readiness to launch its public awareness campaign soon after.
- Changes to the Code – with the benefit of the public’s suggestions - would follow in due course, giving a timely lift to the campaign, and keeping it in the public eye.

## **APPENDICES**

The Appendices below spell out in detail specific recommendations for changes to the PCCSL and to the Editors’ Guild’s Code review Process; possible changes that might be considered by the Code Committee; and answers to Frequently Asked Questions which would be as valuable to many members of the industry as to civil society at large.

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### **Appendix A**

#### **Specific recommendations to the PCCSL and the Editors’ Guild**

**1. The PCCSL Secretariat:** The secretariat lacks authority and confident leadership. This is probably due in part to the change of staff since the inception of self-regulation four years ago. The original credo has not been passed on intact and the experience of industry non-cooperation has created a gulf between the staff and some editors. Bridges need to be repaired.

- The director and staff (and probably the Commissioners themselves) need to be reminded of the original aims.
- The current process of trying to raise public awareness in order to promote confidence, trust – and complaints - should be stepped up via a concerted campaign of road shows and public meetings, supported by advertising and news releases. This initiative should be matched by a parallel charm offensive with editors. The aim should be to reacquaint them with the culture of self regulation, remind them of its benefits and try to help them handle the code, rather than see it as a threat. This should be done on two levels:
  - First, with individual editors, informally on a one-to-one basis, where they could be encouraged to seek help and guidance on Code issues.
  - Second, and perhaps more formally, via regular meetings with the Editors Guild and similar organizations. Again the aim should be to instill confidence and trust and convince them that there is a mutual advantage in the PCCSL succeeding.

**2. The Editors Guild:** The Guild has played a crucial role in setting up the system of self-regulation and producing the Code of Practice. However, for various reasons, it has had difficulty in maintaining the necessary oversight of the regime at the required level. This has two effects. It undermines the system by, for instance, not maintaining the obligation to review the Code annually; and it also exposes the process to objections from editors who, for whatever reason, are not Guild members. It is dangerous for the Code to appear to be in sole ownership of the Guild, especially while it does not command 100pc membership of Sri Lanka’s editors. The Guild might therefore consider:

- Setting up a separate, free-standing Editors’ Code Committee, comprising both its own members and non-members. This would appear fairer, more representative and statesmanlike. It could also, in the long term provide a way of bridging the gap between its own members and those outside the Guild.
- Inviting, as a further refinement, Code Committee membership from selected senior members of leading journalistic organizations, which again might contribute to a more inclusive approach to self-regulation.

- Working with the PCCSL to organize regular workplace seminars on the operation of the Code and of self-regulation.

## **ANNEXURE 02**

### **REPORT OF THE EDITORS' GUILD CODE OF PRACTICE REVIEW COMMITTEE**

**Background;** In or about 2002/03, the Members of The Editors' Guild of Sri Lanka unanimously approved a Code of Professional Practice, also referred to as the Code of Ethics for Journalists.

A different Code was already in existence, but few knew about it, and fewer ever implemented it. This was the Code of Ethics that was framed by the statutory Press Council, sometime in the early 1980s, which had been then Gazetted under the Press Council Law. In fact, it was the law of the land, though in deed, it was almost never practiced.

The Editors' Guild framed a Code taking into consideration the Press Council Code, various foreign Codes for Journalists, and on the prevailing media culture in Sri Lanka. The Code was also based on the principles enunciated at the 1998 *Colombo Declaration on Media Freedom and Social Responsibility*.

The Code followed a pledge made by the signatories to the *Colombo Declaration*, in answer to a demand by politicians and the public, that the Journalists have a set of guidelines for themselves, to be implemented by a self-regulatory mechanism, in return for the repeal of criminal defamation laws.

In 2002, Parliament unanimously repealed criminal defamation laws, and The Editors' Guild kept their part of the 'bargain' by enacting a Code. The newly established Sri Lanka Press Institute set up the Press Complaints Commission of Sri Lanka to implement the Code.

The Editors' Guild Code, and the establishment of the Press Complaints Commission of Sri Lanka has negated the need for the implementation of the Code under the statutory Press Council Law. It has also, made the Press Council itself *functus*, and non-operational since 2002.

**Present situation;** The Editors' Guild Code provides for an annual review of the Code. It might be pointed out that this is a review, and not necessarily a compulsory revision of the Code. It must be however confessed, that no proper review has been done by The Guild since 2002. In 2005, The Guild appointed a Code Review Committee headed by Judge Christopher Weeramantry, retired Vice President of the International Court of Justice, and a prolific writer on press freedom issues. This Committee comprised several key personalities in civil society, and from the press. They were mandated to recommend to The Guild any revisions that may be required to the Code.

This Code Committee met, and exchanged views, but was unable to provide The Guild with any recommendations for nearly two years, thus delaying the process of a proper review of the Code. In 2007, The Guild wrote to the Press Complaints Commission and requested them to appoint a parallel Code Review Committee to make recommendations, which they proceeded to do. The public was also invited to make recommendations to this parallel Committee. Judge Weeramantry then informed the Press Complaints Commission that it was not in a position to submit a report.

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One of the steps taken by The Guild's Code Review Committee was to request the Sri Lanka Press Institute to invite the Secretary of the UK Editors' Code Committee, Mr. Ian Beales to Sri Lanka to assist the Committee in their work. Mr. Beales was familiar with The Editors' Guild Code of Professional Practice and had been one of the important persons who helped in the setting up of the Press Complaints Commission of Sri Lanka in its early stages, especially through the aegis of the Commonwealth Press Union.

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The fact that the Code has not been reviewed annually may be regrettable, but it is not a disaster. A requirement to review does not imply automatic changes. Revisions should take place only on specific evidence that there is a gap that needs to be filled. Too many changes made too frequently cause confusion, indicate a lack of decisiveness, and result in non-compliance.

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Possible Code changes that might be considered:

1. Insert a clause into the preamble, requiring co-operation with the PCCSL. A similar paragraph in the UK Code says: *Editors should co-operate swiftly with the PCC in the resolution of complaints. Any publication judged to have breached the code must print the adjudication in full and with due prominence, including a headline reference to the PCC.* Although much of this is already a moral obligation on Sri Lanka editors, it is not codified.
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*reporting suicide, care should be taken not to give excessive detail of the method used.*

3. Make clear that the Code applies to *online*, as well as print, *versions of publications*, giving a moral advantage over other online publishers.
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industry on how the Code might be revised in the future.

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END

CEO/PCCSL (Sinha approved July 10, 2008)

## **ANNEXURE 01**

### **PRESS SELF-REGULATION IN SRI LANKA: A REVIEW**

*IAN BEALES: NOVEMBER 2007*

#### **Executive Summary**

The original purpose of my October visit was to assess the current PCCSL Code of Practice and assist in necessary revisions. However, it rapidly became clear that the Code was not the problem. Sri Lanka's promising start down the road to press self regulation appears stalled due to a fundamental misunderstanding of its ultimate purpose. That is, to set up an acceptable, light-touch regime providing an adequate remedy to the public's legitimate grievances against newspapers and magazines, without resorting to - or imitating - the worst excesses of statutory regulation, which are inimical to press freedom.

Due, perhaps, to changing personnel and circumstances within the PCCSL, the Editors' Guild, and the industry at large, that objective seems to have been lost. The PCCSL feels ignored and that tougher rules are the remedy. Not only is that strategy against the voluntary spirit of self-regulation, it is also likely to have the reverse effect: driving editors out of the camp, rather than enticing them in.

The self-regulatory project needs revamping urgently if it is to get back on track. It will take a major effort – virtually an unannounced re-launch – to regain lost ground. It would need a fresh commitment by the PCCSL, its secretariat and the Editors Guild to re-identify the common aims behind the original launch:

- The PCCSL should re-evaluate its purpose and initiate a twin track educational campaign to raise its profile both with the public and the industry. Persuasion - by flagging up enlightened self-interest - should be used, rather than coercion or threats.
- The industry, at both publishers and editors' level, should work to embrace changes that would make the current self-regulatory regime more acceptable to those remaining outside it, and thus provide the universal (or at least majority) compliance that would make it credible. This should include establishing a more inclusive Code Committee to review, revise and write the Code.

The political climate makes the goal more difficult, but success more urgent. The current vacuum could allow the state to reverse its current support for self regulation and reinstitute a press council. A failure by the industry to offer full-hearted commitment to the current project would be a setback that might also have long-lasting repercussions for future bids for donor funding.

And, of course, a genuine opportunity to provide a lasting symbol of self regulation in action would be lost to the region, where Sri Lanka is still its only major flag-bearer.

#### **1. Introduction**

The PCCSL has been in place for four years. In the context of self-regulatory regimes internationally, that alone is cause for congratulation. Some systems wither and die, or are snuffed out by apathy, neglect, poor leadership, internecine industry wrangling, lack of funding or government pressure – or a combination of all of those - within months. So mere survival, especially against the background of a worsening political situation, is no mean achievement. But it is not enough. If it is to be effective in the original aim of providing a viable alternative to potentially oppressive state intervention, or long, expensive and often hostile judicial proceedings, the PCCSL can't simply plant a symbolic flag in the moral high ground of free expression. It has to erect upon it a

defensive wall of free, fast, fair and independent measures that provides the public with effective redress for genuine grievances against the press.

This should command wide public support, sufficient to deter all but the most determined and oppressive governments - which would fear neither internal odium nor international isolation - from meddling in the principles of freedom of expression. That is self-regulation's ultimate purpose.

Without the people's support, the press can be little more than another self-interested commercial pressure group. Yet together they form a formidable coalition. An authoritative and respected self-regulatory system provides an important basis for such an alliance, in which the public identifies a powerful self-interest in having an independent press regulator rather than an intervening state agency, which undermines trust in what is published.

That is never more important than when there is internal conflict and ethnic polarity, which can be exploited by either side.

Yet, despite a promising start, the PCCSL appears not to have established itself as such a champion of press and people. There is no obvious coalition. After four years, the self-regulatory process has become becalmed. A low level of complaints suggests low public awareness and confidence. At the same time, the PCCSL's relations with the industry seems uncertain and its role unclear.

There are also alarming signs of distrust and disinterest within the industry, which arguably has most to gain from a successful self-regulatory regime. If the system is trusted neither by the public, whom it is meant to protect, nor the industry that created it, what future has it? Why is it there?

These issues need to be addressed and remedied urgently, if the PCCSL is to succeed. It is not too late. But time is running out.

## **2. What is going wrong?**

It is impossible, in a brief visit, to be certain of the cause of the malaise. But it emerged very soon that – whatever else was wrong - it was unlikely to be the Code of Practice, which simply had not been sufficiently tested by adjudications for significant weaknesses to be exposed. Lack of compliance was certainly cited as a problem – but that seemed due not to what the Code said, but the manner in which it had been adopted. Ignorance of the Code was also a difficulty, but this appeared to be simply part of a wider lack of understanding of the precise reason for, and role of, the PCCSL itself.

While a failure to review the Code is remiss, it is not catastrophic. The document remains relevant and robust – although would be certainly more so if updated.

(Some suggestions are included in Appendix B). However, the failure to review annually appears to be only a symptom of the problem. For the disease itself, we must look elsewhere.

A random survey of opinions – some undoubtedly less representative than others – suggests the system is suffering from many of the symptoms that have proved terminal in other fledgling self-regulatory regimes: apathy, internecine wrangling and lack of direction.

There is evidence of widespread confusion inside and outside the newspaper industry, and within the PCCSL itself, of what it is there for. Some sample views (often contradictory) below indicate the extent of misunderstanding:

- It hasn't made enough impact. Ordinary people don't know about it, so there are too few complaints.
- No one has told the journalists why we need it – they don't know.
- Editors routinely ignore their own Code. Why should anyone else follow it?

- Non-Guild Editors aren't bound by it, so universal compliance isn't possible.
- Why should it be the Editors' Code anyway – and not the journalists' code?
- The Code isn't explicit enough and should be expanded.
- It's too long – it needs to be shorter.
- The PCC doesn't communicate with editors.
- The Editors don't communicate with the PCC.
- Neither of them communicates with ordinary journalists!
- The PCC is overstaffed and too expensive for the industry to maintain, once the current funding runs out. And, most worryingly...
- What was wrong with the old statutory Press Council anyway?

These are just sample comments. However, there is supporting evidence for some of the more relevant assertions.

First, a lack of universal compliance, with some editors boycotting the PCCSL altogether while others opt in and out inconsistently, suggests a lack of identity with, or confidence in, the system.

Second, the Editors' Guild, while generally supporting the organization that it was so instrumental in creating, has not sustained the level of its original enthusiasm. A symptom of that is the failure to review regularly the Code, of which it has ownership. An external review by the Parallel Code Committee was not successful and, indeed was a risky departure. While external endorsement of the Code can give it greater authority and credibility within civil society, that is easily neutralized if it simultaneously reduces confidence (and compliance) within the industry. Ownership of the Code by the industry – through an Editors' Code Committee or similar body - is traditionally a way of encouraging compliance.

Thirdly, newspapers are disunited even on the need for self regulation. The State Lake House newspapers seem divided, with the Daily News taking part, and The Observer, not. Elsewhere, the Leader newspaper appears to remain opposed. All this undermines credibility with the public. It suggests that the newspapers themselves do not really know why the system is there; nor indeed that they are intended to be protected by it! For the avoidance of doubt, we should state it here: The PCCSL is meant to be a conciliator – admittedly with ultimate adjudicating powers – rather than a policeman. The object of the operation is to provide a viable alternative to state intervention, or long, expensive and often hostile judicial proceedings.

However, the PCCSL itself appears to be not always aware of that. The response of Complaints Officers to low levels of co-operation by newspapers was to suggest making the Code tougher and more explicit – essentially punishing editors, rather than persuading them. That indicates a lack of understanding of the nuances of the system.

To compound the problem, journalists from the free media movement and unions complain that ordinary journalists feel excluded from the system: that they are neither educated in it, nor consulted upon it. They also accuse editors of cynically ignoring their own Code and even of encouraging their staff to do the same.

There are clearly risks of blatant axe-grinding in these comments, and of people advancing highly politicised personal views. However, this is at base a hearts and minds operation and a system so fragmented and confused has little chance of inspiring the public confidence so necessary for success.

### **3. What are the solutions?**

As previously suggested, all this is cause for alarm, although not yet necessarily for panic. The development of a relatively new concept such as a self-regulatory regime that

aims to provide a non-legalistic, free conciliation service to give redress to people who feel they have been wronged by the press is not going to happen overnight. It needs to be explained. Perception is often reality, and popular misconceptions need to be corrected. There is probably a need for some cultural change, too. People should be coaxed and persuaded, rather than ordered or cajoled – as in the old state system.

But if this is truly a hearts and minds battle, there are too many people who are not aware of what self-regulation is and why it is important; or indeed how it works for them, whether they are complainants with a grievance against the press, or an editor or journalist. Much more progress should have been made in the last four years. There is a lot of catching up to do.

Urgent action needs to be taken separately and jointly by both the industry and the PCCSL. At the centre of it should be an educational programme:

- Explaining the proper role of self-regulation in a democratic society, and outlining how it helps the public, protects the press and, indeed, is a sign of good governance.
- Spelling out the price of failure: the risk of exposing the press to state controls, more fines, lengthy and expensive court cases and depriving the reader of a cheap, accessible alternative remedy to the courts.
- Flagging up how any perceived failure of commitment to success on the part of the publishers and editors could damage the standing of the Sri Lankan media with the donors who have supported the self-regulatory exercise with their cash.

These messages need to be conveyed at all levels:

**1. within the industry itself**, so that it can combat stubborn or unthinking resistance and try to create a semblance of unity and cooperation. This would need to be driven from the top down – from publishers via editors. To combat accusations of elitism, it would make sense to ensure that this time the process is more inclusive. A Them and Us culture, either in the newsroom or between rival editors, could be corrosive. Specific recommendations on possible ways to achieve this and make the Code and the system of drafting it more inclusive are listed below in Appendix A.

**2. within the PCCSL**, where staff changes have meant that the original culture of self-regulation – as principally a conciliation service, rather than an adjudicatory system - has not become ingrained. Any notion that the Commission should be some sort of Thought Police is alien and must be discouraged. The PCC should be a robust, independent arbitrator – more a critical friend of the press than its natural enemy. See Appendix A for specific recommendations.

**3. to the public and civil society** at large. Clearly this is mainly the role of PCCSL staff members, who need to be retrained to perform it convincingly. The public relations exercise can be successful only once the staff understands fully what they, and the PCCSL, are supposed to be doing. They could then embark on a campaign of awareness-raising, via the publication of educational literature, including answers to frequently-asked questions (Sample questions are detailed below in Appendix C); and roadshows to meet the wider community.

**THE TIMETABLE** is largely self-determining. There is a sequence in which the retraining of staff and the public and industry-wide educational initiative must proceed, and this needs to dovetail with the reforms to the Code Review process. This would take a little time.

However, a possible schedule to speed matters would be for:

- The Editors' Guild to quickly reform the Code Committee to make it more inclusive, and then invite suggestions from the public and industry on how the Code might be revised in its first major Review.

- At the same time, the PCCSL should be setting its house in order in readiness to launch its public awareness campaign soon after.
- Changes to the Code – with the benefit of the public’s suggestions - would follow in due course, giving a timely lift to the campaign, and keeping it in the public eye.

## **APPENDICES**

The Appendices below spell out in detail specific recommendations for changes to the PCCSL and to the Editors’ Guild’s Code review Process; possible changes that might be considered by the Code Committee; and answers to Frequently Asked Questions which would be as valuable to many members of the industry as to civil society at large.

**IMB: 07.11.07**

### **Appendix A**

#### **Specific recommendations to the PCCSL and the Editors’ Guild**

**1. The PCCSL Secretariat:** The secretariat lacks authority and confident leadership. This is probably due in part to the change of staff since the inception of self-regulation four years ago. The original credo has not been passed on intact and the experience of industry non-cooperation has created a gulf between the staff and some editors. Bridges need to be repaired.

- The director and staff (and probably the Commissioners themselves) need to be reminded of the original aims.
- The current process of trying to raise public awareness in order to promote confidence, trust – and complaints - should be stepped up via a concerted campaign of road shows and public meetings, supported by advertising and news releases. This initiative should be matched by a parallel charm offensive with editors. The aim should be to reacquaint them with the culture of self regulation, remind them of its benefits and try to help them handle the code, rather than see it as a threat. This should be done on two levels:
  - First, with individual editors, informally on a one-to-one basis, where they could be encouraged to seek help and guidance on Code issues.
  - Second, and perhaps more formally, via regular meetings with the Editors Guild and similar organizations. Again the aim should be to instill confidence and trust and convince them that there is a mutual advantage in the PCCSL succeeding.

**2. The Editors Guild:** The Guild has played a crucial role in setting up the system of self-regulation and producing the Code of Practice. However, for various reasons, it has had difficulty in maintaining the necessary oversight of the regime at the required level. This has two effects. It undermines the system by, for instance, not maintaining the obligation to review the Code annually; and it also exposes the process to objections from editors who, for whatever reason, are not Guild members. It is dangerous for the Code to appear to be in sole ownership of the Guild, especially while it does not command 100pc membership of Sri Lanka’s editors. The Guild might therefore consider:

- Setting up a separate, free-standing Editors’ Code Committee, comprising both its own members and non-members. This would appear fairer, more representative and statesmanlike. It could also, in the long term provide a way of bridging the gap between its own members and those outside the Guild.
- Inviting, as a further refinement, Code Committee membership from selected senior members of leading journalistic organizations, which again might contribute to a more inclusive approach to self-regulation.

Working with the PCCSL to organize regular workplace seminars on the operation of the Code and of self-regulation.

End

## ANNEXURE 02

### REPORT OF THE EDITORS' GUILD CODE OF PRACTICE REVIEW COMMITTEE

**Background;** In or about 2002/03, the Members of The Editors' Guild of Sri Lanka unanimously approved a Code of Professional Practice, also referred to as the Code of Ethics for Journalists.

A different Code was already in existence, but few knew about it, and fewer ever implemented it. This was the Code of Ethics that was framed by the statutory Press Council, sometime in the early 1980s, which had been then Gazetted under the Press Council Law. In fact, it was the law of the land, though in deed, it was almost never practiced.

The Editors' Guild framed a Code taking into consideration the Press Council Code, various foreign Codes for Journalists, and on the prevailing media culture in Sri Lanka. The Code was also based on the principles enunciated at the 1998 *Colombo Declaration on Media Freedom and Social Responsibility*.

The Code followed a pledge made by the signatories to the *Colombo Declaration*, in answer to a demand by politicians and the public, that the Journalists have a set of guidelines for themselves, to be implemented by a self-regulatory mechanism, in return for the repeal of criminal defamation laws.

In 2002, Parliament unanimously repealed criminal defamation laws, and The Editors' Guild kept their part of the 'bargain' by enacting a Code. The newly established Sri Lanka Press Institute set up the Press Complaints Commission of Sri Lanka to implement the Code.

The Editors' Guild Code, and the establishment of the Press Complaints Commission of Sri Lanka has negated the need for the implementation of the Code under the statutory Press Council Law. It has also, made the Press Council itself *functus*, and non-operational since 2002.

**Present situation;** The Editors' Guild Code provides for an annual review of the Code. It might be pointed out that this is a review, and not necessarily a compulsory revision of the Code. It must be however confessed, that no proper review has been done by The Guild since 2002. In 2005, The Guild appointed a Code Review Committee headed by Judge Christopher Weeramantry, retired Vice President of the International Court of Justice, and a prolific writer on press freedom issues. This Committee comprised several key personalities in civil society, and from the press. They were mandated to recommend to The Guild any revisions that may be required to the Code.

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