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‘Charitable journalism’: Oxymoron or opportunity?

Judith Townend

Resource intensive journalism considered likely to attract small audiences has been particularly vulnerable to industry cuts. Could charitable funding help reinvigorate topics neglected by commercial media? And what are the benefits and drawbacks?

My recent research investigating the possibility of charitably-funded journalism has prompted a few bemused responses. Surely journalism and charity are mutually exclusive? This view is part of a general suspicion of public or state intervention in the news business; politicians such as Lord Stoneham of Droxford have been unconvinced ‘that the state should get involved in subsidising the industry’ (Parliament.uk 2012). Despite this perception, there are a range of existing journalistic projects that are funded charitably and an opportunity to add more to this list.

As author of the UK section of a new five country report co-produced by the Reuters Institute for the Study of Journalism and the Yale Information Society Project,1 I was tasked with finding out whether any ‘news’ is sustained by charities in the UK, and if so, how. This exercise required flexible thinking. Certainly there are no national news organisations operating in this way. It is unlikely that any national operation could achieve such status without radical change to its structure and output. As a Charity Law Association working party identified in 2011, ‘a commercial undertaking such as a conventional newspaper company is likely to be disqualified from charitable status because its underlying purpose is to generate a financial return for its owners, regardless of any beneficial effect on the public that might result from some of its work’ (CLA 2011). This would make it difficult to meet the ‘public benefit’ requirement, by which a charity must not give rise to more than incidental personal benefit.
Charitable journalism in practice

This restriction would not, however, preclude a not-for-profit organisation seeking charitable status. And if one thinks beyond national news outlets to other types of organisations producing news-like or journalistic-style content, then there is convincing evidence of charitable funding being used to support journalism. In 2011 Robert Picard (co-editor of the new report) identified three possible models: ‘Charitable ownership and control’, ‘Charitably supported media’ and ‘Trust ownership and control’. For the new research, I adapted and updated these as follows:

1. charitable ownership and control, in which a charity directly produces journalism as a core activity;
2. charitable ownership and control, in which a charity owns or controls a non-charitable journalism-producing organisation;
3. charitably-supported journalism in which non-charitable journalism-producing organisations and individuals receive some support from charities and charitable individuals (recipient may be taxed on grants received).

There were examples for each of these models, although some organisations might be better described as ‘hybrid’ with overlap between the categories depending on the nature of its set-up and operations. The national organisations Full Fact and The Conversation UK fall in category one, in which the charity produces journalism as a core activity. Both organisations are registered charities, employ journalists and writers, and have charitable purposes strongly connected to the mission of journalism. Full Fact, a non-partisan fact-checking website, provides tools, advice and information to allow people to assess claims made about public issues. It was originally rejected twice by the Charity Commission before successfully securing charitable status in 2014 after a third application (Sharman 2014). It aims to advance public education ‘in the fields of crime, health, immigration, economy, education, environment and social welfare, through education, research and training’ to ‘promote and advance public understanding and inform public debate … by making available to the public, through a process of objective, impartial research and rigorous factual analysis, full, accurate and relevant information’ (Charity Commission 2015).
Meanwhile The Conversation UK, part of an initiative that started in Australia, is publisher of an online news analysis and commentary website where all articles are written by academics for a general non-academic audience. Authors and editors sign up to an Editorial Charter and contributors must abide by its Community Standards policy. All its articles are available for republishing free of charge under a Creative Commons licence. Its charitable object is, like Full Fact, the advancement of education. As non-profits, rather than commercial enterprises, they were able to show that they would not give rise to more than ancillary personal benefit.

In the second category, where the relationship is less direct, and the charity owns or controls a non-charitable organisation, examples include Which? magazine, published by the charity the Consumers’ Association through its trading company Which? Ltd, which is registered as a private limited company; and the Maidenhead Advertiser, a newspaper run by the private limited company Baylis Media Ltd owned by The Louis Baylis (Maidenhead Advertiser) Charitable Trust. The charitable trust receives at least 80 per cent of newspaper’s profits. The benefits of being a charity are less obvious in this category: for example, the private entity would not necessarily enjoy the tax relief available for charities.

The last category allows for arrangements whereby an organisation receives charitable funding, but without necessarily being tied to one charitable owner. The boundaries are not clearly defined: categories two and three may overlap to some extent. Examples within this group include openDemocracy, a website published by a private limited company and wholly owned by a private not-for-profit, the openDemocracy Foundation for the Advancement of Global Education, and partially supported by a charity, the OpenTrust. This arrangement allows a publishing entity to engage in different types of activity, some charitably funded – with specific charitable purposes and for the public benefit – and some non-charitably funded, and therefore unconstrained by restrictions on political activity.
Not only is charitable journalism already being done, it is successful. At a local level, the Ambler, the Burngreave Messenger and the Lewisham Pensioner’s Gazette are charitable initiatives producing local media content, part of a useful response to the ‘democratic deficit’ caused by local news closures and cuts. Academics have been able to share their work with public audiences through The Conversation UK without relying on commercial news organisations constrained by news agendas and a lack of time (or inclination) to commission and edit academic work for non-specialist audiences. China Dialogue is publishing a dual language website highlighting under-covered environmental issues. Full Fact is injecting reliable information into the media and political system by systematically checking the claims that are made by politicians, newspapers and other powerful people and institutions.

These charitable initiatives share one striking similarity: they all provide content neglected in commercial environments, perhaps because this content does not drive enough traffic to attract online advertising, or is considered unlikely to appeal to paying subscribers and readers. One such neglected area is law for general public audiences: it is notable that specialist legal and courts coverage has declined in recent years, with fewer expert correspondents and full-time court reporters employed by commercial national and local news organisations (see, for example, Magrath 2012). Full Fact has, however, bucked the trend and increased its output on legal topics after the Legal Education Foundation, funded its first legal researcher post (McKinney 2015). Charitable status helps attract funding for public interest content that is being cut in other quarters.
A suitable model?
These forms of charitable journalism are not appropriate for all kinds of public interest content, however. According to Charity Commission guidance based on the common and statutory law, a charity’s purposes cannot be political; political campaigning, or political activity, must be undertaken by a charity only in the context of supporting the delivery of its charitable purposes (Charity Commission 2008). A partisan newspaper offering strong political commentary would not be suitable for charitable status. It is only a particular type of tightly structured non-partisan organisation that would be able to fit within the constraints of the existing charity regime.

One concern raised by critics is that charitable trustees and funders would be able to put pressure on editors and journalists working for their publications, risking editorial autonomy. In counterpoint, it can be argued that the robust structure required for a charity, with guidelines and a system of regulatory enforcement, could, in fact, help protect journalism from editorial interference – offering greater safeguards than in commercial environments, where editorial interference from powerful owners is well-documented. Tom Murdoch, partner at the charity-specialist law firm Stone King LLP, believes that greater recognition of charitable forms of journalism could equip community news providers and investigative journalists to more easily survive in the new environment, strengthen local communities and meet an important democratic need to disseminate information which enables citizens to participate more fully in society.

Obstacles to registering as a charity
It is not easy for a non-partisan journalism organisation – even if designed to meet a charitable purpose and provide public benefit – to secure charitable status. It took Full Fact three attempts. The Bureau of Investigative Journalism has also been rejected twice, and has delayed a third application until it can be more confident of success. Among the issues is the Charity Commission’s requirement to see evidence that the organisation’s input to investigative journalism translates into democratic
participation and engagement; the Bureau felt it needed clearer guidance on this before proceeding with a further application. The Bureau was also concerned that by changing trustee roles and operating procedures, as it has been advised to do, could affect the editorial independence of the editor and constrain the range of its journalism. A revised structure could potentially introduce delays in committing to stories. According to its chairman James Lee, ‘these constraints would not necessarily have been prohibitive, but they were certainly far from ideal’. 3

Policy and law
Proponents of charitable journalism, such as an ad hoc group of lawyers and practitioners that submitted written evidence to the Leveson Inquiry in 2012, have suggested that charity law ‘should be capable of recognising the broad public benefit in certain forms of public interest journalism, subject to conditions that would not open the floodgates to the registration of news organisations that are pursuing commercial benefit or political objects’ (Heawood et al. 2012). This followed recommendations by the House of Lords select committee on communication that the Charity Commission should ‘provide greater clarity and guidelines on which activities related to the media, and in particular investigative journalism, are charitable in the current state of the law’. The committee also asked that the body ‘take into consideration both the current pressures on investigative journalism as well as its democratic importance when interpreting the relevant legislation’ (House of Lords 2012, para. 201).

The previous Coalition government was reluctant to engage on this issue. At the time of the House of Lords committee hearings Jeremy Hunt, then culture secretary, indicated that the Government was not ‘inclined to legislate’ (ibid: para. 198). And, it appears, disinclined to take any action at all, as neither the government nor the Charity Commission officially responded to the House of Lords report. There has been no indication of further consultation on this issue, at least not publicly.
An opportunity for journalism

To return to the question posed in the title: is charitable journalism an oxymoron or an opportunity? The research discussed here, and in my wider work (Townend 2016; Barnett and Townend 2015), indicates that models of charitable journalism provide an opportunity for producing public interest content under-served by commercial organisations. It would only be oxymoronic if the journalism was partisan, existed for political purpose and provided more than incidental personal benefit to owners: these characteristics – which define many commercial news operations - would conflict with a common social and legal understanding of charitable work. As the ad hoc group wrote in its evidence to Lord Justice Leveson, there need to be conditions preventing news organisations which further commercial and party political interests from becoming charities.

Charitable status is not a magic bullet for the media industry. Being a charity places particular burdens on organisations as well as granting them reputational and financial benefits. But certain (existing or future) non-profit news organisations, especially those working in local geographic communities, on investigations and specialist topics such as law could greatly benefit from a regime that recognises specified forms of journalistic and news activity as charitable, to a greater extent than it does already. The structures and approach required for charitable status would strengthen rather than undermine the quality and independence of journalism, and especially so in areas neglected by commercial media organisations.

Notes

1 The impact of charity and tax law/regulation on not-for-profit news organizations, edited by Robert Picard, Valerie Belair Gagnon and Sofia Ranchordás and published by the Reuters Institute for the Study of Journalism, University of Oxford, and the Yale Law School Information Society Project, was published in March 2016. The research for my chapter in that report is partly based on work completed for an AHRC-funded project on media power and plurality at the University of Westminster, 2013-14
Tom Murdoch advised on the full RISJ/ISP report, in which his views are set out more fully.

Information taken from discussion seminar notes at the University of Westminster in 2014 and personal correspondence with James Lee.

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plurality (Palgrave Macmillan, 2015) and her interdisciplinary research focuses on access to information and, more broadly, the development of media and information law and policy in society.