

Tweets Are For Birds:

The Relationship Between Twitter and the Popular and Quality Press

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Introduction

In recent months the differences between the traditional press and Twitter have been much discussed in the United Kingdom, due to deliberate breaching of court orders on the micro-blogging service. This paper looks at Twitter, the twitterati, injunctions and the role of the press. It discusses how popular papers and quality press view themselves and how they regard Twitter.

In order to create a better understanding of Twitter and its users, the first section is dedicated to explain the software service. With tweets (messages) as example, the register of Twitter users is discussed. Since the debate revolves around the use of injunctions and freedom of speech, the second section explains the different types of privacy injunctions in the UK and their use. The paper then looks further into the relationship between the press and Twitter in the light of injunctions.

Typos, misspellings and slang regularly occur in twitter posts. The examples used in this thesis are copied without correcting those.

Twitter

Micro-blogging service Twitter was launched in 2006, only seven years after the first weblogs came into use. A weblog is a personal space on the web where people can post anything they wish to write about. Most weblogging services nowadays offer their users different templates to choose from in order to personalize their blogs. In 1999, “the first bloggers formed a tight community. They linked to each other and wrote about each other” (Breukers, 25). From 2001 onwards, weblogs grew in popularity. Internet entered the phase named “Web 2.0” (Breukers, 31) and evolved around interaction.

As the –often – amateur writer of a blog is free to choose his or her topic, there is a wide selection of personal blogs. There are many blogs which comment on the news, while others give the reader a glimpse into the life of the writer or function as an online diary. The texts are available to anyone who wishes to read them, unless the posts are password protected – an option available at certain blogging services. LiveJournal, LJ in popular speech, is a good example of a platform where bloggers-to-be can create an account and start writing almost instantly. The service hosts 16.2 million accounts (LiveJournal). It does not necessarily follow that 16.2 million users post their diary online; blogs on food, make-up or weight loss are popular too.

Twitter took blogging in a new direction. The service, initially named Twttr, was launched on 21 March 2006 by 14 employees of the San Francisco based Odeo Studio. The name Twttr was inspired by the free online photo service Flickr. Odeo Studio, a podcasting company, was forced to come up with a new concept due to strong competition (Postma, 15). Twttr’s first use was that of a short message service (SMS) for mobile phones, and had an infinite number of characters. However, a text message has a maximum of 160 characters, and

a message over 160 characters means costs go up. When the company went public, they introduced the 140 character limit –less than that of a text message – to leave enough space for a user name. Just after a few months, Twtr became Twitter, messages were sent through internet and after a while, every Twitter user received his or her own homepage. Messages became tweets; tweets became visible to everyone with or without a Twitter account and “three years later, Twitter was booming” (O’Reilly, 5).

The main difference between the blog and Twitter is the character limit per post. Micro –blogging, however, invites greater interaction than traditional blogs because the entire post of the user’s followers appears on his or her personal page. This happens in ‘real time’, meaning followers receive updates the moment they are posted (provided the follower is online). As the mouse hovers above a tweet, the options shown are “favorite”, “retweet”, and “reply”. With a simple click a message is repeated or replied to. It makes responding to other users easier than at weblogs which only provide a comment section at the bottom –a style many newspapers have adopted. Because posts are easier (shorter) to read and reply to, there is more incentive to hold a conversation.

The term micro-blogging derives from the character limit per post, which the traditional blog does not have. A post on Twitter is referred to as a tweet and users of the software service are called twitterers, tweeters, tweeps or twitterati. Users are asked to provide a short bio of 160 characters and a photo, both of which are visible on their homepage. In addition to that, each tweet also displays the tweeter’s picture. Biographies and photos are not obligatory, but these features do increase the chances of obtaining a large number of ‘followers’. Following means receiving updates from the account followed on the personal homepage, with the exception of replies called ‘@replies’ or ‘DMs’. Replies are sent by starting a tweet with the @ symbol followed by the account name which the user is replying to. Replies are visible on the homepage of the sender and on the homepage of the

receiver. A DM (direct message) can only be sent between accounts that follow each other and are not visible to other users. An '@mention' is related to a reply and means an account name is used anywhere in the tweet. This ensures all followers receive the update; @mentions thus have a wider reach than @replies. Finally, messages can be "retweeted" which simply means repeated. Topics on Twitter are often indicated with a hash tag (#). The more popular – trending in Twitter lingo – a topic is, the higher it is shown on the "trends" list and means many people are responding to it.

Twitter Inc. is a private company based in San Francisco and has no personnel or offices outside of the USA. According to Bloomberg Businessweek, Twitter has five key executives and five board members. Twitter's own "employees" page shows 552 Twitter profiles, which leads to the impression that Twitter is indeed a major company. To keep a fast-growing network running naturally requires money, but as a private company, Twitter Inc. is not obliged to publish its profits (or its losses). As signing up for the service is free, advertising is probably Twitter's main source of income. The company did announce an advertising strategy in 2010 (Reuters) and since then has begun incorporating 'promoted tweets' into the service. This means advertisers pay to have a tweet on top of a list for a certain amount of time. There are also 'promoted trends' at the top of the trending (most popular) topics list which every user sees on his or her homepage. The promoted trend on 24 June was "#ClaussenPickles". The first tweet, which remains on top of the #ClaussenPickles list, is a promoted tweet by @ClaussenPickles: "Embark on the Journey to the #ClaussenPickles. A pursuit to find the perfect pickle." Twitter makes clear that users know these trends and tweets are promoted by placing a yellow "promoted" button next to them. Other advertising sometimes appears as a short line of text (i.e. "Twitter Tweet Button: the easiest way for users to share links from your website"), which can be found underneath the trends. Another attempt in gaining profit is said to be Twitter's sales of the data content to

Google and Microsoft. This means that from October 2009, when the deal was made, tweets can be found through both Google's and Microsoft's search engines Google and Bing respectively. A website called eMarketer posted that Twitter is expected to hit 150,000 dollar in advertising revenue in 2011 (Reese).

Twitter Inc. describes itself as an "information network" ("Guidelines for Law Enforcement"). The general consensus, however, is that Twitter is a 'social' medium like the social networking site Facebook and the professional networking site LinkedIn. One of the similarities between the services is what O'Reilly calls "ambient intimacy" in *The Twitter Book* (9). Mundane updates can create a feeling of intimacy, even if people live miles apart in real life or just do not meet offline regularly. This type of update is similar to the one found on Facebook, the webpage that "helps you connect and share with the people in your life" (Facebook), and so are their purposes. Twitterers try to gather as many followers as possible; Facebook users connect to their – online – friends. There is one important difference, however, which may be easily overlooked. A Twitter user has no say in who follows him or her. Not only can an account be followed without the user's consent, following does not necessarily mean being followed. Facebook users need to accept friends. This is done by sending a so-called "friend request"; a similar invitational structure is found on LinkedIn.

The trouble defining Twitter as a social or information network lies in the different usages of the network.. Many people choose to answer the question "What's happening?", which leads to mundane Facebook-like status updates. The users' intent of this type of tweets is to keep friends, family and followers posted of what they are doing (O'Reilly, 9). An example is: "And it's one week until our June vacation!" (Adrienne).

Twitter users are not obliged to answer the question provided however, and freely update about anything they want. Tweets can be (and often are) completely unrelated to the question asked. Users also share what they read, watch, listen to or think about (O'Reilly, 11).

Links to interesting clips, photographs, newspaper articles and books are posted often, making Twitter a medium to share opinions, discuss and notify.

Business owners use the service to attract attention and keep in touch with clientele. Some companies have 'web care teams' that help customers when they are unsatisfied with a product, whereas others use Twitter simply to promote their products. An example is Dell's @DellOutlet account. "Offers in @DellOutlet receive a code which has to be filled in when ordering. This way the profit made via Twitter can be tracked." (Postma, 69). Other businesses choose to follow people who may be interested in their services. When a user has a new follower, he or she is notified via an automatically generated email. This way the company can draw attention to itself.

Another group of users are spammers. They try to convince Twitter users to click on links, until they are removed from the service. Generally speaking, spammers are "easily recognized because of the fact [they] follow 2,000 Tweeters and have only six followers." (Postma, 116).

Newspapers post link after link to articles on their websites, which usually look like this example from *The Independent*: "Suspected burglar stabbed to death [link]". Sometimes newspapers retweet messages of their own journalists with a private Twitter account who link to their articles published on the news site. Many journalists seem to have Twitter accounts. Student Daphne Jacobson interviewed 17 journalists to find out why for her Master Thesis *Twitter: Social Network as Medium for Journalism*. Her conclusion: information gathering, easy access to contacts and (for some) contact with the audience. Twitter is ahead of regular media in the speed with which news is spread and "information on Twitter leads to ideas for articles or items" (Jacobson, 58-59).

Politicians discovered the use of Twitter as a tool in campaigning. The current President of the United States, Barack Obama, used the service during the presidential

elections of 2008 to mobilize and enthuse. He also thanked people for their work and their votes via Twitter. Obama does not write his own tweets, but has an “official twitterer” (Postma, 20). He had over 8.6 million followers on 14 June 2011. But it is not only in the States that Twitter is used for politics. During the United Kingdom’s General Elections in 2010, internet and consequently Twitter played an interesting role. Though some were worried it would create too much confusion, others worried being behind in the campaign because there were “many more Labour MPs than Conservatives [...] active on Twitter” (BBC).

During breaking news, Twitter is kept up to date by many: individuals and journalists alike. ‘Normal’ users become citizen journalists as described in Dan Gillmore’s *We the media – Grassroots Journalism by the people, for the people* and Henk blanken’s *PopUp –the clash between old and new media*. Citizen (or grassroots) journalism is amateur journalism, meaning that non-journalists provide people with news. In March 2011, a powerful earthquake and tsunami hit Japan; Twitter became a way of following the news. Topics such as #tsunami and #prayforjapan became trending. Updates were provided by news agencies such as BBC and amateur journalists alike (Miller). In case of breaking events, Twitter can be a useful and quick source for updates – though readers should bear in mind sometimes there is no way to check the reliability of tweets as anyone can post them.

The character limit per tweet leads to a frequent use of abbreviations such as LOL (laughing out loud), which derives from online chatting. Other abbreviations are also found in SMS, an example being ‘u r’ instead ‘you are’. Some tweets are abbreviated even though they do not necessarily need to be. A tweet posted on June 5 by @Helga annT in relation to super-injunctions is “@elgob @gh58 @shonasue u know u cant sue twitter it just dusnt work enda #superinjunction” (Tinneney). The tweet is a direct message to the first three accounts mentioned, presumably in a discussion about super-injunctions and suing Twitter. The entire

message –including spaces– is 90 characters. With spelling and grammar added, the message could become: “@elgob @gh58 @shonasue you know you can’t sue twitter, it just doesn’t work. End of #superinjunction.” This adds up to 100 characters, leaving a 40 character surplus.

Though the majority of tweets are legible, some contain so many abbreviations and slang they prove difficult to understand. Tru_Limitz’s tweet reads: “I fink gigs shud retire n ghost for a few months n let dis die down. Cos rite nw looks like u got no friends still”. Tru_Limitz lives in South London, or at least said so on his Twitter profile on 20 June 2011. “Ghost”, according to urbandictionary.com, means “to leave” or “to avoid someone until they get the picture and stop contacting you”. “Still”, is used at the end of the sentence to make a point. (Urban Dictionary). Tru_Limitz tweet (114 characters including spaces) could read: “I think Giggs should retire and leave for a few months and let this die down. Because right now it looks like you have no friends”. This adds up to 129 characters. True_Limitz incorporates slang into almost all of his tweets. An exception is a very short tweet like “Two more days” (Tru_Limitz, 8 June). Some of the misspellings (like “fink” and “dis”) in his tweets may derive from his pronunciation of the misspelled words, whereas others are simply abbreviations (such as “nw”). His account is fairly popular, with a total of 386 followers on 20 June 2011, though it should be said that quite a few seem to be retailers and companies.

There are also those who do not shun swear words on Twitter. Celebrities such as Ryan Giggs (a Manchester United football player who allegedly obtained an injunction to prevent an extramarital affair from coming out) are called names on the service. An example is: “Ryan Giggs you are a fucked up little twat!” (Dominic). Giggs has no Twitter account, but people who do can be the subject of and when Jemima Khan – a British publicist and social activist –was falsely accused of obtaining a super-injunction to prevent the publication of photographs, she tweeted: “[...]Plus, I’m getting vile hate tweets” (Khan). In order to see

@mentions from people a user does not follow, he or she needs to click on an @ mention tab. Doing so shows all tweets in which mention the user. Apparently, enough users felt free to scold Khan for her to mention she was receiving those “hate tweets”. It may be that Twitter users who call people like Khan names feel free to do so because it is online and thus “not real”.

It does seem to depend on the Twitter user, however, which register is used. Though most tweets seem are of an apparent nonchalant nature, some seem to be better thought through than others. Simple tweets such as “Ryan Giggs you are a fucked up little twat!” (Dominic) are quite different from tweets such as “Giggs is going to go fully grey when this whole ting is over. Career died too!” (Doom Man). “Ting” may be a simple typo, but it is by no means certain. Even so, the second tweet is of a much milder nature because swear words are omitted. Interestingly, Dominic is a self-proclaimed lifelong of Liverpool (a British soccer club), whereas Doom Man shows no interest in soccer on his Twitter account. Where Dominic’s tweet is a directly judging Giggs, Doom Man seems to be more interested in sharing his insight on the outcome of Giggs (extramarital) affair will have on his career.

Injunctions

In 2011, triggered by concerns over (super)injunctions, the differences and similarities between new and traditional media have been widely discussed in the UK. An injunction with respect to publication is an official order given out by the court, prohibiting the publication of certain information. Public and press are free, however, to report the existence of the injunction and the name of the person who obtained it. More restrictive are the anonymized injunctions(“Report of the Committee on Super-Injunctions”). These in are often wrongly considered to be super-injunctions by the media and the public. An anonymized injunction prohibits disclosing any information about the name of those who obtained the injunction. A super-injunction is the most restrictive kind of injunction. It forbids people –and consequently the press – to publish any information – i.e. profession, name or city of residence – about the injunction’s applicant. Furthermore, the existence of the super-injunction itself cannot be named (“Report of the Committee on Super-Injunctions”, IV).

The mention of any type kind of injunction in Parliament lifts the injunction. An MP, who has parliamentary privilege, can breach a court order without fear of prosecution. The media in its turn is protected by the Parliamentary Papers Act of 1840, as well as in the Defamation Act of 1996 (House of Commons, 31). These Acts ensure that the press has the freedom to report what is discussed in Parliament.

Super-injunctions have been a cause of concern since 2009 at least. *The Guardian* was placed under restriction in relation to publication of information about a question asked in Parliament on the dealings of Trafigura; a multinational dealing in oil. Interestingly, the information which Trafigura tried to keep from being published was circulating on the internet. The case is mentioned in *Press Standards, Privacy and Libel*, a report by the Culture, Media and Sports Committee of the House of Commons. “[*The*] *Guardian* promptly published, initially online and then on the front page of its 13 October 2009 issue, the fact that

it was unable to report a tabled Parliamentary question” (Great Britain, 31). When *The Guardian* published the online article, Twitter users started posting about the details of the matter, thus ignoring the injunction. Robert Booth wrote in *The Guardian* that only hours after the article was published, Trafigura’s law firm contacted *The Guardian* to inform them that the injunction was lifted. Twitter users claimed victory, led by “comedian Stephen Fry.” “Can it be true?” he wrote. “[Law firm] Carter-Ruck caves in! Hurrah! Trafigura will deny it had anything to do with Twitter, but we know don't we?” (Booth).

The Culture, Media and Sports Commission published a reports expressing its worries about injunctions in February 2010, which was then followed by further investigation by a committee led by current Master of the Rolls Lord David Neuberger. The Master of the Rolls is a senior judge and a Head of Division and the Head of Civil Justice (“Master of the Rolls”). The Committee was set up in April 2010 because of “growing public concerns about the use and effect of what were termed super-injunctions and the impact they were having on open justice” (“Committee Reports Findings on ‘Super-injunctions’”). The Committee published its report on May 20. One of their conclusions was that super-injunctions had been too easy to obtain, but the tides had already changed as the Committee was only aware of two having been granted since January 2010 (“Committee Reports Findings on ‘Super-injunctions’”). The press seems to confuse anonymized injunctions with super-injunctions. They are of the opinion injunctions are too easy to obtain. (“Leading article: Judges and media still move to different beats”).

The possibility of obtaining an injunction with regard to privacy is relatively new to the UK. Before 2000, no claim to privacy could be made in England or Wales. During the presentation of the *Report on Super-Injunctions* Lord Chief Justice (Igor Judge) said: “The development of privacy rights since 2000 was an inevitable consequence of the enactment of the Human Rights Act 1998 and the incorporation of the European Court Convention of

Human Rights [...] into domestic law” (“Committee Reports Findings on ‘Super-injunctions’). Members of Parliament, according to Lord Chief Justice, should not flout a court order in Parliament “just because they disagree with the order, or [...] because they disagree with the law of privacy which Parliament has created” (Press Conference, 5). This referred to Lord Stoneham who had, the day before, revealed that Sir Fred Goodwin –former chief executive of the Royal Bank of Scotland – had been granted an injunction in order to prevent publication of an extramarital affair.(PA) Earlier in the year, on 10 March 2011 Member of Parliament (MP) John Hemming also used his Parliamentary privilege to name the same Goodwin as having obtained a super-injunction on BBC Question Time. “Will the Government have a debate or a statement on the issue of freedom of speech and whether there is one law for the rich, such as Fred Goodwin, and another law for the poor?” (Tombarton)

Injunctions, Twitter, and the Press

The relationship between the press and Twitter is of a symbiotic nature. Internet revolves around interaction: blogs and newspaper articles have comment sections, whereas Twitter facilitates networking and the spreading of information. Consumers of news have become producers too. This is described as grassroots journalism by Dan Gillmore in *We the media – grassroots journalism by the people, for the people* and by Henk Blanken and Mark Deuze in *PopUp –the clash between old and new media*. Internet access has become increasingly easy, and through blogs, commentary on newspaper websites and Twitter, readers have become writers. The people decide what news is, and provide the other consumers and producers of news with their subjective view on matters they find important.

In *Cognitive Surplus –Creativity and Generosity in a Connected Age*, Clay Shirky describes the desire of people to share news with their friends. Twitter responds to this desire, as do social networking sites such as Facebook. According to Shirky, “we can always use the internet today to find something entertaining to read, watch or listen to” Shirky (180). In case of Twitter, this is certainly true. On the other hand, there is a more serious note to Twitter; that of the information network. Internet users can –and according to Shirky should – make their shared knowledge available. It does take hard work, and make it into something of public value: “public and private media blend together, where professional and amateur production blur”(Shirky, 211). Both Shirky and Gillmore are optimistic about the online future of sharing and producing.

The distinction between amateur and professional media is becoming vaguer. When traditional media report on something, Twitter users adopt it. It works the other way around, too. When a trending topic is of interest to the press, they take it over. An example is the injunction case of 2011. On 8 May, an anonymous Twitter account (@InjunctionSuper) named celebrities who were supposed to have obtained super-injunctions. Not only did the

posts mention the names of the celebrities, but the contents of the injunctions. Within days, the anonymous account, which did not post any messages after those six tweets, had over 100,000 followers.

The popularity of the account may have been less, had it not been for falsely accused Jemima Khan. She tweeted: “OMG- Rumour that I have a super injunction preventing publication of "intimate" photos of me and Jeremy Clarkson. NOT TRUE!” (Khan). Khan has about 70,000 followers herself, who all received that message. Most of these accounts will have followers themselves, and by retweeting many people can be reached indirectly. It is likely that this happened with Khan’s tweet. Jeremy Clarkson, columnist and presenter of BBC’s TV show *Top Gear*, did not respond publicly until 15 May, with a column in *The Sunday Times*. The column, co-written by Khan, the use of injunctions is defended: “The press should not be free to screw up the lives of my children. That is why I’m pro-injunction” (Clarkson). Khan posted a link to the article on her Twitter account.

The newspapers quickly picked up on the existence of an anonymous Twitter account breaching injunctions and articles appeared online. No links were provided, as that would be considered a breach of the five super-injunctions mentioned, though they did report on the false accusation of Khan and Clarkson. *The Sun* posted an article with a picture of the account, stripping the account name and all the details that could cause legal actions against the newspaper (Wells). The newspapers were, however, not as fast as Twitter users discussing the contents of the tweets and following the account. *The Independent* wrote on 9 May that the account had 20,000 followers that morning. (Marsden). Within 24 hours, *The Sun* reported, the account had already attracted 68,000 followers. (Wells) On 17 May, the account had almost 116,000 followers (see attachment). Twitter, it was noted, had not deleted the account or removed the tweets from its site. (Burrell).

Only five days after the breach of super-injunctions on Twitter, a super-injunction explicitly including Twitter and Facebook was granted to a mother who wished to protect her daughter from the press. The daughter, who can only be referred to as ‘M’, cannot make her own decisions in medical care. Her mother applied in court “for an order that those who are looking after M could withdraw nourishment and medical treatment and allow her to die, [...] [suffering] the least distress and maintain as much dignity as possible.” (PA, “Judge imposes Twitter ban”). The super-injunction, given by High Court Judge Mr. Justice Baker,” is thought to be the first to place a specific ban on publishing information on any "social network or media including Twitter or Facebook", as well as in other media.” (PA, “Judge imposes Twitter ban”).

The focus shifted from the falsely accused celebrities Khan and Clarkson to professional footballer Ryan Giggs who plays for Manchester United. He had allegedly obtained a super-injunction against *The Sun* and former Big Brother (a reality TV series) contestant and glamour model Imogen Thomas in order to prevent an extramarital affair with Thomas from coming out. It was reported on 20 May that Giggs – at that time still referred to as “CTB” by the traditional media – issued legal actions against Twitter Inc.. Giggs and his team of lawyers “began the legal action at the high court in London on Wednesday, in what is thought to be the first action against the US social media firm and its users”(Halliday). Giggs was not only taking action against Twitter itself, but also users who breached the injunction. Response on Twitter came in an enormous surge of tweets and retweets naming Giggs and the contents of the injunction. *The Independent* reported 12,000 tweets within 24 hours of the legal actions (Smith). The disobedience did not stop. #superinjunctions became a trending topic with “at one point [tweets] were appearing at a rate of 17 a second” (Smith).

The *Scottish Herald* was the first newspaper to breach the injunction on Sunday 22 May by posting a picture of the Ryan Giggs, but the newspaper claimed that the injunction

was not valid in Scotland. Monday morning, *The Independent* mentioned 30,000 Twitterers possibly facing penalties for breaching the gagging order (Wright). By the end of the day, MP John Hemming mentioned more than 75,000 users had breached the injunction (SKyNews). As Hemming did this in Parliament, he ensured the press was free to write about it.

Popular press seems to have a closer relationship with Twitter users than the quality press. This can be connected to the shared interest of the readers of popular newspapers (such as *The Sun* and *The Daily Mail*) and Twitter users. The most popular themes of Twitter are related to entertainment and celebrities, according a study conducted in 2009 by Cheong. In 2010 Kim and his colleagues concluded from research that ‘entertainment’ is a popular topic on Twitter. Cheong puts celebrities in the category of entertainment (5), which provides almost a third of the Trending Topics researched (7). Kim made a list of the top 20 of lists that people use in Twitter. A search list is a feature available to Twitter users to organize other users into groups. Each user can make up to 20 lists, filed under the tab ‘lists’ at their personal homepage. It is not necessary to follow the users that are put in a list. (“How To Use Twitter Lists”). On the third place of Kim’s top 20 is ‘celeb’; ‘celebrities’ is good for a sixth place (2). From these results, it seems reasonable to conclude that Twitter users take an interest in what is going on in the lives of celebrities.

Entertainment news and news on celebrities seem to play an important role in popular newspapers in Britain. Martin Conboy writes in *Tabloid Britain: constructing a community through language* (published in 2006) that the tabloid press uses celebrity content intertextual and use it to “enhance as many stories as they can” (193). The stories apparently appeal to a younger audience who are “eager for news with a distinct television and popular culture agenda and a focus on celebrity” (Conboy, 9). There may very likely be a relationship between this audience and the Twitter user. The typical Twitter user would be in the category 18 to 29 years of age or is between 30 and 39 years old. The first group is estimated to be 41.5

percent, the second is supposed to make up for 42.3 percent in a research published in 2011 by Ad Age (Carmichael). It is also interesting to note that female Tweeters are a majority (approximately 54 percent of all Twitter users). The younger age group Conboy refers to is likely to have reached their late twenties or early thirties by now. The popular press still appeals to readers who wish to know about celebrities' sex life. Taking this into account, it seems reasonable to assume this group of Twitter users would be interested in reading popular newspapers, but it does also mean that the popular newspapers try to keep up with what Twitter users talk about.

There seems to be a general consensus on Twitter that it is unfair for the rich and famous to cover up their missteps just because of their wealth. This position is shared by the popular press, which distributes its opinion in leaders and news articles alike. On 10 May 2011, *The Sun*'s leader "Writ twits" starts with "HOW appropriate that stars who behave like twits should be exposed on Twitter." On 21 May the newspaper published an article in the 'news' section on their website. It said: "[...] celebrities' bids to hide sleazy behaviour by paying high-powered lawyers to gag the media. Barristers were anticipating another payday from the ace last night as he launched his attack on Twitter." (Parker).

The quality papers discussed Twitter and super-injunctions too, though they approached the matter from another perspective. Mark Steel, in his column of 11 May in *The Independent*, lashes out at the popular press: "You can understand why some tabloid newspapers are upset about these super-injunctions." (Steel). Other columnists are of the opinion that British law has been influenced by "Eurojudges" too much (Robertson). A Leader argues that "the law does need to keep up with the change in the manner in which the public consume information if our defamation laws are not to become toothless." ("Leading article: We need to find our way to a new balance of liberties").

The discussion about injunctions involved both Twitter and the newspapers. The printed press did not remain silent. After they were enabled to write about specifics in the case (after MP John Hemming named Premier League footballer Ryan Giggs in Parliament on 23 May 2011), *The Guardian*, *The Sun* and *The Daily Star* printed and posted editorials. *The Independent* refrained from publishing another editorial; it had already published a leader on 21 May in relation to the presentation of the report on super-injunctions by the committee of senior judges the day before. The paper was somewhat positive about the conclusions of the report as there was “acknowledgement that courts had dispensed injunctions too liberally in recent years” and “the frequent reaffirmation of the principles of open justice and free speech.” *The Independent* does not provide the reader with a definition of super-injunctions. On 25 May, however, the newspaper published an article which does mention “anonymised injunctions” but does not explain the difference with super-injunction (Milmo). In its editorial of 21 May, *The Independent* criticizes judges for being out of touch with reality. “[T]heir solution, which only emerged from the presentation, was a combination of hand-wringing about the new media being out of control, [...] and the assumption that the impact of newspaper front-pages far outweighs that of disclosures on Twitter.” Throughout the article *The Independent* conveys the view that there is no guarantee that freedom of press will improve after this report and the suggestions made by the committee. The committee, it says, “ignore[s] the glaring disparity between the penalties applied to the old media and impunity for the new [...]”.

The Guardian strikes another cord in its editorial of 24 May. It sees John Hemming’s action as “plain frivolous” because “Mr Justice Eady’s ruling can hardly be viewed as completely irrational.” This in light of the Human Rights Act, which requires courts “to weigh up privacy and freedom of expression as embodied in articles 8 and 10 of the [Human Rights Act].” (“Privacy: the high politics of low gossip”). *The Guardian*’s concludes that “the mere

fact of publication on Twitter cannot be an excuse for releasing the press from the internet's "unfair" advantage." *The Guardian* thinks a general agreement on what is public interest is necessary and refers to the Press Complaints Commission code for it. By favoring self-regulation over a system where the press should be free to write about anything posted on Twitter, *The Guardian* emphasizes the difference between the 'new' media and the old, and places responsibility with the press itself which "is what raises it above the law of the jungle that supposedly exists on the web."

The tone of the popular press could not be more different. *The Sun* entitles its editorial "Freedom Wins". As is to be expected, the voice of the quality papers is far more nuanced than that of the popular press. *The Sun* refers to injunctions in terms of: "growing threat[s] [...] to free speech" and "sinister", Giggs is "laughing stock". *The Sun's* editorial reads that MPs are "alarmed by the growing threat from the courts to free speech". It further emphasizes the uselessness of injunctions which are "a weapon of protection for the rich and powerful, [and] useless in the age of Twitter and Facebook". Court injunctions are "sinister, allowing the wealthy to buy silence about their misdeeds." Judges are "on the wrong side of public opinion", but *The Sun* celebrates and says about the naming of Giggs in Parliament: "this is good news for the public." *The Sun* aligns itself with Twitter users by condemning the use of injunctions. There is no call for further discussion. Instead, *The Sun* concludes: "Anyone thinking of taking out a gagging order now knows what to expect."

The Daily Star's editorial of 24 May 2011 agrees with *The Sun*, but takes it a step further, and says that "Twitter users have ended up as heroes for freedom of speech." *The Daily Star* blows up the affair and calls it "the worst secret in Britain". Its choice of words does, however, create a tone that can be compared to that of *The Sun*. The Giggs scandal is a "farce", and injunctions are "an embarrassment". Judges should have "done the right thing." The difference with *The Sun* is that *The Daily Star* does not criticize injunctions for what they

are. The editorial SECRET IS FINALLY OUT ends with “[t]he question now is who will be next to be named?” It apparently assumes injunctions have no use anymore and will be revealed one way or another.

The press and Twitter have a symbiotic relationship, and one often repeats what the other says. Twitter users seem to have the power to help define the news. Though their relationship is symbiotic, Twitter and the printed press have their differences too, which were illustrated by the 2011 injunctions scandal. The editorials of the quality papers and the popular press discussed above, illustrate a clear division in their opinion of Twitter and injunctions. The popular press proclaim Twitter users “heroes” (“SECRET IS FINALLY OUT”) and heavily criticize injunctions. They seem to align with Twitter users, and define their opinion as that of “the public,” perhaps in the hope of attracting tweeters as their readers. By doing so, they present themselves as representing the voice of the people, which gives their opinions (editorials) more significance. In contrast to the popular papers, the quality press looks at the discussion from above, and places it in a wider context of new media versus printed press. Their condescending tone shows that they assign new media a lower status in terms of reliability and accurate content, thus revealing their distrust towards citizen journalism. The quality press’s involvement with Twitter is reluctant, but they are compelled to engage.

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Attachments

1. *The Independent*: Leading Article: Judges and media still move to different beats
2. *The Guardian*: Privacy: the high politics of low gossip
3. *The Sun*: The Sun says: Freedom Wins
4. *The Daily Star*: The Daily Star says: SECRET IS FINALLY OUT
5. *The Sunday Times*: We didn't have an affair – and that's all you need to be told
6. Billy Jones @InjunctionSuper (screenprint, 17 May).
7. *The Sun*: image of @InjunctionSuper account (screenprint, 17 May).

The Independent

Leading article: Judges and media still move to different beats

Saturday, 21 May 2011

It was pure coincidence that the committee of senior judges set up a year ago to consider the use of super-injunctions should have delivered its report amid a new hue and cry about the practice. But the timing could not have been more opportune.

Only the day before, a question in the House of Lords had led to the partial lifting of a super-injunction granted to Sir Fred Goodwin, former chief executive of the Royal Bank of Scotland, and the disclosure that he had sought to conceal an alleged affair.

How successfully the judges grappled with the issues in hand, however, is another matter. Certainly, there was a welcome acknowledgement that courts had dispensed injunctions too liberally in recent years – and that included super-injunctions, whose very existence must remain secret. Equally welcome was the frequent reaffirmation of the principles of open justice and free speech. The judges found there had been "justifiable concern" that a form of "permanent secret justice" had begun to develop.

Beyond that, however, the tenor of the report was that the tide had turned, mistakes had already been corrected, and practice had already changed. Super-injunctions, it stated, "can only be granted when they are strictly necessary; they cannot be granted so as to become in practice permanent". The judges suggested the turning-point had been the successful challenge to the super-injunction taken out by the footballer John Terry in an effort to conceal allegations of an affair with a team-mate's girlfriend. They revealed that since then, January 2010, only two super-injunctions had been granted, neither of which was still in force. They said there were now many fewer applications or such injunctions.

The judges' overall message seemed to be that the public and the media had no need to worry further; freedom of speech was amply protected, and any judicial excesses on the super-injunction front had been rooted out. The single change they proposed was to give media organisations advance notice of applications for injunctions as a matter of course, so that they could contest them – but not necessarily report them. And they added, in a worryingly elastic caveat, that a judge could also decide not to alert the media in exceptional circumstances. So even if the recommendation were to be accepted, its usefulness would hardly be guaranteed.

An air of complacency implied that the matter was dealt with. Yet at least two big issues remain unresolved. The first – whether personal privacy is over- or under-protected – the judges batted back to Parliament, saying it was up to MPs to decide whether to legislate further, which is fair enough. But on the other – the impact of the internet and social media – the judges seemed supremely high-minded or blissfully out of touch.

Their solution, which only emerged from the presentation, was a combination of hand-wringing about the new media being out of control, calls for a crackdown equivalent to that

against internet pornography, and the assumption – flattering to the press, but probably out of date – that the impact of newspaper front-pages far outweighs that of disclosures on Twitter. Thus did they ignore the glaring disparity between the penalties applied to the old media and impunity for the new, and a dilemma which is not going away.

Privacy: the high politics of low gossip

Who could have predicted a constitutional crisis between parliament and courts provoked by a footballer

Editorial

[The Guardian](#), Tuesday 24 May 2011

Who, even a week ago, could have predicted a constitutional crisis between parliament and courts provoked by a footballer who played away? Within an hour of a judge refusing to lift an injunction barring the naming of the sportsman at the heart of an anonymous privacy injunction, a Liberal Democrat backbencher, [John Hemming, stood up in the Commons chamber yesterday and named Manchester United's Ryan Giggs](#) as the mystery claimant. Then, last night, the high court refused to overturn the now undermined injunction.

The case is, on the face of it, not a terribly attractive one for arguing either the cause of freedom of speech or for the supremacy of parliament. According to the original [judgment](#), the matter involved a strong suggestion of blackmail by the former Big Brother star, Imogen Thomas, who had been trying to persuade Giggs to pay her to keep quiet about a relationship the two were alleged to have had. Ms Thomas had engaged the publicist Max Clifford to sell her story. In March Ms Thomas arranged a meeting in a hotel – very likely a "setup" so that photos could be taken – and demanded £50,000. When Giggs agreed to pay some cash, the silence money doubled to £100,000. This is hardly the stuff of Wilkes, Paine or Cobbett.

Some will disagree with the judge's decision to grant Giggs an injunction, but Mr Justice Eady's ruling can hardly be viewed as completely irrational. He was doing what parliament had asked the courts to do when it passed the Human Rights Act: to weigh up privacy and freedom of expression as embodied in articles 8 and 10 of the HRA. As required by section 12 of the act (at the urging of the press itself), judges must pay special regard to the media's own codes of conduct. The Press Complaints Commission's code guarantees exactly the same rights to privacy as the European convention and the HRA, unless there is a clear public interest in intrusion. The "public interest" includes the exposure of crime or misdemeanours. It's not obvious that an errant footballer clears that hurdle. So Mr Hemming's decision to pitch parliamentary privilege against the courts over this of all cases looks plain frivolous.

His justification was that a large number of users on Twitter had taken it upon themselves to "out" Giggs after his legal team was ill-advised enough to threaten to gag Twitter itself. This led to the apparently absurd situation whereby the press was "unfairly" unable to report something that had been widely published on the web. But this, with the growth of social media and the ability of anyone to publish on to the web, is bound to become more commonplace. People will take it on themselves to flout perfectly reasonable contempt rules (who in their right mind would want to prejudice the upcoming trial of Stephen Lawrence's alleged murderers?). Others have very strong views on the strict rules about reporting the family courts. What if some people on Twitter decided to name rape victims, or publish the current identity and whereabouts of Mary Bell, the child killer who has, since 2003, been protected by a court order? There must be some agreed idea of the public interest – such as exists in the PCC code. The mere fact of publication on Twitter can't be an excuse for releasing the press from the internet's "unfair" advantage. Indeed, the press generally

celebrates the code of practice that lies at the heart of self-regulation. That, it argues, is what raises it above the law of the jungle that supposedly exists on the web. To argue that the press must now be free to publish anything on Twitter places self-regulation itself in some peril.

The attorney general, Dominic Grieve, brought a measure of calm good sense to the affair by announcing a joint committee to investigate all the issues raised by privacy injunctions. A period in the long grass may be a good idea to allow some sense of perspective to return to the debate.

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Sun Says

Freedom wins

RYAN Giggs. Two small words, one massive muddle.

The Sun can today reveal the Manchester United star as the Premiership footballer at the centre of the Twitter storm.

We can do this because MP John Hemming named Giggs in the House of Commons, and the media are allowed by law to report everything said there.

The Giggs shambles proves that court injunctions, as a weapon of protection for the rich and powerful, are useless in the age of Twitter and Facebook.

MPs, alarmed by the growing threat from the courts to free speech, are also showing themselves willing to name names.

And the Prime Minister yesterday showed welcome support for the Press, declaring it was "unsustainable" for papers to be unable to print something everyone was talking about.

All this is good news for the public. Injunctions are sinister, allowing the wealthy to buy silence about their misdeeds.

It was appalling that the public were kept in the dark for so long about Sir Fred Goodwin, the disgraced Royal Bank of Scotland boss whose follies continue to cost taxpayers billions.

The naming of Giggs has changed the legal landscape.

Our judges look out of touch and on the wrong side of public opinion.

The footballer himself is a laughing stock after paying a fortune in legal fees (and after the advice he has received he should demand his money back).

Anyone thinking of taking out a gagging order now knows what to expect.

The Daily Star says

SECRET IS FINALLY OUT

“People power has shone through and Twitter users have ended up as heroes for freedom of speech.”

24th May 2011

FINALLY the farce is over and the worst secret in Britain is out.

After threatening to sue Twitter for naming him, Ryan Giggs was finally unmasked by MP John Hemming in the House of Commons.

It brings an end to a saga that was an embarrassment for the British legal system, not to mention Giggs himself.

Even David Cameron admitted the system was “unfair” before Mr Hemming finally publicly said what everyone already knew.

Some critics in the legal world are criticising the Lib Dem for abusing his Parliamentary privilege.

But he would never have been in that position if judges had done the right thing and lifted the injunction earlier.

People power has shone through and Twitter users have ended up as heroes for freedom of speech.

The question now is who will be next to be named?

Rest assured there will be many other footballers who don't sleep too well tonight.

NEWS

We didn't have an affair – and that's all you need to be told

Two of the people who have been at the centre of a super-injunction storm talk of privacy and guarding it in the age of social media

Jeremy Clarkson and Jemima Khan Published: 15 May 2011



The press should not be free to screw up the lives of my children. That's why I'm pro-injunction

It had been a fairly normal day. Woke up, rowed with the kids, spoke to my mother about yet another operation she needs, made breakfast for a 10-year-old Japanese girl who's come to stay. In the afternoon I faced up to the fact that Top Gear is being sued for libel and malicious falsehood, dealt with the fallout from recent tabloid allegations that I'd fed a pretty blonde some lettuce and at around midnight settled down to write some newspaper columns. Then my phone exploded.

Someone on Twitter had claimed that Jemima Khan had taken out a super-injunction to prevent intimate photographs of us being published. Jeremy and Jemima? Presumably the claimant has some kind of Chitty Chitty Bang Bang fixation.

Now if you are going to be romantically linked with anyone, then I'd rather it was Jemima Khan than, say, Huw Edwards. But, even though I hate doing this, I'm duty-bound to say that the claim is incorrect. Although I know Jemima quite well — my wife and I had been round for dinner with her the night before — we have never been alone together. There are no intimate photographs. The end.

Naturally, Jemima was very upset. Rather too upset, I thought. She tweeted to say she was “in a bloody nightmare”. She found the very notion of being intimate with me “upsetting”. After a while I began to think, “All right, love. Steady on.” I know I'm a bit fat and my hair's pubic and I have teeth the colour of plywood. But there's no need to tell the world you're feeling sick at the mere thought of being intimate with me.

At work, it got worse. My producer said the idea was comical. At this stage I began to get quite upset. If we look at Jemima's previous loves — Imran Khan and Hugh Grant — I fit right in there.

Slap bang between the two. In my mind.

And in the mind of The Daily Telegraph, too, because the next day it ran big pictures of us on its front page, saying that we hadn't had a fling. Which is the same as saying, "They bloody have, you know."

The Daily Star went further. "Top Gear Jezza in sex pics fury," screamed the front-page headline. It then said in tiny letters that the allegations were "false" and, in an editorial on page 6, that "it's all rubbish".

You don't see an editorial, though, when you're walking past a newsagent. My kids simply saw a story saying that I was caught up in a sex picture tangle. As their friends saw it too, they had a bad day.

If we look at Jemima's previous loves — Imran Khan and Hugh Grant — I fit right in there. Slap bang between the two So. Had I known about this story before midnight, would I have taken out an injunction to stop it appearing? To protect my children? Yes. In a heartbeat.

And that's a point everyone seems to be missing in the big debate about press freedom. Yes, we want a free press but we don't want a press that's free to wantonly screw up the lives of my children, or Jemima's, or yours.

I realise, of course, that injunctions, allied to Max Mosley's drive to make the papers reveal stories to victims in advance, will pretty much put the tabloid press out of business. They'd be reduced to printing pictures of a shark leaping out of the sea. Which is what the Mirror did on Tuesday.

Deciding which of these injunctions should be granted is tricky. What's personal and what's not? When does a private life stop and a public image begin?

According to Charlotte Harris, a media lawyer: "There has been a terrible mis-characterisation of the people involved." Apparently, 80% of injunctions go to the victims of blackmail, harassment and stalkers and those who suffer threats to their families. Only a tiny minority are given to footballers who have been in bed with a teenager.

So it's all very well saying that all injunctions should be overturned now, but if they were, it would be a charter for lunatics and blackmailers to do and say pretty well whatever took their fancy. Moira Stuart likes to smash up wheelchairs. The editor of The Daily Telegraph is at the centre of a paedophile ring. Just so long as the newspaper says the victim denies the allegations, it's all legal.

If newspapers were a bit more fair-minded, if people thought their side of the argument would be heard, instead of relegated to page 94, there would be no need for so many injunctions.

I am not a saint. And as I'm in the pay of the BBC — a publicly funded body — it might seem reasonable for newspapers to question some of my lifestyle choices. But they wouldn't question them. They'd demand that I be sacked. They'd say I'd sparked fury and work themselves into a frothing rage. That would alarm my family and that's why I try to keep my private life private. It's why I'm pro-injunction.

It is said only the rich and famous can afford a gagging order. But only the rich and famous ever need one. Others say that everything anyone at the BBC does should be published. What? Sophie Raworth's sexual fantasies? Pictures of Jeremy Paxman on the lavatory? Where do you draw the line?

I suppose we could start by drawing it just above the point where someone says on Twitter that Jeremy Clarkson and Jemima Khan have had an affair. And even though everyone knows it to be rubbish, it somehow becomes front-page news for two days.

http://www.thesundaytimes.co.uk/sto/news/uk_news/Tech/article626485.ece#next

Screenprint of the @InjunctionSuper account.

The screenshot displays the Twitter profile of @InjunctionSuper, a verified account. The profile header includes the name "Billy Jones" and the handle "@InjunctionSuper". The account statistics are: 6 Tweets, 3 Following, 115,751 Followers, and 271 Listed. The "Following" list shows three accounts. The main content area displays a list of tweets, all from the account, dated 8 May. Each tweet features a red egg icon and the hashtag #superinjunction. The tweets describe various celebrities and legal cases, including David Threlfall and Pauline McLynn, Jeremy Clarkson, Hugh Bonneville, Gordon Ramsay, David Schneider, and Ryan Giggs.

Profile Header:
twitter | Search | Home | Profile | Messages | Who To Follow | nelskev

Profile Info:
About @InjunctionSuper
6 Tweets | 3 Following | 115,751 Followers | 271 Listed

Following: 3

Tweets: Tweets | Favorites | Following | Followers | Lists

Tweet 1: **InjunctionSuper** Billy Jones
Two stars of the TV show Shameless, David Threlfall and Pauline McLynn (Libby Croker) had an affair. Both are married. #superinjunction
8 May

Tweet 2: **InjunctionSuper** Billy Jones
Jeremy Clarkson has an injunction preventing the publication or mention of intimate photographs of him and Jemima Khan. #superinjunction
8 May

Tweet 3: **InjunctionSuper** Billy Jones
British actor Hugh Bonneville paid £195 for the services of prostitute Helen Wood. Wood used a sex toy on Bonneville. #superinjunction
8 May

Tweet 4: **InjunctionSuper** Billy Jones
Gordon Ramsay sexually harassed a female employee and sacked a male chief executive for no reason, he is still owed wages. #superinjunction
8 May

Tweet 5: **InjunctionSuper** Billy Jones
British comedian/actor David Schneider is into BDSM and visits spanking establishments to engage in the whipping of women. #superinjunction
8 May

Tweet 6: **InjunctionSuper** Billy Jones
Footballer Ryan Giggs had an extramarital affair with Big Brother star Imogen Thomas which lasted for 7 months. #superinjunction
8 May

The Sun posted a picture of the account in the article “Twit hits the ban – Super-injunctions blown away by online frenzy ‘naming’ stars with sleazy secrets” (10 May 2011).

The screenshot shows a Twitter interface with a 'Follow' button at the top left and navigation tabs for 'Timeline', 'Favorites', 'Following', 'Followers', and 'Lists'. The timeline contains six tweets, each with a redacted profile picture and name. The tweets are as follows:

- Tweet 1: "Two stars of the [redacted] and [redacted] had an affair. [redacted] #superinjunction 8 May"
- Tweet 2: "Jeremy Clarkson has an injunction preventing the publication or mention of intimate photographs of him and Jemima Khan. #superinjunction 8 May"
- Tweet 3: "[redacted] actor [redacted] paid [redacted] for the services of prostitute Helen Wood. Wood [redacted] #superinjunction 8 May"
- Tweet 4: "[redacted] harassed a female employee and sacked a male chief executive for no reason, [redacted] #superinjunction 8 May"
- Tweet 5: "[redacted] comedian/actor [redacted] is into [redacted] #superinjunction 8 May"
- Tweet 6: "Footballer [redacted] had an [redacted] affair with Big Brother star Imogen Thomas which lasted for 7 months. #superinjunction 8 May"