

## **Response to the Judicial Office re “Cameras and live text-based communications in the Scottish Courts; a Consultation.”**

### **BACKGROUND**

Sky News, the UK's first dedicated 24-hour news channel, reaches around five million UK viewers a week. In addition its digital services including website and mobile applications have around 15 million unique visitors a month from Britain and around the world.

Sky News has been a vigorous and consistent campaigner for the introduction of cameras into courts for more than ten years, and we believe our efforts were particularly influential in persuading the Westminster government to take the first steps in lifting the prohibition on cameras in English and Welsh courts.

Sky's argument was set out by its Head of News, John Ryley in a speech in January 2010:

“If the legislature is to be subject to far greater scrutiny, so too must the judiciary, so the public can fairly judge the balance of responsibility between them.

“A coherent, and fair, judicial system is the keystone of a democratic system. Today, any member of the public has the right to walk into any court, any day, and see justice being done, but few have the time or the means to do so. There can be no logic for excluding the cameras from events which are already held in public. Nor, may I say, any public interest: the decline in public confidence in politics is perhaps only matched by the decline in confidence in the judiciary.

“The public wants to understand how a householder can be imprisoned for defending his family and his property. They want to know how a man can avoid jail for viewing child abuse on the Internet. They will certainly want to know if the CPS decides to prosecute a Parliamentarian over his expenses.

“Far from being the downfall of the judicial system, I believe exposure to public scrutiny could be its saviour, enabling the public to understand the constraints under which our judges operate - the complexities of many of the cases before them which are inevitably over-simplified in a 30 second news piece.”

### **THE CURRENT SITUATION**

Scotland has led the way in allowing cameras into Courtrooms, but the rules attached to the process make it unsuitable for contemporaneous reporting. Sky News believes that the use of video cameras in courtrooms should broadly be governed by the same laws and regulation which already apply to conventional reporting.

We believe that video cameras are simply a 21<sup>st</sup> century technological solution to court reporting and should be treated as such. Video coverage of courts is effectively an extension of the public gallery to allow those, who because of geography or lack of opportunity are unable to go to the court in person to see justice being done.

This approach does not disregard the impact on proceedings that cameras can have. However the experience of the Appeal Court, Supreme Court and inquiries (including Leveson) as well as that in Scotland has shown that, as far as we can tell, the presence of cameras has no detrimental effect on the administration of justice.

Nevertheless, we recognise that the prospect of being recorded on video might in certain circumstances have an impact, particularly on lay witnesses, and the utmost care must be taken to prevent the process of justice being affected.

That said, we believe that that the videoing of witnesses should not be ruled out. In particular, we believe there is a distinct difference between lay witnesses, and professional ones (for example police, forensic scientists and other experts). In most cases people in this category are used to appearing in public forums, and arguably it is also right their evidence should be subject to proper scrutiny.

There is another factor. Modern equipment means that cameras are quite small, and discreet, and can be partially concealed on bookcases, for example. Anecdotal evidence suggests that most participants in televised cases where these small cameras are in use quickly forget they are there.

#### **THE COURT OF APPEAL IN LONDON**

Apart from appeals against conviction, we are able to transmit appeal cases “as-live” with only a short delay. This makes the service useful for contemporaneous reporting.

The presumption is that all cases should be available for coverage, unless the presiding judge rules otherwise. The crucial aspect of the protocol governing the process is that ultimate control in the courtroom lies with the judge alone. However editorial control – what is covered and how it used lies with the media. There is a balance of responsibility where both sides have had to take a pragmatic view. For example, the media accepted certain wishes of the judiciary in terms of the positioning of cameras and framing of shots. We have also agreed which parts of the courtroom can and cannot be shown.

Sky News has played a key role in the installation of video cameras in the Court of Appeal. Our Head of Cameras George Davies designed the equipment which allows the Court Video Journalist to sit in the courtroom itself, within sight of the presiding judge so that if he or she asks for recording to stop there is not delay in implementing the instruction. The equipment has two delay mechanisms: one of 70 seconds which allows the presiding judge to prevent something being transmitting, and a shorter “expletive button” to prevent the transmission of anything which, though not a problem from a legal perspective, could contravene the broadcasting codes.

This experience has shown us that it is perfectly possible to provide video coverage of court proceedings while obeying directions from the judge. For example in one case, a number of people in the public gallery started applauding after judgment had been delivered. The judge immediately ruled that the applause should not broadcast, and the court video-journalist was able to excise them before they went out.

In addition the court video-journalist has on several occasions used the delay buttons to excise references which would have been either prejudicial or would have infringed the broadcasting codes.

We believe that we now have the expertise to apply the same technology in criminal trials, thus negating the risk of prejudice from as-live broadcasting.

### **A WAY FORWARD**

We note that in Scotland, cameras have been allowed to record, on one occasion, a judge's sentencing remarks for use by news organisations. We believe that live or as-live transmission of sentencing remarks could be the next step in the evolution of video in courtrooms. Sentencing remarks frequently give the public a much deeper understanding of the complexity of a case and the judge's rationale for imposing a particular sentence. Additionally, the reliability of the delay mechanism (as described above) should provide sufficient reassurance that any disturbance in court which the presiding judge did not want transmitted could be simply excised.

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