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# Annotation of Substantive Changes in the First Draft of Certificate of Incorporation of The National News Council

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ANNOTATION OF SUBSTANTIVE CHANGES IN THE FIRST DRAFT

Certificate of Incorporation

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Par. 1: "The National News Council" not only sounds better than Media Council but describes more accurately the Council's province: news produced by the national media, not so much the media themselves.

Par. 3: The charter should make specific reference to one aspect of the Council's grievance and reporting procedure not covered in earlier drafts, namely, the problems of newsmen's access to information.

Pars. 4 and 5: Because of their overriding importance to freedom of the press, two aspects of Council activity were reaffirmed in the charter: the Council will seek to defend newsman's privilege; it will have no means of coercion at its disposal.

By-Laws

Section 1: While the necessity of avoiding the pitfalls of self-perpetuation requires periodic and gradual turnover of the Council's membership, the importance of the chairman's role in establishing continuity, both in the internal functioning of the Council and in public awareness of its activity, suggests that he serve at least one full term. Inasmuch as the first annual meeting of the Council will take place within three months of its inception, the expiration of the first term of each class of members shall be deferred until the second, third, and fourth annual meetings.

It is important, too, to specify which persons affiliated with the principal nationwide suppliers of news would preclude membership on the Council.

Section 2: The dangers of self-perpetuation might best be avoided by limiting the maximum length of service on the Council to six years, three months. This would be provided by use of the term "including."

Section 3: The changes facilitate resignation by members who cannot -- or do not -- participate fully in the Council's activities. The clause, "effective at the pleasure of the Council," leaves some leeway for extenuating circumstances, but the burden of the proof is on the delinquent member to show cause.

Section 10: While the persuasiveness of Council findings depend upon adequate public and media representation, quorums are often difficult to obtain. Setting the quorum at five is sufficient to inhibit "rump" meetings while allowing the Council the necessary leeway to transact necessary business.

Section 18: For the sake of the symbolizing the public nature of the body, it may be appropriate to have the vice-chairman as well as the chairman selected from among the public members.

Sections 19-21: The executive director, secretary, treasurer and assistant treasurer are members of the staff, not the Council.

Sections 3, 32: The independence of the Council from the government is strengthened by barring official membership or funding.

Sections 34, 35: The changes permit greater flexibility in establishing the size of the committees.

Sections 43-44: The changes in the nominating procedure give equal weight to public and media preferences in the nomination of successor members while permitting outside participation to avoid self-perpetuation.

Section 45: A major innovation in the charter is the evaluation committee, which will allow review of the Council's performance in order to bring about improvement in its operations and to assure that the Council will not outlive its usefulness.

## Rules of Procedure Relating to Public Complaints

Par. 1: "The national news chains" has been added in brackets to permit the Council to hear complaints concerning organizations, such as Knight and Copley, which disseminate news on a national basis.

The last sentence has been included to allow the Council to deal with nationally disseminated columns and news analyses as well as stories in local media which may be versions of nationally disseminated stories or local stories which are picked up by a national supplier. "Editorial comment" is bracketed because it has been suggested that the Council not accept complaints concerning editorial material; "news commentary" has been included to permit the Council to hear complaints concerning nationally disseminated columns and analyses.

Par. 2: "Reporting of news" has been substituted for "presentation of news."

Par. 4: In the new draft, complaints must be filed with the committee within 90 days, instead of 180; however, the committee added language enabling the Council to extend the period upon show of good cause.

Par. 6: The committee may decline to hear a complaint if it is frivolous or unsubstantiated or if court or administrative action concerning the complaint is pending or in progress, and the complainant does not waive the right to bring court or administrative action.

Par. 8: Although the problem of the waiver may not be completely resolved, the complainant is still required to sign a waiver of his right to bring court or administrative action if the Council makes a decision on his case. The working committee must decide whether refusing cases pending before administrative agencies will exclude too many complaints which might otherwise come before the Council. Also included is the language "satisfactory to the committee," to allow some leeway

Par. 11: This section has been included to assure the media that the committee will not violate confidential sources and materials acquired in gathering news.

Par. 12: The section makes clear that the committee will not accept confidential information which might be subpoenaed.

Par. 13: This was added to stress the voluntary nature of all proceedings.

Par. 14: The committee will attempt to hear cases even when confidential sources are involved by seeking to get information from other than confidential sources.

Par. 17,20: Some procedures have been revised to bring them into line with the non-judicial nature of the Council. These include accepting evidence over the telephone or in writing and not insisting on legal rules of evidence.

Par. 19: In addition to permitting the parties to keep their own record of the proceedings, it may be advisable for the committee itself to maintain a transcript. While a transcript does add to the formality of the proceedings, it will give absent Council members the flavor of the exchanges, thus reducing the need to rehear a case when and if it is taken up by the entire Council.

Par. 21: The openness of the proceedings is important both symbolically and practically, since the Council's sole power is publicity. Witnesses should be prepared to state their piece for the cameras as well as for print journalists.

Par. 24: In addition to written reports of its findings issued to the parties and made public at the time of hearing, the Council should also reprint a summary of its findings in an annual report.

#### Rules of Procedure Relating to Media Complaints

A separate set of rules has been drawn up relating to complaints by individuals affiliated with news organizations against news organizations or other bodies, public or private, that attempt to restrict access to or dissemination of news.

The sections differ in only minor ways from the procedures on public complaints; however, the additional procedures would be too ungainly if included with first set of rules. An important question that these procedures raise is: Should media complaints be brought to the Grievance Committee or to the Committee on Freedom of the Press?