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Robert Maxwell's Expectations Gap: Regulation and Reputation in the British Communications Industry, 1981-91

During Robert Maxwell's turbulent lifetime, the world knew him as one of the most successful businessmen in Britain, presiding over a publishing and media empire in direct competition with that of Rupert Murdoch.

In 1991, Robert Maxwell died – at which point the world discovered that he was, in fact, far beyond bankrupt. As banks called in their huge loans, accountants found that his empire boasted £2 billion in debt. When he drowned, various auditors and authorities were close to catching him in an enormous fraud. Maxwell had stolen around £460 million from his employees' pension funds and committed extensive stock fraud in order to manipulate the share prices of his empire.

Accusations of fraud and mismanagement dogged Maxwell's career, but to little effect. Beginning with a single publishing house, he built a media empire. His rivalry with Rupert Murdoch – and perhaps his emotional state, which was notoriously volatile and competitive – drove him to expand at an unsustainable pace, which he supported with confidence trickery and enormous loans. His debts quickly outstripped his assets. Desperately scrambling to repay the loans, he turned to stock fraud and his employees' pension funds.

Still desperate for capital six months before his death, Maxwell floated his largest-ever venture – Mirror Group Newspapers – which successfully attracted £250 million in investment, despite the destitution of its parent company. Public autopsies concluded that the blame lay not just with Maxwell, but with advisers, regulators, and complicit financial institutions. Maxwell killed himself (though some still speculate he was murdered) shortly before a scheduled meeting that would have uncovered his fraud.

Maxwell did not leave his family destitute, but they no longer had immediate access to the lifestyle to which they had become accustomed. His sons continued working in the City of London. His daughter, Ghislaine Maxwell, continued to circulate in high society. Her crimes are now better known than her father's; she is famous for her work as Jeffrey Epstein's right-hand woman, procuring victims (often under-age) for Epstein's "prostitution ring" (something of a misnomer, as the term implies consent).

Both scandals implicated some of the most powerful figures of their day, and in both cases, those other players – and the regulatory system in which they operated – are likely to remain untouched.

Publisher, media proprietor, fraudster

Born in Czechoslovakia, originally named Ján Ludvík Hyman Binyamin Hoch, Robert Maxwell had quite a resumé. He was a war hero, a Labour MP, the chairman of Oxford United football team, an associate of world leaders, an alleged agent of Mossad, the KGB, and MI6, and a captain of industry. On his Wikipedia page, under "Occupation", it lists only three titles: publisher, media proprietor, and fraudster.

After distinguished service in the Second World War, Maxwell naturalised as a British citizen and leveraged his contacts in the Allied occupation authorities to become the British and US distributor

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for a scientific publisher. In 1951, he used his income to purchase a controlling stake in another minor publishing house, Butterworth-Springer, which he renamed Pergamon Press.

In 1971, investigators from the Department of Trade and Industry investigated Robert Maxwell's management of Pergamon. They found that Maxwell had been using transactions between his private family companies and Pergamon to artificially inflate Pergamon's share price. Their report was summed up in a single, damning sentence: "notwithstanding Mr Maxwell's acknowledged abilities and energy, he is not in our opinion a person who can be relied on to exercise proper stewardship of a publicly quoted company".[1]

It is a testament to these aforementioned abilities and energy that the condemnation of the DTI proved unable to sink the young publisher's career. Instead, his comeback was swift. Maxwell avoided criminal charges (the *Guardian* called him "the fortunate beneficiary of a laxer age in business regulation"), and in 1974 he reacquired Pergamon with borrowed money.[2]

Fig 1. Robert Maxwell

Maxwell settled into his role as an Oxfordian hometown hero. From 1964 to 1970 he was a Member of Parliament for the Labour Party. In 1982 he became the chairman of Oxford United, the local football team that flourished under his rule – his arrival saved the team from bankruptcy, and in 1985 they won the league. He lived in Headington Hill Hall, an Italianate mansion (that Maxwell actually rented from Oxford City Council – he dubbed it "the best council house in the country"). Maxwell was part of the zeitgeist: the Thatcher years were underway, and he exemplified the tough, free-market, pulled-up-by-his-own-bootstraps ideals of the era. Despite his affiliation with the Labour Party, he broke strikes and trade unions when they interfered with his business interests. Happy to accept him as a man of his era, the British establishment had largely forgiven his misadventures at Pergamon. Maxwell had recovered.

All things considered, this could have been the end of a quite successful career in politics and business. Of course, it was not. Maxwell was just getting started, and by the time he finished he would indelibly taint every part of his legacy. Why he chose to take the risk rather than retire is a mystery of psychology – but his need to continue led him to extraordinary highs, and a terminal low.

Figure 2: Headington Hill Hall, Maxwell's Oxford residence

In 1980, he obtained a controlling interest in the British Printing Corporation, via his flotilla of private companies. He quickly made it his own, assuming the role of chief executive and rechristening it Maxwell Communication Corporation. In 1984, through his privately-owned companies, Maxwell acquired Mirror Group Newspapers (MGN). This would be the venture that underpinned his later fraud, offering a guarantee of success and profitability. By adopting modern printing technology and loosening labour restrictions, MGN provided £300 million to Maxwell's privately-owned companies between 1984 and 1990. These profits drove his empire: they underpinned his purchases of scientific journals, record companies, publishing houses, newspapers, and television interests.

His empire grew unsustainably quickly, fuelled by Maxwell's insatiable ego and his rivalry with Murdoch: in 1988, Maxwell Communications Corporation borrowed $3 billion to acquire the American firms Macmillan Publishers and Official Airlines Guides. A few months later, his employees' pension funds began to lend shares as collateral for bank loans to his private companies.

Maxwell used these loans to aggressively expand his media empire – and to prop up his share prices in times of trouble. By 1989, bank loans to his private businesses neared £1 billion. Maxwell began to sell assets, but continued to acquire companies. In 1990, Maxwell began to manipulate MCC stock prices: through offshore companies he purchased £130 million in shares, and used the artificially inflated stock prices as collateral for yet more loans.

Friends in high places

Paradoxically, Maxwell used his unpayable loans to guarantee reputational capital. Though intuitively it may seem that enormous debts would not inspire confidence, the power and reputation of the banks willing to lend Maxwell money legitimised his position. Marshall Genger, the Daily News accountant, explained how that had helped to quell his concerns: "The Maxwells were running billion-dollar companies and had been advanced funds by some of the biggest names in world finance", he explained in an interview. "If they felt comfortable dealing with the Maxwells and advancing them hundreds of millions of dollars, then I didn't have much reason to doubt what they were telling me. They were the toast of the world."[3] If you didn't trust Maxwell, then surely you at least trusted his creditors.

That major institutions were willing to engage with Maxwell at all is suspicious. Especially in the context of a previous condemnation from the DTI, one might assume that some combination of financial caution and moral scruple would dissuade most City players. However, many of the "respectable" City institutions that lent their legitimacy were themselves engaging in practices that the DTI report went on to condemn.

Maxwell's cosy relationship with Goldman Sachs was likely to have comforted Marshall Genger – even though the investment bank committed stock fraud on Maxwell's instruction. The DTI later said that Goldman Sachs "bear a substantial responsibility in respect of the manipulation that occurred in the market".[4] Falsely interpreted as good-faith endorsements, Maxwell's cosy relationship with financial behemoths did much to assuage the fears of other investors – and helped create the expectations gap in MGN's flotation.

This was a common ploy from the publisher. Maxwell's offices were adorned with photographs of himself shaking hands and laughing with a dazzling array of world leaders. His public image was relentlessly curated, packaged, and disseminated through his own media empire. This was one of his favourite strategies, intended to dispel any doubts that might linger after his public tarnishing in 1971. Surely investors could trust that a friend of the Royal Family, the Israeli government, American presidents, and Russian premiers was in full possession of the wealth that he claimed. When Maxwell wished to impress this upon a visitor, he received them in his office with the photos behind him. They were not just talking to the publisher; they were talking to the global elite, who clearly had his back.

Investors may not have realised that Maxwell's high-society connections did not particularly enjoy his company. At the end of a lavish dinner at Headington Hill Hall, Lady Coutts bid Maxwell farewell in Swahili – a tongue with which even the multi-lingual Maxwell had no familiarity. "Goodbye," she said. "Thank you very much. I don't wish to see you again."[5] His low stock with the aristocracy hardly mattered, however: what was important was that his relationship, however shallow, with the ruling classes was chronicled, packaged, and propagandised. Similarly, despite their public endorsements, it certainly seems that few of the major institutions associated with Maxwell had much faith in his honesty. At most, they appeared to be willing to engage with him until the cheque cleared. Lloyd's loaned highs of £490 million to the empire, but did so as a calculated risk: not only did they insist on substantial collateral, but they also earned £4 million in loan fees in 1988 alone.[6]

The promise of high fees also tempted Samuel Montagu, the merchant bank that later assisted Maxwell with MGN's flotation. Other banks had declined to deal with the publisher, but Montagu was willing to oversee the flotation in exchange for £4 million in fees. More than that: they were willing to publicly endorse Maxwell's upright character and vouch for his total legitimacy. "We find him to be straight", insisted senior bankers. These bankers included Ian McIntosh, who had worked with Maxwell in the

Pergamon days, and who should presumably have known better.[7] McIntosh faced stern criticism in the DTI report: he had insisted that the flotation was "ring-fenced" from Maxwell, when in reality it had been "systematically raided to support his private concerns". Samuel Montagu's defence was that it had "trusted" the publisher.[8]

Similarly, the presence of Sir Michael Richardson as the stockbroker in charge of the flotation was a source of comfort to many. Richardson employed a financially-motivated "don't ask, don't tell" policy: his slightly Nuremberg-esque defence at trial was that his job "was to sell the shares. Nothing else enters the broker's life." He was implicated in the financial cover-ups that preceded the MGN flotation. Later, Richardson's access to information meant that he "could see Maxwell's impending doom and feared the… loss of earnings".[9] It was not just the broker: financial incentives compelled stakeholders to turn a blind eye when they might otherwise have been inclined to ask difficult questions. Maxwell paid handsomely, and was especially generous to those who might have been able to sink him.

One such beneficiary was Larry Trachtenberg, the American director and compliance officer at London Bishopsgate International (the company managing the pension fund). Trachtenberg erred close to blackmail when negotiating for a higher salary. He sent a memorandum to Maxwell in which he detailed the valuable work he did for the company, including in his transactions "stock loans which were ultimately used in cash generation exercises". Tom Bower called the line "a stark admission of the misuse of the funds". In recognition of his efforts, his salary was quickly increased to £200,000. He also received a 10% contribution towards his pension, a performance bonus of £100,000, a car, and the rent paid on a central London house costing approximately £78,000 per year.[10] Trachtenberg would eventually be acquitted of any wrongdoing relating to the misuse of pension funds.

Maxwell's reputational capital was sufficient currency when his debtors were comfortable. However, in 1990, the global economy went into decline, and Maxwell's house of cards began to tremble. The banks made a run on Maxwell. Suddenly alarmed by their own loss of income, lenders began to demand repayment – and in response, Maxwell doubled down. He directed that the company that managed his employees' pension funds should allow his private companies to lend the fund's shares to City institutions in return for a fee – which would have been above board, had Maxwell not instead used the shares as collateral to borrow ever-larger sums in order to continue supporting his empire.

In some cases, Maxwell sold the shares. Goldman Sachs, lender of money and of reputation, sold 25 million of them on Maxwell's instruction. They were clearly marked as being owned by the pension fund. The pension scheme lost £55 million, which landed in Maxwell's pocket. Kevin Maxwell, Robert's son and most trusted adviser, kept the pension fund's shares in his safe.

Information management

Despite procuring pension-owned shares for his father, when he was eventually faced trial for his part in the fraud, Kevin Maxwell was acquitted. His successful defence was that the extreme compartmentalisation and information control exerted by Robert obscured the illegality of what he was doing.

Though many doubted this defence, Robert Maxwell's control of the flow of information within his empire was compulsive. He compartmentalised his business to an atomic level. Accountants would receive lists of numbers to crunch that had been utterly stripped of context; communication between advisers was limited. Maxwell secured ownership of all of his companies in the Maxwell Foundation, an entity which he based in Liechtenstein and controlled only through a Swiss lawyer. Protected by Swiss secrecy, Maxwell was the only person in a position to fully understand his empire. Though the structure of his empire was complex, Maxwell treated his companies as a single entity, and as the DTI put it, "moved assets between them as best suited his overall interests" (see fig. 3).[11]

Despite the fluidity of Maxwell's assets, communication between his companies was restricted, and the structure was deliberately too opaque for lenders to appraise properly. The DTI report added that "the complex ownership and financial structure of his empire and the concealment of the use of pension funds made it difficult for banks to gain a clear picture of the financial strength of his empire".[12] It was deliberately opaque: Maxwell named twelve companies some variation on London and Bishopsgate. Many operated from the same premises, with the same staff.[13]

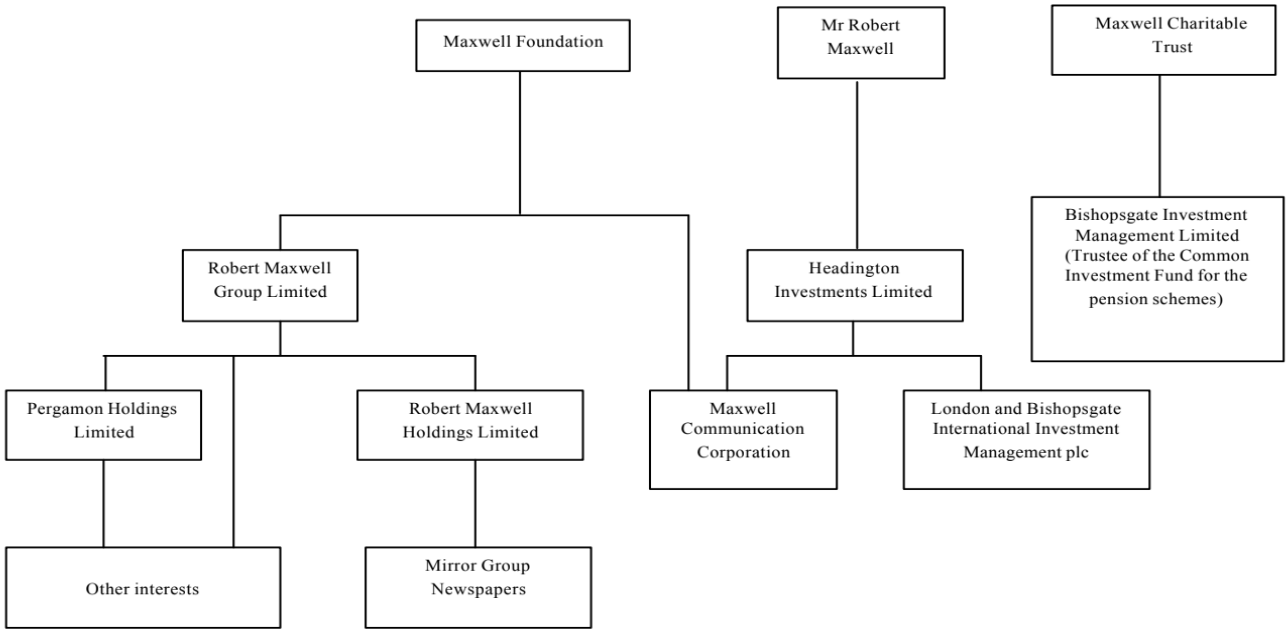

Figure 3: The structure of Maxwell's empire at the time of the MGN flotation *(DTI report)*

The opacity of Maxwell's empire was a false strength. It inspired confidence in his associates: the enormous wealth that the publisher used to support his business interests assured stakeholders that, even in times of vulnerability, his empire was secure. The fluidity and secrecy with which Maxwell moved assets around his empire obscured the reality of the situation: that is, that there was significantly less capital to fall back on than stakeholders and regulators believed. Maxwell was performing an artful trick by ensuring that whatever assets actually existed were exactly where they most needed to be visible at any given moment. Before Maxwell's death, perhaps only his son Kevin understood how precariously the empire stood.

In hindsight, the rationale behind Maxwell's compartmentalisation is obvious: according to Bower, at one point two advisers had a conversation in which they realised that, put together, their assignments added up to stock fraud. One allegedly said to the other, quite damningly: "We haven't had this conversation. I know my half. You know your half. Together we know too much."[14] These advisers recognised and relied upon the plausible deniability that compartmentalisation offered. The same plausible deniability was the foundation for Kevin Maxwell's successful defence in his criminal trial. Goldman Sachs used the same defence: the investment bank has consistently pointed the finger at the Maxwells as the sole bearers of responsibility for fraud. Kevin, for his part, has given talks in which he stated that Goldman Sachs enabled and were aware of the crimes being committed. The mudslinging fails to provide meaningful answers, but the DTI report concluded that there was wrongdoing on both sides. It is reasonable to suspect that the finger-pointing represents more use of the plausible deniability offered by Maxwell's closed business structures.

Though it is now obvious that his information security was a mechanism through which to commit fraud and protect his associates, at the time it was attributed to Maxwell's eccentricity. The mogul's jealousy and paranoia were infamous, reaching such heights that Maxwell tapped his advisers' phones and planted a secret recording device in his briefcase. Maxwell was certainly volatile, but frequently decisions were ascribed to his temper that might have been better attributed to his shrewdness. During the MGN flotation, one City analyst named Derek Terrington amused himself by issuing a circular within the City stockbroking firm UBS Phillips & Drew. The memo, which advised against investing in MGN, was acronymically titled "Can't Recommend A Purchase", or CRAP.[15] Maxwell flew into a rage, phoning the UBS offices and cancelling the services they offered to his empire.

The particular service that UBS happened to provide to Maxwell was the management and oversight of pension fund share investment, which then went unsupervised by external operators. The snap decision to sever ties with UBS was seen as in-character, a call attributed to Maxwell's wounded pride. Though impossible to know the publisher's motives in hindsight, it was likely to have been (at least partially) motivated by a desire to conceal his fraud.

As bankers' demands for repayment intensified, Maxwell's strategies became more desperate. He repaid £50 million to one, funnelling the money out of the publicly-owned Mirror Group Newspapers, via the

Daily News as a conduit. He also sold off more pension fund shares; both BIM and Maxwell owned shares in Scitex, but when they were sold Maxwell claimed to own them all. He pocketed £139 million from the transaction.

Regulating gentlemen

The saga of Robert Maxwell paints an alarming picture of the contemporary British regulatory system. There is no doubt that Maxwell was committing extraordinary fraud – however, the discovery of this fraud rested on the willingness of those in his orbit to notice and declare it. Of the eight key recommendations made by the DTI in their report, three explicitly suggest more stringent preventative regulation, and two recommend better guidance and enforcement on the regulation that already existed. The final recommendation notes that "regulation cannot entirely eliminate fraud, malpractice or manipulation". In this case, even the scantest regulation failed to mitigate these threats.

Impediments to fraud reporting from those directly involved with Maxwell included information control, financial incentivisation, charm offensives, and often outright bullying. Michael Moran's wrote in his book *The British Regulatory State* that "there developed in the Victorian era a distinctive City of London regulatory style: it rested on the internalisation of cultural norms and the exercise of subtle social controls, rather than the imposition of overt sanctions – still less on the imposition of legal sanctions".[16] This system was still the dominant mode of enforcement during Maxwell's reign: a paper from the British Society of Criminology dealing with the Maxwell scandal noted that "it seems that financial regulators function according to a presumption of trustworthiness".[17]

With its reliance on social norms and decency, the contemporary British regulatory system was particularly vulnerable to a character as dynamic as Maxwell; his willingness to gamble – and his outright corruption – were perfect foils for a system that assumed the innocence of those it was bound to regulate. The regulatory structure was, to fall back on stereotypes of national character, rather gentlemanly. It assumed self-regulation. It assumed moral fibre. It assumed various qualities that Maxwell lacked.

It also falsely assumed a perceptiveness and sense of civic duty on the part of the financial institutions in Maxwell's orbit. There were various problems with the notions that these parties would themselves identify and report fraud, not least amongst which was the fact that few of these institutions considered it to be their responsibility. When banks received as loan collateral shares that were owned by the pension fund, they did not waste time investigating the signatures of ownership. Their responsibility was to guarantee their loans against an asset of sufficient value, and they had done so.

Auditors, banks, directors, and advisers did not consider investigation to be within their job description. When the scale of Maxwell's fraud was discovered, all repeated the same excuse: they had trusted Maxwell. Their job was not to dig. They had no reason to believe anything was untoward, and they weren't inclined to go out of their way to discover that that wasn't the case. The total lack of transparency in Maxwell's business practices perfectly exploited the biggest vulnerabilities of the regulatory system.

And so when Coopers' auditor, in the process of constructing the MGN flotation, asked to see the accounts of the pension fund, Maxwell easily dissuaded him. "Nothing has changed in the pension funds", Maxwell assured the auditor. "We're in a hurry. Can we not base the prospectus on the [BIM] accounts you completed just weeks ago?" While the accounts had indeed been completed just weeks before, they were on the previous financial year – and much had, in fact, changed. Maxwell suggested that since the pension funds' financial year ended in March, and MGN's ended in December, wouldn't it be easier to simply bring both accounts in line in December? The auditor and bankers agreed – it would be easier. They delayed both the audit and the financial year, and Maxwell's fraud remained undetected a little longer.[18]

The monetary economist John Chown offered a suggestion as to how, exactly, none of the actors surrounding Maxwell raised any alarm with regards to his often-suspicious behaviour. Knowing that the reporting of fraud was part of the expected self-regulation of the City, he pointed out that City players with integrity would have taken notice of the red flags: "the City had many independent spirits and dedicated professionals," he wrote, "but they eschewed Maxwell almost as carefully as he avoided them".[19]

Chown's theory explains the saga of the First Tokyo Index Fund. Maxwell purchased 25% of First Tokyo, partially using pension fund shares. He then used shares from FTIF as collateral for bank loans to his privately-owned companies. When the board of directors eventually discovered the fraud in 1990, Maxwell bought their silence by offering to purchase FTIF. The Investment Management Regulatory Organisation, unusually, took an interest in Maxwell's activity. However, as Bower noted, "neither the IMRO officials nor Maxwell's employees were inquisitive or talkative".[20] They appeared at LBI's offices to investigate the event. Lord Donoughue, LBI's executive vice-chair who was threatening resignation but still in the process of negotiating the terms, decided against mentioning the unauthorised stock lending. IMRO's investigators did not pry.

The expectations gap and the MGN flotation

At the end of the summer of 1990, Maxwell's companies faced a crisis: creditors demanded that MCC repay part of its $3 billion in debt. In an effort to raise funds, Maxwell began an enormous flotation – he took Mirror Group Newspapers (MGN) public, selling 49% of the shares so that he could retain control. In an enormous publicity campaign, he attempted to convince investors that the 49% was worth £500 million. He received £250 million – an enormous sum considering that MGN's parent group was essentially bankrupt, but still an enormous blow to Maxwell's personal and public confidence. Maxwell spent £26 million, through offshore companies, on MGN shares to maintain the illusion of desirability. He illegally took £3 million from MCC to do so, and lied to the board of directors when the missing sum was discovered. Never one to do things by halves, he was still artificially supporting MCC's share prices: he spent £72 million on MCC shares, again through offshore entities.

The public autopsy into how exactly so much investment was attracted by such a problematic flotation has tended towards the "expectations gap" as an explanation. The expectation gap refers to the fact that, while the public and many stakeholders believe that auditors should be willing and able to do more to detect fraud, auditors argue that they are not able to, and should not be compelled to do so. The Caparo judgment of 1990 made auditors responsible only to the company as whole, rather than to shareholders or third parties. It removed any economic incentive to improve procedures or to be more aggressive in fraud detection, since they could not be held responsible for failures. The gap between public expectations of auditing services and what services auditors feel they should provide may account for a misplaced faith in financial institutions – and a subsequent loss of public confidence when auditing failures occur.

The presence (and the blessing) of auditors was used by Maxwell to increase confidence in his financial situation – once again purchasing legitimacy by proxy. The DTI report noted that Maxwell "appointed advisers of the highest reputation… for the purposes of the flotation", including Coopers & Lybrand Deloitte, Clifford Chance, Smith New Court plc, and Salomon Brothers International Ltd. A total of £9 million was paid to advisers.

Samuel Montagu alone received £4 million for the privilege of masterminding the flotation. The publisher also hired Linklaters and Paines, solicitors of great standing, to tackle the statutory compliance work. They produced reports that assured the public that the flotation prospectus was accurate, which it patently was not. DTI inspectors did not shy away from addressing how audit failure enabled Maxwell's fraud, concluding simultaneously that auditors "were closely involved with the directors… in preparing Mirror Group Newspapers for flotation" and that "Mirror Group Newspapers was not suitable for listing and the prospectus was materially inaccurate and misleading".[21]

Misleading or otherwise, the City found itself reassured, as much by the big names on the prospectus as by the big claims found within. Coopers in particular exemplified the expectations gap: Bower's investigations revealed that Coopers' auditor on the case, John Walsh, had "grounds to be suspicious". He had said himself that the pension scheme "looks too good" and was aware that pension fund money had been previously redirected into Maxwell's private companies, but concluded that the auditor's task was "not to ask questions".[22] Prospective investors may have believed that it was the duty of Coopers & Lybrand Deloitte to alert authorities to wrongdoing. The auditors evidently disagreed. There was also a clear conflict of interest at play: Coopers sold non-auditing services to Maxwell, and benefited from the income that his business provided.

Superiors informed auditing clerks sent to Maxwell's offices that their mission was to "give advice, not to investigate whether the directors were honest in their listing of the company's assets and debts".[23] The DTI report criticised the "limited financial review" of Maxwell's private companies at the time of flotation by Coopers and Lybrand Deloitte. Auditors failed to consider the borrowing of cash from the pension funds, or the use of pension fund shares as collateral for bank borrowing, even though "the practices in the pension funds… were known to Coopers and Lybrand Deloitte". The report pointed out that "although

Mirror Group Newspapers was meant to be a stand-alone company, its fortunes were inextricably linked to those of the private side whose bank borrowings remained at about £1 billion".

Maxwell employed these strategies to reduce the public expectation of fraud on the part of a known fraudster. To the same end, he ordered a simultaneous publicity campaign: radio, television, and newspaper advertisements, coupled with public appearances from the man in question. Flattering articles and large photographs appeared in the *Mirror* itself, while Maxwell jetted between the UK and the US conducting interviews and making presentations to analysts and investors. Maxwell went so far as to invent a story that British fund managers were desperately trying to buy up shares in New York, and his publicists scattered to spread this misinformation in British newspapers.[24]

Maxwell's campaign was compelling, but still failed to achieve the desired results. He hoped, strangely, for the vulnerable company to be valued at £1 billion. Instead, rather than his original goal of receiving £330 million for 26% of MGN, he received £230 million for 49%. This also meant personally assuming a proportion of the £500 million of debt secured against MGN as a private company.[25] In retrospect, the curiosity of the flotation is how exactly this much investment was attracted by a company with such debts and instability. At the time, the story was Maxwell's own expectations gap: how he had failed to attract the sums upon which he had gambled.

The DTI report's final recommendations included "avoiding an 'expectations gap' by making the public aware that regulation cannot entirely eliminate fraud, malpractice or manipulation of the markets". It also suggested that regulators do more to address the issues of auditor independence, "with a view to maintaining public confidence in the audit and discouraging a firm which provides audit services to a company from acting as reporting accountants on that company". The significance of audit failure was noted at length, but the report also noted that other financial bodies contributed to the expectations gap: in its final recommendations it pointed out the shortcomings of pension trustees, non-executive directors, and "companies who do not report fraud".

In the last sentence of its report, the DTI condenses the public expectations gap to a single issue: "the most important lesson from all the events is that high ethical and professional standards must always be put before commercial advantage. The reputation of the financial markets depends on it." The public – and particularly the pensioners whose retirements lay in Maxwell's hands – largely expected those standards to be followed. Instead, stakeholders were misled by auditors, banks, publicity campaigns, and the public charms of the Maxwells themselves. The expectations gap could reasonably be described as a chasm.

Justice in the City of London

On 5 November 1991, the night before Maxwell was due to meet with the Bank of England, he fell from his yacht and drowned. Conspiracy theorists have speculated ad infinitum with regard to the facts of his death: most claim suicide, but other theories include a Mossad assassination and an Elvis Presley-like whisking away from the public eye. His three autopsies found some inconsistencies, but his death was eventually ruled an accident. Regardless of his fate, in the publisher's sudden absence, attempts to untangle his finances led quickly to the discovery of his enormous fraud.

In total, investigators believed that Maxwell stole more than £1 billion. A complete itemisation of Maxwell's misdeeds would be far beyond the scope of this case. A fairly concise summary exists in the publicly available DTI report from 1996; it is 422 pages long. Where all the money came from, and where it wound up, are questions that have never been answered in full.

Kevin and Ian Maxwell, Larry Trachtenberg, and Robert Bunn (the financial director of RMG) stood trial for their part in the publisher's grand fraud. The court acquitted all four. After delaying publication until after trial, the authors of the DTI report concluded that they would "proceed in a manner that did not, and would not be seen to, call the acquittals into question". However, they erred as close to doing so as possible, pointing out that "conduct can be blameworthy without being criminal".

While the report apportioned the majority of the blame to Robert Maxwell, it concluded that Kevin also "bears a heavy responsibility". It went on to single out Coopers & Lybrand Deloitte and Goldman Sachs as complicit in the long saga of fraud and manipulation.

For his part, Tom Bower expressed what could be conservatively described as disappointment over both the trial and the DTI report. “The inspectors did not have the moral courage to expose the City of London’s lack of honesty,” he told the *Guardian*. “I think it is a cop-out… it shows that nothing has changed in the ten years since Maxwell died. Whitehall and the City are just as incompetent as they were back then.”[26]

Bower’s displeasure was understandable. During the period that Coopers was under investigation, Maxwell paid them £25 million in fees. The fines levied for culpability in this period totalled £1.2 million. Between its 600 partners, this worked out to £2,000 a partner.[27] Similarly, Goldman Sachs hardly faded into obscurity following the controversy: in 2018 it had a global net revenue of over $36 billion.

The largest regulatory impact of Maxwell’s crimes was on pension fund management. Before Maxwell, pensions had almost free rein in how they invested. Afterwards, the state tightened regulations: new rules stipulated that every pension should have enough to pay everyone out at all times, which effectively forbade riskier (and higher-yielding) investments. Instead, new regulations compelled pension funds to invest in bonds and gilts.

At the time, this made financial sense. In 1990, the yield on a 10-year treasury bond (the world’s most widely traded bond) was 8%; now it hovers around 2% (fig. 2). The change in ROI is a result of the simplest economic rule – supply and demand. Once purchase was compulsory, the incentive to offer strong returns on behalf of bond issuers disappeared.

Figure 4: 10-year treasury bond yields chart

In the end, the state punished Britain’s pensioners for Maxwell’s crimes – both at the time, and in the years since. Though they targeted pension funds, regulators did not tighten the regulations on City institutions or their bottom lines. Many felt that there was little point in introducing new regulations on financial bodies: after all, Maxwell’s misdeeds were already illegal, and as one City worker-turned-journalist pointed out in the *Telegraph*, “there can never be a rule against being cynical, greedy or amoral, or being driven by competitive urges to follow your rivals’ misjudgements”.

The only potential solution would have been to increase oversight and enforcement, and to that end, little changed. In 2001, the *Telegraph* asked Kevin Maxwell if history might repeat itself. “Sure, yes it could”, Maxwell the younger replied.[28]

One study published since focused on the anger felt by Maxwell’s pensioners. Forbidden by Maxwell to opt out of the payment plan, they felt that management had “coerced” them into believing that regulators would protect them from fraud. The embezzlement affected 30,000 pensioners, and the publicity surrounding Maxwell’s fraud and the regulators’ failure was enormous. “In the aftermath of the scandal,” the study noted, “many of the pensioners blamed the regulatory structure for failing to prevent the frauds that occurred.”[29] The study concluded that Maxwell’s fraud had seriously eroded public trust in financial institutions, including regulators and auditors.

Maxwell’s fraud was just one act in a series of white-collar criminal escapades that eroded public confidence in financial markets. As financial scandals have continued to frequent headlines, jeopardise pensions, and occasionally endanger the entire global economy, the general public’s faith in the decency of the City has continued to wane. Maxwell’s willingness to exploit the expectations gap has, if nothing else, caused it to narrow slightly.

Succession

In December 2021, a quarter of a century after her father’s suicide, Ghislaine Maxwell arrived at court arm in arm with her four siblings. Her highly public trial was underway. A few days later, the court found her guilty.


Figure 5: Robert and Ghislaine Maxwell at an Oxford United match, 1984

The press clamoured to ask how she had got away with it for so long. The question implied an accusation. Who knew? And why didn't they speak out?

They are legitimate questions, and they are questions that pundits asked about her father a short lifetime ago. Victims and onlookers raised alarms about both Maxwells at the time. Those who heard the accusations ignored them.

The reason is simple: it's an extension of the expectations gap. The general public might assume that it's a matter of public duty to pursue wrongdoing. Those who surrounded each generation of Maxwells felt – and acted – differently. All seemed to believe that it was someone else's job; and it is likely that all feared the reprisals that might follow any challenge. The Maxwells were powerful, and the constellation of powerful people with whom they surrounded themselves served as a reminder of that power.

Robert Maxwell was an individual, but could not have committed his crimes without the aid – or at least the polite oversight – of his peers. That calculated ignorance abetted his crimes, but also shattered public faith in the City of London and the bodies that govern it. Likewise, the proximity of Ghislaine Maxwell to power has undermined faith in the Royal Family, in the global political elite, and in the grand old institution of Hollywood.

The expectations gap is narrowing. Public faith in institutions to do the right thing is weakening. In the wake of the #MeToo movement, and in the face of growing public discontent with the political establishment, new questions are raised: how much lower can public faith in global institutions fall? And what consequences might that bring?

Endnotes

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[3] BBC documentary.
[4] DTI, *Mirror Group Newspapers*, p. 14.
[5] Barker, "Obituary: Robert Maxwell", *Guardian.*
[6] Tom Bower, *Maxwell: the Final Verdict* (London: HarperCollins, 1995), p. 133.
[7] Ibid, p. 119.
[8] Damian Reece, "Where are the others?" *Telegraph*, 1 April 2001.
[9] John Chown, "How he got away with it, again and again", *Times Literary Supplement*, 11 April 1995.
[10] Bower, *Maxwell*, p. 89.
[11] DTI, *Mirror Group Newspapers*, p. 7.
[12] Ibid, p. 8.
[13] Bower, *Maxwell*, p. 55.
[14] Ibid, p. 65.
[15] Ibid, p. 131.
[16] Michael Moran, *The British Regulatory State: High Modernism and Hyper-Innovation* (Oxford: Oxford University Press, 2003), p. 43.
[17] Basia Spalek, "White-Collar Crime Victims and the Issue of Trust", *British Criminology Conference: Selected Proceedings Vol. 4*, p. 3.
[18] Bower, *Maxwell*, p. 126.
[19] Chown, "How he got away with it".
[20] Bower, *Maxwell*, p. 191.
[21] DTI, *Mirror Group Newspapers*, p. 11.
[22] Bower, *Maxwell*, p. 122.
[23] Chown, "How he got away with it".
[24] Bower, *Maxwell*, p. 138.
[25] Ibid, p. 124
[26] Dan Milmo, "DTI Maxwell report 'lacks moral courage'", *Guardian*, 30 March 2001.
[27] Prem Sikka, "Maxwell Auditors and Self-Regulation: the verdict", University of Essex blog post published online at http://visar.csustan.edu/aaba/auditmaxwell.htm
[28] Martin Vander Weyer, "Why we in the City fell hook, line and sinker for Maxwell", *Telegraph*, 1 April 2001.
[29] Spalek, "White-Collar Crime Victims", pp. 2-3.