



Annual Report

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Chairman's Foreword

Ken McKinnon
Chairman



Professor Ken McKinnon
Chairman, Australian Press Council, 2000-2009

The comprehensive catalogue of activities and positive achievements set out in this Annual Report speaks for itself. The Council has been as productively busy in 2008-2009, as in previous years.

As I finish my term of nine years, I remain as I began a strong supporter of genuinely independent press self-regulation. Time and time again over the last nine years I have seen how well the mix of public, journalist and industry representation on the Press Council has enabled resolution of complaints fairly, for both complainants and newspapers.

Trends

This year as in the last few years the Council reports as the fight for survival of newspapers, whose death has been seen as imminent for some time, continues unabated. Australian circulation figures are holding up pretty well, though the same cannot be said for advertising revenue. In this period many American and some British newspapers have disappeared. There is still no room for complacency or confidence that a business model ensuring the future of newspapers has been found.

The Council is also reporting at a time when public culture makes life difficult for newspapers. The comments of the well-known British playwright David Hare, about his play *Gethsemane* currently playing at Sydney's Belvoir Theatre also apply at least to some extent in Australia. Hare sees current public life as cynical and degraded. "Anyone who takes part in public life is assumed to have corrupt motives. Politicians are openly disbelieved. Journalists are wholly mistrusted."

While journalists don't rate well in surveys, things are not getting worse. As the Council's statistical summary shows, there has been no major increase in complaints or matters brought to adjudication over previous years. Nor, despite public debate, has there been an increase in the low volume of complaints about intrusion of privacy under the federal *Privacy Act 1988*, administered for the print media by the Council. The most obvious difference from previous years has been the substantial increase in unsuccessful complainants seeking a review of a decision even when there are no new facts to be considered.

A more substantial concern relates to editorial standards, in the light of instances such as the 'Utegate' incident, which led to a barrage of media attacks from both broadsheets and tabloids on the Prime Minister on the basis of a single unchecked, forged email; the publication of photographs wrongly claimed to be of Pauline Hanson in provocative semi-dressed poses; and the extensive media splash made of NSW Minister Della Bosca's infidelity.

Neither of the first two instances had a basis in fact. The claims made by the newspapers fell short of the standards of probity expected of them. Ethics demand that the press make sufficient enquiries to ensure that what they publish is accurate, fair and balanced. This

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Chairman's Foreword

Enactment of Freedom of Information laws in Queensland and New South Wales has constituted a major step forward. The first legislative step toward the same goal has also been taken at the Commonwealth level. Tasmania has foreshadowed action.

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usually involves checking the facts with more than one source. Regrettably, Press Council research has shown that Australian newspapers rely far too frequently on a single source for a story, and do so more often than is the case in comparable countries.

The second and third instances bring privacy issues to the fore, in particular whether there is a genuine public interest in the publication of the matter, as distinct from the public being entertained at the cost of the privacy of the individuals.

The Chairman of News Limited rightly says that the credibility of newspapers' content is the key to their prosperity; a review of the accountability of editors is desirable.

Policy issues

Turning to policy issues, the two most important have been legislation to improve the free flow of government information and the level of agitation for additional privacy legislation.

The core consideration is that the values involved in pursuing both are likely to bring them into head-on conflict. That conflict is not yet head-on does not mean the problem is any further away than around the corner. Contributing to working out a balanced position must remain an important Council priority.

Enactment of Freedom of Information laws in Queensland and New South Wales has constituted a major step forward. The first legislative step toward the same goal has also been taken at the Commonwealth level. Tasmania has foreshadowed action. Commonwealth and state initiatives have included excellent provisions for promoting changes in government culture and awareness. The momentum is good.

Conversely, the equivalent momentum for expansion of privacy law is a trend that requires more consideration. An Australian Law Reform Commission report made extensive proposals, including a recommendation to 'establish a cause of action' that would allow individuals to bring action when their privacy has been invaded. Equally, and a much more dangerous threat to the public's right to know, are the proposals put forward by the NSW Law Reform Commission that would give pretty well unrestricted power to judges to decide what constitutes an entitlement to privacy, what publication meets the public interest test, and what should be the amends, apology, financial recompense, or other punishment.

The draft NSW legislation's only reference to freedom of communication is the injunction to taking into account an undefined public interest. A workable outcome will be more likely if interested parties continue to have access to balanced advice from the Press Council, administering acceptable Privacy Standards.

A third issue has been the debates arising from Press Council 'reform' proposals developed by industry members. These major proposals envisaged a reduction in the size of the Council from 22 to 12 members, a cut in industry funding of the Council budget of over 30 per cent, and requirements that the Council should severely downgrade the standard of, perhaps even eliminate, its role in protecting press freedom, as required by its constitutional Objects.

On the last point, the industry view that the Right to Know campaign can replace the Council's work in providing independent submissions is obviously naïve. It is a proposition that has no wings. An industry consortium is never likely to be seen as making submissions essentially in the public interest. But the proposition, which ignores the Council Constitution, was used as another justification for the swingeing budget cut proposals.

In response to the membership part of the proposals, public members displayed impressive resolve. Despite there being nothing other than the satisfaction of genuine public service as the reward for membership, they mobilised to resist the proposed size reductions, being far from convinced that the Council could do its job well following such a drastic reduction. Ultimately they prevailed to the extent that the requisite two-thirds majority settled on a compromise of fifteen members on the reformed Council. Although that outcome was not what industry members envisaged it is a workable size and composition.

Council independence

The industry budget proposals made it clear that constitutional change to protect the Council's independence is essential to its public credibility.

The problem boils down to the fact that, when every penny for every activity depends on specific industry approval, funding authorities can easily use the veto to avoid potential embarrassment, ensuring no facts that might be inconvenient are collected. More dangerously from the point of view of the perceived independence of the Council, funding authorities are seen to be calling every shot.

For the Council, basically the cuts will prevent activities *required* by its Objects, including research that highlights qualitative issues. There is no mechanism to go beyond the industry's last offer, and no other sources of funds. Apart from some restrictions on the Council's activities, the cuts also forced the Council to resort to capacity-limiting part-time staffing, cuts in stipends, even cheaper hotels and lower expenses for Council members. Since public members already use advance economy fares, get minimal expenses, no allowances and give their time free of charge, cuts of the kind forced on the Council this year convey the wrong message about their worth and importance.

A guaranteed budget formula, or at the very least a reliable non-reducible budget base, is needed if the Council is to be genuinely independent. It would be easy to devise a suitable formula. It is certainly in the industry's interests as much as the public interest that the Press Council should continue to be, and be seen to be, robustly independent. Rupert Murdoch recognised this thirty years ago.

Conclusion

As in previous years, it is a pleasure to acknowledge with great appreciation and respect the contributions of all Council members. They bring energy, enthusiasm and a wide range of skills and wisdom to bear on Council activities.

Meetings are always lively and fun since the abiding interest in words that is a common characteristic of members means most of them believe themselves capable of irreverently improving or editing anyone else's prose. They are remarkably friendly and sociable colleagues.

I thank key staff members, Jack Herman, Deborah Kirkman and the now-departed (as a direct consequence of the budget cuts) Inez Ryan, who have been consistently helpful and committed colleagues.

All of the above considerations and the feeling of being involved in an important enterprise have made for a very satisfying Chairmanship.

I wish the incoming Chairman the same enjoyment and satisfaction in what is certainly a service to the public.

Ken McKinnon
Chairman
October 2009

... it is a pleasure to acknowledge with great appreciation and respect the contributions of all Council members. They bring energy, enthusiasm and a wide range of skills and wisdom to bear on Council activities.

Jack R Herman

Report on free speech issues

Australia has no constitutional protection for freedom of communication, although both the ACT and Victoria now have legislation guaranteeing human rights. In absence of an over-riding guarantee, any action taken by government, the courts or corporations can have an excessive impact on the ability of the press freely to report matters of public interest and concern.

Over the past decade there has been an apparent erosion of press freedom in Australia. Recent data suggest that the trend appears to have been halted in the past few years, if not ameliorated. According to *Freedom House*, in its 2009 report, Australia is now ranked 38th among the nations of the world in so far as press freedom is concerned (from 35 in 2008). *Reporters sans Frontieres* (in its 2008 list) ranks Australia in 28th place (staying in the same place as the previous year).

The Press Council's interest in free speech area arises from its Objects, which seek to promote freedom of speech through responsible and independent print media, and adherence to high journalistic and editorial standards by, among other things:

- keeping under review, and where appropriate, challenging political, legislative, commercial or other developments which may adversely affect the dissemination of information of public interest, and may consequently threaten the public's right to know;
- making representations to governments, public inquiries and other forums as appropriate on matters concerning freedom of speech and access to information; and
- undertaking research and consultation on developments in public policy affecting freedom of speech, and promoting public awareness of such issues.

In its previous Annual Reports, the Council published material about the current state of play in the issues about which it has made representations. In the 2006 *State of the News Print Media in Australia*, its 2007 *Supplement* and the 2008 *State of the News Print Media in Australia*, the Council has published detailed reports on the issues impacting on freedom of communication. All of that material is available from the Council's website.

This report concentrates solely on the Council's free speech activities in 2008-2009.

Milestone

The newly opened Museum of Australian Democracy housed in Old Parliament House has selected the formation of the Press Council as one of its 400 milestones in Australian democracy. At the exhibit, you'll find our logo there right amongst votes for women and the Eureka Stockade, commemorating the Council's work in promotion of freedom of speech, particularly through the development of the *Charter of Press Freedom*.

Government Restrictions

Internet "clean feed"

In December 2008, the Council wrote to Sen. Stephen Conroy, raising concerns it has with his proposal for mandatory internet filters. The Council is always concerned with the proposals that will allow unaccountable bureaucrats or secret processes to censor public access to knowledge. It is especially concerned with proposals that confer powers not subject to public scrutiny and challenge.

The current government proposal to impose mandatory internet filters has just such potential, including the possibility of extension to topics and areas that, unlike paedophilia, even if sensitive, ought not in a democratic society be censored in any way.

The present Classification system for literature already ventures too far in restricting the availability of print material. The Council would agree that, with exceptions like the banned books on euthanasia, it has not generally adversely impacted on the ability of the public to access information. With respect, that is not the point. The point is that it has been used in that way for euthanasia, and could be used again for any of a number of topics that should not be censored.

The newly opened Museum of Australian Democracy housed in Old Parliament House has selected the formation of the Press Council as one of its 400 milestones in Australian democracy.

As far as the internet is concerned, the Council points out that an ACMA internet censoring system already exists. The secret blacklist of sites compiled by ACMA under its power through Schedule 5 of the *Broadcasting Services Act* already takes secret processes for web censorship too far.

The proposals being tested under the ‘clean feed’ proposal go even further down the path of providing for unnecessary and obnoxious censorship: with a strong potential for banning legitimate access to information of public interest.

Both the proposed ‘opt-out’ (rather than an ‘opt-in’) mandatory restriction on all households and the power given to any government-appointed agency to determine a further, and even more restrictive, blacklist of banned sites are inappropriate. As with the current ACMA powers, there does not appear to be any way in which the justifications for banning decisions by such a body can be known, be made open to public scrutiny or review prior to implementation, or subject to subsequent recourse to the courts. The existing and proposed powers are too great for the bodies involved. The processes allow unfettered censorship.

Whereas the ACMA list is limited largely to sites that exploit children or foster paedophilia, the potential ‘clean feed’ list could go into very many more areas. The temptation for governments to ban sites as a means of appeasing ‘family’ parties that may want to limit access to information on assisted suicide, or independents who have an aversion to on-line gambling, or as a means of preventing access by interest groups to information about left-wing or right-wing ideas is obvious. History has again and again shown such temptations are often irresistible.

Most importantly, any such mandatory filtering would inevitably be a hit-and-miss proposition. Filters are not that good. There is a strong likelihood that innocent (or academic) sites will be unintentionally barred, while genuinely offensive material won’t be stopped. In any case, such material can and will pass on a person-to-person basis, outside the ambit of the mandatory filter.

None of the above even addresses the fairly conclusive view of experts that all operations via the internet will be slowed dramatically by the operations of the mandatory filter, to the detriment of those seeking to stream audio or video content, or to engage in e-commerce. Does the government really want to make the internet unusable?

The Council would not oppose the persuasive arguments for an opt-in system, where families with children will be able to restrict the availability of a suite of sites with unacceptable content. But the proposal to impose an opt-out system, coupled with a secret blacklist of banned sites, takes what could be a good idea into the realm of dangerous censorship, with strong potential to limit access to important information.

The Press Council urged Sen. Conroy not to proceed with the proposal in its present form.

Secrecy Law

In February 2009, the Press Council made a submission to the Australian Law Reform Commission in response to Issues Paper 34, *Review of Secrecy Laws*. The Executive Summary read:

- Any legislative provisions permitting or requiring information to be kept secret should be narrowly drafted so as to reduce the potential for material to be inappropriately classed as secret.
- Information should not be classed as secret unless its disclosure would be highly likely to result in significant harm to the public interest.
- Any legislative provisions permitting or requiring information to be kept secret should make it clear that open access is the default – access should not be denied unless confidentiality is absolutely necessary to protect some aspect of the public interest.
- Any legislation permitting or requiring information to be kept secret should include a preamble or objects clause that emphasises the importance of open government.
- Any legislation permitting or requiring information to be kept secret should include a provision making it an offence to class information as secret for an improper purpose.
- Mere embarrassment to the government, or to a public official, is not a proper purpose for denying access to information.
- It should be defined as improper to withhold information in order to hide maladministration –

Free speech issues
Gov’t restrictions

Both the proposed ‘opt-out’ (rather than an ‘opt-in’) mandatory restriction on all households and the power given to any government-appointed agency to determine a further, and even more restrictive, blacklist of banned sites are inappropriate.

Information should not be classed as secret unless its disclosure would be highly likely to result in significant harm to the public interest.

Free speech issues
Gov't restrictions

including corruption, dishonesty, incompetence, negligence, inefficiency, extravagance or waste, inaction, delay and unfairness.

- Legislation establishing criminal offences for unauthorised disclosure must be complemented by legislation that provides adequate protection for whistleblowers. To be adequate, such legislation must permit for the making of public interest disclosures to the media.
- Adequate protection for whistleblowers includes legislation protecting journalists from being forced to reveal confidential sources.
- Legislation establishing offences for making unauthorised disclosures must include adequate exemptions and defences. Such exemptions and defences should include provision for the making of public interest disclosures to the media.
- Where penalties are imposed for making unauthorised disclosures, they should be proportionate to the offence. It is not appropriate to impose criminal convictions where the information disclosed is merely trivial, where the offender had no malice and gained no benefit, or where there was no harm to the public interest or to any individual.
- The *Protective Security Manual* should be declassified and made publicly available.

The full submission has been posted to the Council's website and can be found at: http://www.presscouncil.org.au/pcsite/fop/fop_subs/secret.html

The commission has subsequently published Discussion Paper 74 in June 2009, to which the Council will respond in 2009-2010. The Discussion Paper noted that, in addition to common law offences, the commission had identified 507 secrecy provisions in 175 pieces of primary and subordinate federal legislation, including 358 distinct secrecy offences carrying a wide variety of criminal penalties.

The amendments you proposed and supported, together with the Legislative Council minor parties, do not stop the production of league tables nor their distribution through any number of media. What they do is single out newspapers and the print media for punishment for printing what other media can publish or broadcast.

School League Tables

Following the adoption of amendments to the NSW Education Act, which made it an offence for newspapers to publish certain data related to the comparative performances of schools, the Council wrote to the NSW Opposition Leader and to the Leader of The Greens in the NSW Parliament.

In your public statements of the last week or so, you have suggested that the amendments you pushed through on the Education legislation were all about whether there should be school league tables but they aren't really. And that concerns the Australian Press Council (<http://www.presscouncil.org.au>).

The amendments you proposed and supported, together with the Legislative Council minor parties, do not stop the production of league tables nor their distribution through any number of media. What they do is single out newspapers and the print media for punishment for printing what other media can publish or broadcast.

The Press Council believes that the freedom of the press is the freedom of the people to be informed on matters of public interest and concern. The Council had concerns when the federal government refused to release details of the impact of bracket creep on income tax rates or the take up of the first home-owners scheme. The excuse given by the then Treasurer was that the public might misunderstand the information when presented by the media.

That also seems to be the rationale for the amendments you proposed and supported. But, it seems to the Council, to be code for: we don't trust the public to be able to properly use information.

It also seems to conflict with the guarantee of free expression in matters related to political concerns that the High Court ruled unanimously was implied by the Constitution.

By proposing and supporting amendments that do not in fact forbid the construction of "simplistic" league tables and allow for such tables to be posted to the internet, broadcast on radio and television, printed in non-commercial publications, or even posted on billboards outside schools, you have not achieved your stated aim of stopping such simplistic league tables.

By threatening newspapers with fines of up to \$55,000, how is that anything other than a direct attack on the freedom of the press to report on matters of public interest and concern?

How can your party, which on other matters asserts a very liberal attitude to release of government information, support such a selective restriction on free speech?

The Press Council would urge you to support the withdrawal of the amendments and their replacement by legislation that actually achieves your stated aim, without unfairly targetting one section of the media, or the public's right to information.

Freedom of Information

During the years, there has been movement on FoI reform in several states and at the federal level.

In a press release on November 26, 2008 (see page 62), the Australian Press Council congratulated the Rudd government on the Bill for reform of FoI law introduced into the Senate that day. In particular, the Press Council is pleased to see that the Bill abolishes the power of Ministers to issue conclusive certificates that forestall the release of information without the need to explain why.

The Bill fulfils in part the government's undertakings to amend the laws and practices related to the availability of information. Journalists have become reluctant to use Freedom of Information requests on matters of public concern because of the costs involved, delays in provision, and the large number of exemptions that allow governments to minimise the release of material.

The Council noted Sen. John Faulkner's statement that further changes to the law will be introduced early next year and it looks forward to consulting with the Minister on those changes.

The Council added: "While today's legislative reform is a positive step towards open and accountable government, laws alone cannot make government information freely available to the public. In order to achieve openness it is necessary to address the culture that predominates in government departments and which acts to obstruct the release of information even where laws require that it be accessible. The challenge for the government will be to see that the policy of openness embodied in today's legislation is fully implemented and that the officers who have responsibility for overseeing FoI decisions are truly committed to the philosophy of open government."

Conclusive certificates

In December 2008, the Council sent a submission to the Australian Senate Finance and Public Administration Committee Inquiry into the *Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008*. The Executive Summary read:

The Australian Press Council congratulates the government on taking action to address problems with the system of Freedom of Information in Australia. The abolition of conclusive certificates will make a positive contribution to the development of open and accountable government.

However, the Press Council is of the view that the Bill does not go far enough towards improving access to government information. The Press Council urges the government to engage in a complete overhaul of the system of Freedom of Information in Australia, with particular emphasis on the reformulation of exemptions.

With specific reference to the *Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008*:

- Proposed subsection 7(2B): Wherever security issues are relevant to an freedom of information request, the decision-maker should be required to weigh the public interest in national security against the public interest in accountability and transparency, with specific regard to the documents being sought and the reason for which the application has been lodged, regardless of where the documents originated or by whom they are held.
- Proposed section 67: When exercising its power to stay the operation of an AAT decision granting access pending an appeal against that decision, a court should be required to apply a test similar to that which is applied to applications for injunctive relief, i.e. there must be reasonable prospect of the appeal succeeding in order for the stay to be imposed.

The full submission has been posted to the Council's website and can be found at: http://www.presscouncil.org.au/pcsite/fop/fop_subs/conclucert.html

Queensland FoI

On March 30, it made a submission to the Queensland government in response to the draft *Right to Information Bill* and associated legislation, the Executive Summary of which read:

The Australian Press Council congratulates the government of Queensland on its proposed reforms to Freedom of Information.

The Press Council supports the introduction of proactive disclosure.

The Press Council supports the narrowing of the scope of exemptions, particularly the narrowing of the Cabinet exemption.

The Press Council objects to the inclusion of blanket exemptions of certain agencies from the legislation.

Section 64 should be removed from the draft Right to Information Bill and applicants should have the right to seek review of amounts cited in charges estimate notices.

Free speech issues
FoI

In order to achieve openness it is necessary to address the culture that predominates in government departments and which acts to obstruct the release of information even where laws require that it be accessible.

... the Bill does not go far enough towards improving access to government information. The Press Council urges the government to engage in a complete overhaul of the system of Freedom of Information in Australia, with particular emphasis on the reformulation of exemptions.

Free speech issues
FoI

The legislation should provide for reductions or exemptions of fees where it is in the public interest that information be disclosed.
The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/qldfoi.html

Federal FoI

On May 14, it made a submission to the Department of Prime Minister and Cabinet in response to the draft *Freedom of Information Amendment (Reform) Bill* and the draft *Information Commissioner Bill 2009*, the Executive Summary of which read:

The Press Council endorses the principle that access to government information should be available to the public unless such access would be contrary to the public interest. However, the Press Council is of the view that this principle should apply to all government information rather than being restricted to specific classes of information.

The Australian Press Council endorses the proposed new objects clause to be inserted into the Freedom of Information Act 1982 and, in particular, the removal of any reference to exemptions from the objects clause.

The Australian Press Council supports the reduction of the length of restricted access for documents under the Archives Act, but is of the view that the periods of 30 years and 20 years respectively are still excessively long.

The Press Council endorses the principle that access to government information should be available to the public unless such access would be contrary to the public interest. However, the Press Council is of the view that this principle should apply to all government information rather than being restricted to specific classes of information.

The Press Council supports the notion that the exemption for Cabinet documents should be reformulated. However, the Press Council is of the view that the revised Cabinet exemption set down in the draft bill is still too restrictive. If there is no risk to the public interest from releasing material to the public, that material should be proactively published as soon as possible after the relevant meeting of Cabinet.

The "deliberative processes" exemption should be removed.

The "research" exemption should be removed.

The revised legislation should include a clause making it an offence to withhold information for an improper purpose.

The Press Council endorses the proposed insertion of a clause excluding certain factors from being taken into account in the application of the public interest test.

The Press Council endorses the inclusion of factors favouring disclosure into the amended legislation.

The Press Council endorses the proposed removal of initial application fees.

The Press Council endorses the proposed five hours of free decision-making time for requests by journalists.

The Press Council endorses the proposed appointment of an independent commissioner to oversee Freedom of Information.

The Press Council endorses the introduction of "proactive disclosure" mechanisms.

The Press Council endorses the proposal to extend Freedom of Information to contractors who provide services on behalf of the Commonwealth.

The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/fedfoi.html

The Council's Chair and Executive Secretary visited Canberra on May 15 to speak to officers of the Department of Prime Minister and Cabinet on the proposed federal FoI legislation, adding further detail to the submission made.

NSW FoI

On May 29, it made a submission to the NSW Department of Premier and Cabinet in response to the *Open Government Information Bill 2009* and related legislation, the Executive Summary of which read:

The Australian Press Council endorses the Bills' general thrust and, in particular:

- the abolition of ministerial certificates;
- the introduction of proactive disclosure mechanisms;
- the legislative presumption in favour of disclosure (part 2 div 1 clause 5);
- the draft Bills' emphasis on public interest considerations, and on recognisable harm, rather than on categories of exemption;
- the appointment of an independent Information Commissioner;
- the revised objects clause;
- the exclusion of embarrassment as reason for refusal;
- the introduction of offences for knowingly breaching the legislation, for influencing a knowing breach,

- and for the concealing or destruction of records;
- the narrowing of the Cabinet exemption; and
- the extension of open government to include state-owned corporations within its remit.

However, the Council expresses its strong concern with the inclusion of a “conclusive presumption of overriding public interest against disclosure” in respect of Cabinet documents and continues to have concerns with regard to the charging of a processing fee on an hourly basis.

The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/nswfoi.html

Constitutional Law

Unlike in the United States, the United Kingdom, the European Union, and in many other democratic countries, there is no national Bill of Rights in Australia nor any constitutional guarantee of freedoms in the federal or state constitutions or in any over-riding law. The Australian Capital Territory enacted the nation’s first Bill of Rights in the form of the *Human Rights Act 2004*. In 2006, Victoria passed into law the *Charter of Human Rights and Responsibilities Bill*. There has still been no equivalent action by other states or territories, nor by the federal government.

Charter of Rights

On May 29, it made a submission to the National Human Rights Consultation on the protection and promotion of human rights, the Executive Summary of which read:

The Australian Press Council believes that civil and political rights including, but not limited to, the freedom of expression, and of the press, should be protected preferably by Constitutional entrenchment. As the Consultation is precluded by its terms of reference from recommending constitutional entrenchment of rights, the Council would support the enactment of a statutory Bill or Charter of Rights that includes, but is not limited to, a protection of the freedom of expression and that its formulation be modeled on Article 19 of the International Covenant of Civil and Political Rights (ICCPR).

The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/bor.html

The Executive Secretary, together with the Policy Officer, participated in a community roundtable organised by the National Human Rights Consultation to consider a possible charter of rights for Australia.

Defamation

The Council kept an eye on developments in this area.

Privacy

In Australia, there is a federal *Privacy Law*, which largely deals with protection of the confidentiality of information on individuals held by government and by the private sector. There are also a myriad of federal, state and territory laws that regulate privacy protection, in areas such as telecommunications, surveillance, listening devices, health records, data matching, trespass, matters affecting children, adoption, sexual offences, juries, prisoners, security, and family law. But there is no common law or statutory cause of action for breach of privacy. Throughout the year there were judicial, legal and political activity in the area of privacy, apparently moving towards the development of such an action. Three separate Law Reform Commissions (Australia, NSW and Victoria) have conducted inquiries into aspects of privacy and two have suggested a cause of action for breach of privacy. The Australian Law Reform Commission’s May 2008 report, referred to in last year’s report, makes such a recommendation. In response to that report, the government has said that the introduction of such a law will occur in the second phase of its response to the report.

NSW Inquiry

The Australian Press Council Submission has made a submission to the NSW Law Reform Commission on its review of NSW privacy legislation.

Free speech issues
 Fol
 Constitutional Law
 Defamation
 Privacy

The Australian Press Council believes that civil and political rights including, but not limited to, the freedom of expression, and of the press, should be protected preferably by Constitutional entrenchment.

Free speech issues
 Privacy
 Sources

The Council addressed the question of the specific inclusion of photographs and images into the definition of personal information and said that this is likely to have unanticipated consequences that may impact significantly on the ability of the media to publish photographs of people.

The Council noted, and agreed with, proposal 3 of the consultation paper states that “New South Wales legislation should only apply to the handling of personal information by public sector agencies”, and that privacy in private sector organisations should be regulated by the Commonwealth *Privacy Act*. As a result, any reforms to the legislation will not adversely impact the media.

The commission’s consultation paper also called for uniformity of legislation across Australian jurisdictions. The Council sought clarification as to whether this meant that the commission proposed to leave the private sector to the federal Act or to recommend mirror legislation. If the latter were the case, the legislation needs to include a media/journalism exemption, such as that in the federal *Privacy Act*.

The Council addressed the question of the specific inclusion of photographs and images into the definition of personal information and said that this is likely to have unanticipated consequences that may impact significantly on the ability of the media to publish photographs of people. Even if any legislation were limited to public agencies, the right to reproduce images for public consumption may be compromised in the case of images held in photo libraries, such as the State Library’s.

While images of people may, in certain specific instances, constitute personal information that warrants protection, images of people in general should not be classed as personal. At present the legislation makes no mention of images, neither to exclude nor to specifically include them within the scope of personal information. The Council submitted that, if the legislation makes reference to images, any definitions be extremely narrow.

The full submission has been published on the Council’s website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/nswpriv.html

Surveillance, Victoria

On June 29, it made a submission to the Victorian Law Reform Commission in response to Consultation Paper No. 7, 2009: *Surveillance in Public Places*, the Executive Summary of which read:

The Australian Press Council is concerned that any regulatory mechanisms risk unintended consequences, including impeding the ability of the media to report on matters of public interest.

Any regulatory mechanisms that have the potential to impact on newsgathering activities should include a media exemption based on adherence to a voluntary code of conduct

Any legislative or regulatory mechanisms must include exemptions and defences designed to ensure press is free to report on matters of public interest.

The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/vic_surv.html

Protection of confidential sources

The Council has been lobbying the state, territory and federal Attorneys-General to ensure that there is a more workable protection for journalists who want to protect their confidential sources.

In December 2008, the Press Council wrote to all Attorneys-General, and their Shadows, about the protection of journalists’ confidential sources, a matter still before the Standing Committee of Attorneys-General. The Council continues to hold the view that the law should protect journalists who report well-founded but confidentially sourced information that authorities, or others, seek to keep from the public.

The Council remains concerned that the extant proposal for such a law is the current NSW *Evidence Act*, which it believes to be an ineffectual protection. The fact that groups as diverse as the NRMA and the NSW Law Society thought that the Act would provide insufficient protection for the identity of confidential sources is a clear indication that the NSW provision is insufficiently robust.

The Council is again writing to federal, state and territory Attorneys-General strongly advocating that an approach based on the 2006 New Zealand *Evidence Act* is more likely to achieve the desired result of protecting confidential sources in all but the most serious cases.

The existing NSW *Evidence Act* leaves open what might happen. It merely says that judges ‘may’ take into account the desirability of not calling professionals (in this case, journalists) to reveal sources. This leaves journalists vulnerable to legal fishing expeditions that may make them subject to contempt of court charges for failure to divulge sources, simply, in most cases, because the litigants are unwilling

The Council remains concerned that the extant proposal for such a law is the current NSW Evidence Act, which it believes to be an ineffectual protection.

to do the work to unmask the sources. In short, the relevant clause in NSW *Evidence Act* is no real protection at all.

It is the possibility that journalists will be jailed for doing their job in making information available to the public, and then abiding by their ethical responsibilities to protect the confidentiality of their sources, that most disturbs the Council. Such a possibility should disturb all those who believe that a free press is the best guarantee of a vibrant liberal democracy.

In a comparative democracy, in December, 2006, the New Zealand Parliament passed a new *Evidence Act* that in Section 64 made protection of sources the default position from which courts can only move, in the interests of justice, in the most dire of circumstances.

New Zealand felt the need to protect journalists from having to reveal confidential sources in most circumstances important enough to develop a better law. It has come up with a workable solution to the difficult task of isolating those few extreme occasions that should require journalists sources to be identified in court situations (e.g., *in extremis* murder or terrorism cases or to prevent miscarriage of justice for individuals). They have done so while establishing a default position that courts should not allow legal fishing expeditions just because particular authorities (or public figure litigants) are miffed that news the public has a right to know has been reported.

The Council believes that the New Zealand legislation provides a sound basis for a putative Australian shield law. The Council also notes that the New Zealand legislation has emerged since the most recent ALRC report on professional privilege.

The bottom line is that while legislation that protects the messengers (journalists) from being required to reveal sources in the courts is an essential element of our democracy, legislation based on the NSW model, and even the most recent proposals from the federal Attorney-General intended to tighten the federal law based on the NSW Act, will not do that job. It will be ineffective.

The Council has asked the Attorneys-General to revise the proposed uniform national shield proposals to, in fact, protect journalists and keep them out of jail.

Shield Laws

On April 9, it made a submission to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into the *Evidence Amendment (Journalists' Privilege) Bill 2009*, the Executive Summary of which read:

The Australian Press Council welcomes efforts to strengthen the protection for journalists whose ethics prevent them from disclosing the identities of their confidential sources of information.

To be an effective measure to protect journalists who refuse to disclose their confidential sources of information, legislation should include a rebuttable presumption that journalists cannot be compelled to do so.

The presumption should be rebuttable on presentation of evidence that the disclosure is in the public interest and that, in the circumstances, the public interest served by the disclosure outweighs the public interest in access to information that would be served by the non-disclosure of the confidential source of the information.

The proposed objects clause is an improvement but does not go far enough.

The Australian Press Council welcomes the strengthening of s126B(4) of the *Evidence Act*.

The Australian Press Council welcomes the inclusion of journalists within the scope of s126B(3) of the Act.

The Australian Press Council welcomes the removal of s126D of the *Evidence Act*.

Journalists' shield laws are only effective when combined with adequate whistleblower protection legislation.

The full submission has been posted to the website: http://www.presscouncil.org.au/pcs/site/fop/fop_subs/sources09.html

The Council Chair, Professor Ken McKinnon, appeared before the Committee by teleconference to add oral evidence to the written submission.

Queensland Crime and Misconduct Act

The Council expressed concern with the proposed amendments to the Act that would narrow the scope of the public interest immunity currently available to witnesses who appear before the Crime and Misconduct Commission. The public interest immunity provides the Commissioner with discretion to exempt witnesses from answering questions in certain circumstances. A letter was sent to the Queensland Premier requesting that the proposed amendment be reworded and that the legislation should include a right for journalists to refuse to disclose confidential sources.

Free speech issues
Sources

New Zealand ... has come up with a workable solution to the difficult task of isolating those few extreme occasions that should require journalists sources to be identified in court situations ... They have done so while establishing a default position that courts should not allow legal fishing expeditions just because particular authorities (or public figure litigants) are miffed that news the public has a right to know has been reported.

Free speech issues
Sources

The law as it presently stands, although it provides no protection for journalists, does provide the court with sufficient discretion to be able to excuse journalists where this is regarded as being appropriate and in the public interest. The amended legislation appears to remove that discretion. The consequence of such an amendment is the potential for journalists to be imprisoned under s 192.

The Press Council is aware that the Queensland government is proposing to amend s192 of the *Crime and Misconduct Act* in order to remove the right to refuse to answer questions on the ground of self-incrimination or the ground of confidentiality.

The Press Council is concerned that the proposed amendment, as currently worded, may have the unintended consequence of narrowing the scope of the public interest immunity which is currently available under s 192(2)(b)(ii).

The concept of "public interest immunity", although ultimately a matter of judicial discretion, includes within its scope certain obligations of confidence falling outside the definition of privilege. The inclusion of the phrase "on the ground of confidentiality" as a circumstance in which there is no entitlement to refuse to answer questions may be interpreted by a court as excluding such confidential obligations from the class of circumstances in which public interest immunity might claimed.

One of the class of confidential relationships which would be affected by such a narrowing of the scope of the public interest immunity would be the right of journalists to protect the identities of those persons who provide them with information in confidence. The law as it presently stands, although it provides no protection for journalists, does provide the court with sufficient discretion to be able to excuse journalists where this is regarded as being appropriate and in the public interest. The amended legislation appears to remove that discretion. The consequence of such an amendment is the potential for journalists to be imprisoned under s 192.

The Press Council calls on the Queensland government, not only to redraft the amendment to ensure that the scope of the public interest immunity is not narrowed, but also to insert into the legislation a clause recognising the right of journalists to refuse to disclose the sources of confidential information without risking penalty.

In mid-November, the Council received a response from the Premier's parliamentary Secretary in which he noted:

The recent amendments to the Act are intended to ensure that the Crime and Misconduct Commission (CMC) is able to continue its valuable role in fighting crime and public sector misconduct.

The amendments to the Act clarify that a person is not entitled to remain silent or refuse to answer a question put to the witness at a misconduct investigation except on the grounds of legal professional privilege, public interest immunity, or parliamentary privilege.

The amendments to the Act were prompted by a recent decision in *Witness "O" v Crime and Misconduct Commission* [2008] QSC 155 where the court interpreted the Act, particularly the former section 192, as allowing a witness to refuse to answer a question in a misconduct investigation based on the privilege against self-incrimination.

As a result of the decision in the Witness "O" case, the CMC would not be able to direct witnesses in misconduct hearings to answer questions where the answers may incriminate the witness. This meant that evidence previously obtained by the CMC could potentially have been inadmissible and a number of current and past CMC misconduct investigations and hearings would be compromised.

Consequently, the Queensland Government acted to clarify the privileges that can be claimed under the Act and ensure that the CMC is able to continue its important work.

In response to concerns about the scope of the amendments to the Act expressed by the media profession, the Attorney-General has decided to refer the issue of what privileges or protections should be granted in legal proceedings to members of various professions, including journalists, in the exercise of their professional duties to the Queensland Law Reform Commission (QLRC). The Queensland Government will give serious consideration to any recommendations the QLRC may make. However, until the QLRC has reported, the Queensland Government does not intend to reconsider the recent amendments to the Act.

The Press Council will, of course, be making submissions to the QLRC on the general question of the protection of journalists' confidential sources.

Western Australia

The decision in a Western Australian court to order a newspaper to hand over recordings that would reveal the identity of a confidential source exposes the continued failure of governments to enact proper protections for journalists and their sources.

Subsequently the Supreme Court has stayed the execution of the order until an appeal can be heard.

In civil matters, the Australian Press Council believes that questions about the accuracy and reliability of sources are matters that should be tested when, and if, defendants rely on a defence of truth, or a defence of qualified privilege, where they have to show that they took all reasonable steps to check the accuracy of the material they published.

To have courts ordering defendants early in proceedings to surrender documents that would reveal the identity of their sources does nothing more than expose those sources, where known to the plaintiff, to some form of retribution. This was the view taken by *The Sydney Morning Herald* in the *Cojuangco* case, where it gave up its qualified privilege defence rather than reveal to an associate of Ferdinand

Marcos the identity of their informants.

The best reason for the application of the “newspaper rule” to defamation proceedings so that publisher defendants will not be compelled during preliminary proceedings to disclose the sources on which an article depends was best summarised by Dixon J in *McGuinness’s* case:

the special position of those publishing and conducting newspapers, who accept responsibility for and are liable in respect of the matter contained in their journals, and the desirability of protecting those who contribute to their columns from the consequence of unnecessary disclosure of their identity (at page 104).

While the sources in the WA case might not be subject to violence, they may be subject to other punitive measures should their identity become known. And the likelihood that others will blow the whistle on similar matters will be diminished.

That’s why the “newspaper rule” must be applied in the civil courts and why workable shield laws are needed in the criminal courts.

The Standing Committee of Attorney-General agreed some time ago to introduce such protections to ensure that journalists and editors were not penalised for abiding by their ethical obligation to protect the identity of their sources. A working group is due to report to SCAG at the end of this year.

Late last year, the federal law was amended to reflect the NSW law, which pays lip-service to such protection, but leaves the discretion solely with the judge.

The Press Council believes that such legislation should place the onus on those seeking to obtain the identity of the source in criminal matters and that it should only be used in the case of serious crimes or matters involving health and safety.

The federal Attorney-General has now foreshadowed further amendments, which would bring the law closer to the New Zealand model, which mandates that the default position is the right to protect confidential sources unless exceptional circumstances apply. The Council has not as yet seen how the federal proposals would be phrased in legislation but sees the move as a forward step. The Queensland government has referred the question to its Law Reform Commission, and the new Western Australian AG has said that legislation will be introduced in his state in the near future.

Public-interest Whistleblowing

There were separate inquiries in the Australian and NSW parliaments on changes to whistleblower legislation. The Council agreed that it should make submissions seeking protection for whistleblowers to make disclosures to the media. Policy Officer Inez Ryan was commissioned by the *Gazette of Law and Journalism* to write an article on the inquiries and the options for change. That article was subsequently posted to the Gazette’s website.

On 12 August 2008, the Australian Press Council made a submission to the Australian House of Representatives Standing Committee on Legal and Constitutional Affairs Inquiry into Whistleblower Protection within the Public Sector, the Executive Summary of which read:

The Australian Press Council calls upon the Commonwealth government to introduce legislation to provide protection for individuals who make public interest disclosures. In order to ensure this legislation is effective, it should include the following:

- It should be an offence to penalise, discriminate against, harass, victimise or retaliate against an individual who makes a public interest disclosure.
- The legislation should establish an immunity from internal disciplinary action for making a public interest disclosure, including disclosures made to the public via the media.
- The legislation should establish an immunity from criminal prosecution for breaching any secrecy or confidentiality requirements in the course of making a public interest disclosure, including disclosures made to the public via the media.
- The legislation should establish an immunity from civil action for making a public interest disclosure, including disclosures made to the public via the media.
- The legislation should establish a right to claim compensation for loss or injury suffered as a result of making a public interest disclosure, including disclosures made to the public via the media.
- Government employees who do not fall under the Public Service Act should be included in the scope of any legislation dealing with public interest disclosures.
- Provision should be made for public interest disclosures by contractors who provide services to government and their employees.
- The legislation should make provision for disclosures to be made to the media in certain specified circumstances.

Free speech issues
Sources
Whistleblowing

That’s why the “newspaper rule” must be applied in the civil courts and why workable shield laws are needed in the criminal courts.

It should be an offence to penalise, discriminate against, harass, victimise or retaliate against an individual who makes a public interest disclosure.

Free speech issues
Whistleblowing

- Where a public interest disclosure has been made to a designated government agency or officer, that agency or officer should be required to investigate promptly and to publish the results of that investigation, together with any recommendations for rectifying action, when it is complete.

The full submission has been posted to the Council’s website - http://www.presscouncil.org.au/pcsite/fop/fop_subs/whistle.html

On October 27, in Sydney, the Chairman, Professor Ken McKinnon, and the Executive Secretary, Jack Herman, appeared before the committee to give oral evidence.

Whistleblower protection improved, but ...

In a press release issued on February 25, 2009 (see page 64), Professor Ken McKinnon, the Chairman of the Australian Press Council, said that the report on improved whistleblower protection tabled in federal Parliament that day was a forward-looking proposal that contains several helpful recommendations.

“But”, he added, “the quite inadequate recommendation on whistleblowing to the media will ensure that the future situation will be hardly better than it is today.”

The report of a parliamentary committee, chaired by Mark Dreyfus QC, *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector*, has recommended a series of changes that will make it easier for public officials to blow the whistle on corruption, malpractice and chicanery. And it will provide strong protection for those who do so through official channels.

The Press Council’s main concern is with the proposal that limits protection of public interest whistleblowers who go to the media. They are protected only when they have disclosed internally and externally, when “reasonable” time has elapsed, and the matter involves “immediate serious harm to public health and safety”. Such limits will ensure that the bureaucracy can defeat all attempts to disclose information in a protected way. The weasel words ‘reasonable’ and ‘nature of the matter’ in particular tip the scales away from even the most conscientious whistleblowers. “Who will decide what is reasonable?” asked Professor McKinnon.

He added, “Whistleblowers know that their best and quickest chance of rectifying corruption, waste and general governmental incompetence is to go directly to the press. The press has a responsibility to investigate and check the accuracy and fairness of informants before publication. Any failure to do this is open to a complaint that the Press Council will adjudicate, and, if necessary, it will hold the newspaper publicly to account.”

Professor McKinnon is worried that, had the proposed “protection” been in force, it would not have protected those who told journalists Harvey and McManus of a cabinet decision to renege on an election promise to veterans. It would not have protected the individuals who exposed government failure to act on a report on deficiencies in Customs at Sydney Airport. It would not protect public officials who blow the whistle on corruption, where there is no threat to “public health and safety”.

Professor McKinnon concluded, “The Press Council applauds the effort made by the Dreyfus Committee and the many good suggestions for improvement, but without a better media clause, which the Council will continue to lobby for strenuously, regrettably the proposals will not make enough difference to get anywhere near achieving the objective of a free flow of public interest information.”

NSW Inquiry

On 26 August 2008, Australian Press Council Submission to the NSW Parliamentary Committee on the Independent Commission Against Corruption, *The Protection of Public Sector Whistleblowers*, in largely similar terms to its submission to the federal Parliamentary committee. Its Executive Summary read:

The Australian Press Council calls on the government of New South Wales to reform the *Protected Disclosures Act 1994* in order to strengthen the protection of public employees who make public interest disclosures in the following terms:

1. Section 19 of the Act should be amended in order to provide for public interest disclosures to the media or a parliamentarian to be protected in the following circumstances:
 - Where the officer making the disclosure honestly believes, on reasonable grounds, that to make the disclosure along internal channels would be futile or could result in victimisation, OR

Such limits will ensure that the bureaucracy can defeat all attempts to disclose information in a protected way. The weasel words ‘reasonable’ and ‘nature of the matter’ in particular tip the scales away from even the most conscientious whistleblowers.

- Where the officer making the disclosure honestly believes, on reasonable grounds, that the disclosure is of such a serious nature that it should be brought to the immediate attention of the public, OR
 - Where the officer making the disclosure honestly believes, on reasonable grounds, that there is a risk to health or safety, OR
 - Where internal disclosure has failed to result in prompt investigation and corrective action.
2. Section 19(3) of the Act should be amended so as to remove or significantly shorten the period of time which a public official is required to wait after making an internal disclosure before approaching the media.
 3. The scope of the protection provided by the Act should be extended to encompass employees of private organisations who are contracted to provide services to or on behalf of the NSW government.
 4. The Act should be amended by the insertion of a section that provides a right to claim compensation for loss or injury suffered as a result of making a public interest disclosure, including disclosures made to the public via the media.
 5. The Act should be amended by the insertion of section which obligates a public agency to promptly investigate any matter which comes to its notice by way of a public interest disclosure, and to publish the results of that investigation, together with any recommendations for rectifying action, when the investigation is complete.

The full submission has been posted to the Council's website - http://www.presscouncil.org.au/pcsite/fop/fop_subs/whistle_nsw.html

The committee issued a Discussion Paper in early 2009, addressing a number of the terms of reference, but containing no discussion of any of the issues touching upon the question of public-interest whistleblowing to the media. The committee invited further comment.

On April 9, 2009 the Council wrote to the ICAC Committee Chair, thanking him for his invitation to make a submission in response to the committee's Discussion Paper, *Protection of Public Sector Whistleblower Employees*. The letter read:

As you may be aware, a submission was forwarded to the committee, on 26 August, 2008, on behalf of the Press Council, making representations with respect to the treatment of whistleblowers who make public interest disclosures to the media.

I was disappointed that the Discussion Paper, when it was released, made no reference to the Press Council's submission or to any of the arguments presented therein. I was also surprised that the Discussion Paper made no reference to any of the representations made on behalf of other media organisations on the subject of public interest disclosures to the media.

I have attached, for your further consideration, a copy of the Press Council's original submission. The members of the Press Council would be grateful if you and the members of the ICAC Committee would carefully consider the role of the media in relation to the making of public interest disclosures in New South Wales.

Judicial Suppression

In Annual Report 30, the Council noted the rejection by the Conference of Chief Justices of its proposal for a uniform method of reporting suppression orders. Nonetheless, the Council continues to note the use of suppression orders by judges in most jurisdictions. At last count a News Limited database of suppression orders had over 1000 separate matters on it.

In mid-2007, the federal Attorney-Generals' Department sought advice from the Council whether there was inadvertent non-compliance with suppression orders by the media due to a lack of knowledge of their existence. The department was investigating the possibility of a national register of suppression orders, something very close to the Council's original proposal to the chief justices.

At the time of writing this report, a discussion paper from the Attorney-General's Department, making recommendations largely along the lines originally proposed by the Council to the Chief Justices has been released for comment. It will be addressed in next year's Annual Report.

Access to courts and court documents

Access to courts

In the Australian's *Media* section of October 13 Sally Jackson reported that the Press Council has called on crown prosecutors to import a British protocol giving media access to court evidence on the same day it is tendered, saying it would lead to more open, fair and free reporting of court proceedings.

The Council said it hoped commonwealth, state and territory directors of public prosecutions would consider the proposal when they met in Melbourne on October 27.

Free speech issues
Whistleblowing
Suppression
Court access

The Act should be amended by the insertion of a section that provides a right to claim compensation for loss or injury suffered as a result of making a public interest disclosure, including disclosures made to the public via the media.

Free speech issues
Court access

The report suggests that the use of suppression orders, which gag the media from reporting particular details of trials, is inconsistent and some courts have “no idea how many orders they make, and no systems to inform the media of them”.

If that does not bring results, the Council will pursue it through the Standing Committee of Attorneys-General, which is due to convene in Brisbane on November 6.

“We are trying to achieve, bit by bit, open courts accurately and quickly reported by the press, which we think is for the public good,” Council secretary Jack Herman said.

A protocol introduced in English and Welsh courts in 2005 meant most material tendered in court was made available to the media as quickly as possible, usually later the same day.

Material normally released included police videos of crime scenes and of seized property, transcripts of interviews read out in court, videos and photographs showing reconstructions of crimes and CCTV footage of defendants.

CCTV footage or photographs of the defendant and the victim, or of the victim alone, might also be released after consultation.

There was an appeal procedure to deal with contested material.

“The protocol has led to greater coverage of the courts and is seen to have made court reports more accurate and comprehensive,” the council says in a letter to the DPPs.

“Greater accuracy is obtained in reporting, as journalists do not have to rely on muffled recordings that are played in court. They are given transcripts of what is said.”

In contrast, very little evidence tendered in Australian courts was made available to the media, especially so quickly, Mr Herman said.

“The press has to make special applications through the judge or the court registry to get that material and often it isn’t released,” he said.

“Whereas in Britain, unless there’s a good reason not to release it, it is released as a matter of course.

“Rather than relying on journalists interpreting it, viewers have a chance to see the exact footage.”

As an example, Mr Herman said, CCTV footage shown at the trial of the men behind the attempted London bomb attacks of July 21, 2005, had been released to the media the same day.

This contradicted the widely reported speech made earlier this year by Australian Federal Police Commissioner Mick Keelty in which he called for a media blackout on terrorism cases and pointed to the British legal system as a model.

“Keelty was saying there should be less reporting of terror trials and he used Britain as an example, but in fact the exact opposite is happening there,” Mr Herman said.

Independent journalist member of the Council, Prue Innes, who served for many years as the public information officer for the Victorian courts, attended the DPPs’ meeting and spent about three-quarters of an hour with them discussing the proposal. No action on the matter has followed.

Courts need to lift their game

Australians are being denied their right to see how justice is done because courts are inconsistent or unhelpful about releasing information, a new report has found.

The report, commissioned by Public Right to Know, the free speech advocacy group formed by the publishers and broadcasters, arose from a five-month research project. It calls for a raft of changes to ensure the public can be quickly and fully informed about court cases.

The director of the research was Prue Innes, a journalist member of the Council. With a background both as a court reporter and as a public information officer for the Victorian courts, Prue Innes was ideally suited to lead the research.

The report suggests that the use of suppression orders, which gag the media from reporting particular details of trials, is inconsistent and some courts have “no idea how many orders they make, and no systems to inform the media of them”.

“For too long the media has had unnecessary barriers placed in their way in obtaining information that the general public is entitled to know,” Prue Innes said.

The research aimed to establish how well the principle of open justice is working in practice in Australia. Not surprisingly, with nine separate jurisdictions, there was some inconsistency around the country.

Prue Innes said that the public interest is not served if journalists cannot access material put before the courts on which judicial decisions are based.

The report called for all courts to examine their processes to ensure that transcripts, documents and exhibits were readily and quickly available to the media except where publication might interfere with a fair trial.

Noting that laws already prohibit the publication of many details from court cases, such as the identity of sexual assault victims, children and details about an defendant’s past record, the report also found that courts impose a large number of discretionary suppression orders. It said that courts could be too quick to issue sweeping, open-ended and badly worded suppression orders that were often unnecessary.

Prue Innes concluded that the laws limiting publication of details are effective and the media abide by them, “but when suppression orders are placed on top, they are almost always unnecessary.”

The key recommendations of the report are:

- Court files and transcripts should be readily available to the media
- Judges should provide copies of their sentencing remarks to the media as an aid to accuracy in reporting them
- Sentences and decisions should be posted on court websites quickly
- Suppression Orders should be made only when they are essential to prevent a threat to justice
- Orders should be clear, specific and worded so that they suppress only the information that was intended
- Orders should state their reasons and have sunset clauses so they expire when no longer needed
- The media should be properly informed of Orders
- Reporters’ recording devices should be allowed in courts where possible, to aid accuracy of reporting.

Naming and shaming

As reported in last year’s Annual Report, the Council wrote to NSW Attorney-General, John Hatzistegos, about the report of the Legislative Council Standing Committee on Law and Justice report *The prohibition on publication of names of children involved in criminal proceedings*. In the Council’s view many of the committee’s recommendations are unlikely to improve the situation and may make it worse. It suggested that the government take no action to implement either recommendation 1 (seeking to have other states, none of which have similar provisions, fall in line with NSW) or recommendation 4 (which would extend the ambit of any ban on publication of names of children to a time when juveniles are “reasonably likely to become involved in criminal proceedings”). In July 2009, the Attorney circulated for comment some amendments to the legislation, based on the committee’s report. The proposal in Recommendation 4 is not included in the proposed changes and some attempt has been made to address concerns with the Senior Available Next of Kin provisions, to which the Council drew the Attorney’s attention. The Council has told the Attorney-General’s Department that it would rely on its May 2008 letter as its position in respect of the proposed changes.

Contempt by Publication

There were no matters this year.

Police matters

Media relationship principles

In June 2009, after earlier consultations, the Council made submissions to the Queensland Police on its proposed “Media Relationship Principles”, a set of principles aimed at formalising the relationship between the police and the media, and ensuring a flow of information. Being developed by the Media and Public Affairs Branch, the document seeks to deal with the Police obligations to the media, and the media’s reciprocal obligations. The Council has argued that the police should sufficient information to satisfy the public interest and assume as the default policy position the release of information rather than its suppression. The Council has also sought that contact not always be through the Media Branch, but that station staff, particularly in regional districts, of both senior and junior rank, should be both entitled and encouraged to assist with, and comment upon, matters of a local nature. In return the Council has recognised that the media should be honest in their inquiries and the fact that responses may be delayed when they concern matters of grave importance, including the reporting of disasters. A revised version of the agreement was forwarded to the Media Branch for its consideration.

Free speech issues
Court access
Contempt
Police Matters

It suggested that the government take no action to implement either recommendation 1 ... or recommendation 4 (which would extend the ambit of any ban on publication of names of children to a time when juveniles are “reasonably likely to become involved in criminal proceedings”).

Free speech issues
Police matters
Sports

It is preferable to maintain a cooperative arrangement between the media and the police, whereby the media will voluntarily publish images in order to assist with police investigations and, in exchange, the police provide images without charge on request from the media.

The public has a right to receive sports news in the same way as other news. There should be minimal interference with the collection and reporting of sports news,

Victorian Police fee for photos proposal

In June 2009, the Council sent a submission Victorian Police on a fee for photos proposal, which suggests that media outlets be charged for the provision of images of accused and convicted persons. The Executive Summary read:

- The Australian Press Council objects to the proposed fees for the provision of police images.
- The amounts of fees estimated are excessive.
- If newspapers are required to pay a fee for the provision of images by the police, newspapers would be justified in expecting police to pay for space used in newspapers for publication of images on request. It is preferable to maintain a cooperative arrangement between the media and the police, whereby the media will voluntarily publish images in order to assist with police investigations and, in exchange, the police provide images without charge on request from the media.

The full submission has been posted to the Council’s website - http://www.presscouncil.org.au/pcsite/fop/fop_subs/pol_photo.html

The Council also alerted *The Herald Sun* and *The Age* to the proposals so that they could take action as well.

ANZPAA re ethnic descriptors

The Council received a request from the Australia New Zealand Policing Advisory Agency for a response on a guideline it was developing on the use of ethnic descriptors of those sought in relation to crimes. The Council’s response, based on consultation with some industry members of Council, read:

The general view of the Council is that whether they are called ‘Ethnic Descriptors’ or ‘Witness Perceived Ethnic Descriptors’, they run the risk of reinforcing negative stereotypes about people of different ethnic communities. This is particularly the case where people from a number of different and distinct ethnic backgrounds are drawn into one descriptor (people “of Asian appearance” covers a range of east Asian ethnicities; and Pacific Islander people come from a wide range of backgrounds) or where false distinctions are made amongst groups. How is a witness to perceive the difference between “Mediterranean”, “Middle Eastern” and “South American” when all have the same physical characteristics, for example? In any case, most of the people in these three groups are “Caucasian”, yet that term is used to specify one set of ethnic characteristics from amongst various forms of Caucasian people.

As the guidelines say, the best descriptions are those that specify the characteristics of the person of interest, in some detail, and without necessarily relying on a perceived ethnic descriptor. Many press outlets already have their own codes of ethics, as well as the MEAA’s code of ethics for journalists and the Press Council’s Statement of Principles, to guide them as to what they should publish. They will more likely be guided by those, most of which suggest that ethnic descriptors not be used where they are gratuitous or where they may reinforce a negative stereotype.

In general, the Council would prefer to see the guidelines place even stronger emphasis on the fact that WPED should only be used as a last resort and that descriptions should be as accurate as possible and be accompanied by a detailed physical description. This might be achieved by reversing the form of the guideline, placing the national guidelines first and placing the revised WPEDs at the end.

In particular, the Council would suggest that the “Mediterranean”, “Middle Eastern” and “South American” descriptors be combined as people “of Mediterranean or Middle Eastern appearance” and what is currently “Caucasian” be renamed as “of White European appearance”.

Sports accreditation

On April 7, it made a submission to the Senate Environment, Communications and the Arts Committee on its inquiry into the reporting of sports news and the emergence of digital media, the Executive Summary of which read:

The public has a right to receive sports news in the same way as other news. There should be minimal interference with the collection and reporting of sports news, in words and images, whatever the form that news takes and in whatever medium it is published or broadcast. The same principle should also apply to the publication in any medium of commentary upon that news. Sports bodies and media organisations need to get together and work out an agreement that will allow such reporting to occur.

The full submission has been posted to the website: http://www.presscouncil.org.au/pcsite/fop/fop_subs/sports09.html

On April 16, The Executive Secretary appeared on behalf of the Council before the Senate Committee. The questions largely related to the AFL’s discreditation of AAP photographers and to the “conflict” between publishers’ commercial interests and sports bodies’ commercial interest.

The committee’s report rejected calls by sports bodies to allow sporting events to be protected under copyright laws, allowing them to censor journalists’ reports and choose which photos would be allowed for publication. Instead, the committee reaffirmed the right of the media to cover sports, unfettered by restrictive accreditation agreements.

The report said that all “*bona fide* journalists, including photojournalists and news agencies, should be able to access sporting events regardless of their technological platform”, and that negotiations for media access should be based on that principle.

It warned that if such negotiations were to break down, a code administered under the Trade Practices Act could be developed, to be enforced by the ACCC.

International

Fiji

Jack R Herman, Executive Secretary of the Australian Press Council, completed a Review of the Fiji Media Council. A decision to conduct a Review of its aims and its operations was taken in late 2008 by the Fiji Council. It sought and received a grant from AusAid for the Review. The Media Council invited Mr Herman to convene the Review team, which also included Suliana Siwatibau, who has extensive experience with Fiji NGOs, and Barrie Sweetman, a retired lawyer with knowledge of the Fiji legal system.

The terms of reference called on the Review to look at all aspects of the Council’s operations.

The Review team met in Suva on February 9. The team read through and discussed each of the written submissions and a number of relevant articles and earlier reports on the Fiji Media Council and the Fiji media. It also looked at comparable self-regulatory organisations in other countries. The Review invited a number of individuals and organisations to meet with it, most of whom agreed. They covered a range of people including media proprietors, journalists, politicians and public officials, as well as representatives of influential NGOs. On February 11, the Review met with the Fiji Media Council to discuss the issues arising from the terms of reference and from the submissions. The Review completed its face-to-face meetings on February 13, and agreed on the substance of its recommendations.

Between February 16 and February 27, the report went through a number of drafts, until the team agreed on the final form for the content. The report was submitted to the Chairman of the Fiji Media Council on February 28 and will be tabled at that Council’s March meeting.

Unfortunately, after the report was tabled, but before the Council could act on the recommendations for reform, the President dismissed the interim government and the military imposed tighter restrictions on the media. The Media Council has not been allowed to meet since that coup.

Timor Leste

On April 8, 2009, the Council issued a press release to the media of Timor Leste related to the development of a proposed media law in that country:

The Australian Press Council has expressed concerns about proposals to license journalists in East Timor.

The Council Chairman Professor Ken McKinnon said the proposed scheme could greatly affect the operation of a free press in the world’s newest democracy.

The proposal is to establish a media council as part of a parcel of laws regulating the media in East Timor. Journalists who wished to work in the media industry, including foreign correspondents, would have to be licensed by the media council.

The council would have members appointed by the East Timor parliament and a further member selected by the parliamentary appointees.

Such a body could clearly been seen to politically aligned. It would also oversee complaints and have powers to revoke journalists’ licenses or impose fines on journalists for professional transgressions.

“These aspects were clearly outside internationally recognised standards for the media in a democracy and represented restrictions on free speech”, Prof McKinnon said.

Professor McKinnon said that the Australian Press Council had been represented at a workshop in Dili in July last year. The workshop was told how the Australian Press Council operated as a non-legal body for dispute resolution and a watchdog on threats to freedom of speech, and of the press.

“Journalists attending the workshop welcomed the suggestion that the country adopt the Australian Press

Free speech issues
Sports
International

Unfortunately, after the report was tabled, but before the Council could act on the recommendations for reform, the President dismissed the interim government and the military imposed tighter restrictions on the media. The Media Council has not been allowed to meet since that coup.

Free speech issues
Sports

Council structure as a model," Prof. McKinnon said.

The licensing issue raised by the UN-appointed Portuguese lawyer tasked with suggesting media laws was widely criticised at the workshop. Despite this criticism, journalist licensing remained a part of the draft laws.

Prof McKinnon said other proposed new laws, which allowed for widespread freedom of information disclosure, were welcome as was the decision not to include defamation in the country's penal code.

The laws will be further reviewed by Fernanda Borges, a member of parliament who chairs the committee that will make final recommendation to parliament.

Ms Borges has said that the registration of journalists remained problematic.

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Indonesian amicus brief

In last year's report, reference was made to an *amicus curiae* submission to the Supreme Court of Indonesia, in support of action by *Time* magazine to reverse a \$US106 million judgment. The Press Council was a signatory to the brief. In April 2009, the Supreme Court ruled in favour of *Time*. The award was nullified.

Charter of a free press in Australia

Preamble

Freedom of opinion and expression is an inalienable right of a free people.

Australia is committed to The Universal Declaration of Human Rights. Article 19 of the Declaration provides:

Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In a truly democratic society open debate, discussion, criticism and dissent are central to the process of generating informed and considered choices. These processes are crucial to the formation of values and priorities and help in assessing and finding solutions to social, economic and political problems.

A free press means a free people and the people of Australia have a right to freedom of information and access to differing views and opinions and declare that the following principles are basic to an unfettered flow of news and information both within Australia and across the nation's borders.

The Principles

1. Freedom of the press means the right of the people to be informed by the press on matters of public interest so that they may exercise their rights and duties as citizens.
2. The press shall not be subject to government licence and government authorities should not interfere with the content of news nor restrict access to any news source.
3. The press has a responsibility to the public to commit itself to self-regulation which provides a mechanism for dealing with the concerns of members of the public and the maintenance of the ethical standards and journalistic professionalism of the press.
4. It is in the public interest for the press to make available to the people a wide diversity of views and opinions.
5. It is the responsibility of the press to protect the people's right to know and to contest encroachments upon that right by governments, groups or individuals.
6. Laws, regulations and practices which in any way restrict or inhibit the right of the press freely to gather and distribute news, views and information are unacceptable unless it can be shown that the public interest is better served by such laws, regulations or practices than the public interest in the people's right to know.

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Adjudications

There were 33 adjudications issued by the Council in the year ended 30 June 2009. There continues to be use of the Council's conciliation techniques to settle matters and a willingness in publications to find amicable settlements of complaints. On page 44 is a table showing a year-by-year comparison of complaints received, matters mediated or withdrawn (i.e. complaints settled amicably) and complaints adjudicated. The table indicates that there has been a trend away from referring matters for adjudication. One reason for this is the availability in recent years of an option of face-to-face mediation conducted by a member of the Council or of the Secretariat. Whatever the cause, only about 15 per cent of complainants now seek an adjudication. Below is a reprinting of all the adjudications issued during the year.

Following a reprinting of all adjudications issued during the reporting year, this report carries a summary of the publication details of all adjudications, as well as an index of adjudications, sorted by the ethical issues involved.

Balance provided

Adjudication No. 1397 (August 2008)

The Australian Press Council has dismissed a complaint by Dale Mills against a bylined column published in The Sydney Morning Herald on 26 May 2008. In the course of analysing general claims about pedophilia, the columnist made unsubstantiated claims about a "sub-culture of pedophilia" in the gay community.

"It is not what I wrote. It is not what I believe. It is not reflected in the crime data. Clearly I made an error in failing to make this explicit."

The article in question was a comment piece by Paul Sheehan that dealt with the controversy over nude photographs of a 13-year-old girl posed by photographer Bill Henson, and their subsequent seizure by police amid allegations of pedophilia.

Mr Sheehan's reference to gays was in the context of his argument that "pederasts and child sexexploiters have had a dream run in our society. A sub-culture of pedophilia among gays, an epidemic of child sexual abuse in the aboriginal community, and a multimillion-dollar porn industry on the internet have all been protected variously by privacy laws, artistic licence, freedom of expression, and aboriginal rights. What these rights have done is mask, exacerbate or even rationalise a significant and growing problem."

The Herald published several letters on 27 May that took Mr Sheehan to task for his linking of gays (and not heterosexuals) and pedophiles.

On 2 June the newspaper published a second Sheehan column where in which he sought to address the matters raised in these letters. He did so by responding to an e-mail from a judge, whose name and jurisdiction were withheld. The judge had asserted that Mr Sheehan's reference to a sub-culture of pedophilia among gays was undoubtedly intended to be a slur on the entire gay community. "I demand Sheehan and the Herald apologise and withdraw this remark and its implication ...," the judge added.

Mr Sheehan responded in his article that neither he nor the Herald would apologise or withdraw. He said the judge and other correspondents had inferred from the original article that pedophilia and homosexuality were synonymous. "It is not what I wrote. It is not what I believe. It is not reflected in the crime data. Clearly I made an error in failing to make this explicit."

He continued that he had assumed readers would take it as a given that the preponderance of pedophiles are heterosexual, but had not included this for reasons of compression in a 930-word column. He said he accepted he should have made this point about heterosexuals and admitted the article lacked clarity in this instance. He further stated his reference to "a gay sub-culture", rather than to "a gay culture" showed he had not intended to smear the entire gay community.

At this point, Mr Mills entered the debate, complaining in an e-mail to the Herald on 2 June that Mr Sheehan's second article failed to retract or apologise in a satisfactory manner. He lodged a complaint with the Council later that day after the newspaper answered by e-mail that Mr Sheehan's printed response had been sufficient. Mr Mills further accused Mr Sheehan of failing to check the accuracy of the claim that a sub-culture of pedophilia existed among homosexuals.

The newspaper on 3 June published further readers' letters critical of Mr Sheehan's response.

In view of Mr Sheehan's prompt admission that he was in error, and the Herald's publication of a significant number of letters challenging the negative stereotyping of homosexuals, the Council believes that the Herald dealt with the complaints appropriately.

Adjudications
1397
1398
1399

No Mercy for Hillsong

Adjudication No. 1398 (August 2008)

The Press Council has dismissed a complaint from Benjamin Isaac against The Sydney Morning Herald concerning aspects of a series of articles about Mercy Ministries' work with women in crisis, its links with Hillsong church, and related matters.

In particular, Mr Isaac took issue with an article not concerned directly with Mercy Ministries, but which reported a letter of support for a development proposal in Rosebery by the Hillsong church. The letter of support came from Caroline Bateson in her role as manager of the South Sydney Police and Community Youth Club (PCYC). Ms Bateson was a former volunteer worker for Hillsong, and remains a member of its congregation.

The article included quotes from the club's chief executive confirming that Ms Bateson ceased working for Hillsong prior to becoming club manager, that the club has written similar supporting letters for other community-based organisations, and that other Hillsong members had been club volunteers, but no longer worked there. Sydney's Deputy Mayor was quoted saying that the letter breached the club's charter and that Ms Bateson had been an active recruiter for Hillsong before taking up her club management role. Ms Bateson had been contacted by the newspaper but refused to comment.

Mr Isaac complained that the article insinuated that Ms Bateson had infiltrated the club to act as a Hillsong agent. He also said that describing the proposed development as 'controversial' was a prejudicial remark, and that the phrase 'Hillsong link' in the report's headline was misleading as the word 'link' was usually associated with crime. Mr Isaac also complained that the article lacked balance and breached the Press Council's principle concerning gratuitous emphasis on people's religion. He wrote two letters to the newspaper, neither of which was published.

The newspaper responded that the articles on the Mercy Ministries had been meticulously researched, used both named and anonymous sources, included relevant associations to religious organisations, and were clearly in the public interest. Officials from Mercy Ministries had been quoted, as had several independent health professionals. The newspaper had published an opinion piece by Peter Irvine, a senior board member of Mercy Ministries, along with a significant number of letters on the matter. While the newspaper quoted several women who alleged poor treatment or abuse by Mercy Ministries, it also published the favourable remarks of a woman who had graduated from the Mercy program, although information about successful outcomes was not forthcoming from the organisation itself.

Concerning the story about Ms Bateson's letter of support for the Hillsong development, the newspaper outlined the numerous attempts its journalist had made to contact and meet with Ms Bateson, all of which had been rebuffed. Various relevant parties to the matter had been contacted for comment. The newspaper argued that, as well as the clear public interest in the development, it was extremely unusual for a PCYC actively to support a development proposal, especially one of the size and controversy involved.

There are no breaches of the Press Council principles of the kind suggested by Mr Isaacs either in the stories on the Mercy Ministries or the report of the letter of support for the proposed Hillsong development in Rosebery by PCYC manager Ms Bateson.

Generic term clears the air

Adjudication No. 1399 (August 2008)

The Press Council has dismissed a complaint from Barry Chipman, Tasmanian State Manager, Timber Communities Australia (TCA), which stemmed from a short article published on 28 April 2008, in The Mercury, Hobart, about the effect of forest burn-off smoke on a Hobart man who suffers from severe asthma.

Mr Chipman's complaint, on behalf of TCA, covers several of the Council's principles, with the

There are no breaches of the Press Council principles of the kind suggested by Mr Isaacs either in the stories on the Mercy Ministries or the report of the letter of support for the proposed Hillsong development

Adjudications
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1400

The Press Council believes that the article, which is the source of TCA's complaint, presents a clear picture to readers about the adverse effect a smoke haze can have on asthma sufferers.

central focus on the principle that enjoins publications not to misrepresent or suppress relevant facts. TCA took exception to the term 'forestry burns' in the first paragraph of an article under the heading *Smoky days make Benn's life a misery*.

The article goes on to describe the effect smoke from annual autumn forest hazard reduction burns has on the health of the Hobart man, an asthma sufferer in the early stages of chronic bronchitis.

A medical expert who is investigating the adverse health effects of air pollution from deliberate burn-offs, bushfires and wood heaters is quoted in the article. A Forestry Tasmania manager is quoted at the end of the piece, saying burns were scheduled to minimise public nuisance.

TCA alleged that the implication that the smoke haze was solely caused by Forests Tasmania was an unfair misrepresentation and the reporter and the editorial management of The Mercury had suppressed known facts about the matter, especially that a number of local councils were conducting fuel reduction burns at the time.

Mr Chipman contacted The Mercury on several occasions seeking a published correction along lines suggested by him to explain the additional causes of the smoke haze. The Mercury declined to do so but offered TCA the opportunity of a published letter to the editor on the issue. Mr Chipman chose not take up the offer.

In its response The Mercury pointed to a body of news stories in issues prior to and subsequent to 28 April in which extensive coverage was given by it and The Sunday Tasmanian to both local Council and Forestry Tasmania regeneration burns, as well as coverage of the adverse health impacts of smoke haze.

The Press Council believes that the article, which is the source of TCA's complaint, presents a clear picture to readers about the adverse effect a smoke haze can have on asthma sufferers. TCA's stand is based on the interpretation of 'forestry burn' referring solely to Forests Tasmania. The Council believes a reasonable reader may just as well see 'forestry' as a common noun and 'forestry burn' as a generic term covering a broad range of professionally initiated forest management fires.

In their reports of the practice of autumn forest management burns The Mercury and its related publication, The Sunday Tasmanian, have demonstrated a consistent, detailed and informative coverage of an important issue of concern to Tasmanians. There is no evidence of facts being misrepresented or suppressed in the article challenged by TCA.

Frank correction required

Adjudication No. 1400 (August 2008)

The Australian Press Council has upheld complaints brought by the Western Australian Minister for Energy, Resources, Industry and Enterprise, Francis Logan, against The Australian regarding four articles which related to a shutdown at the North West Shelf plant operated by Woodside Petroleum on 2 January 2008.

The four articles, which were critical of action taken by Mr Logan to avert a gas shortage arising from the shutdown, were published in the newspaper from 20 to 23 February 2008, the first under the headline, *Taxpayers foot \$9M gas bill after panic buying*.

Mr Logan had intervened to secure an alternative source of gas to prevent electricity blackouts, and this led to an offer by Burrup Fertilisers to supply gas to Verve Energy, the state's biggest energy supplier.

His complaint, in the main, was directed at the reporting as a 'fact' that his 'involvement in securing the gas meant that Verve Energy paid too much for it', and this had been done while the Minister was in a state of panic.

In respect to the Minister's main concern with the facts, the Council found that the newspaper was in error in its reference to a "\$9 million gas bill" when, in fact, the amount paid for the gas was just over \$1 million, while nearly \$8 million was paid for diesel fuel, both at the market price on the day.

Further, given the seriousness of the 'accusation' levelled at Mr Logan, it was incumbent on the newspaper to distinguish in its articles the reporting of hearsay comments and that of facts. The newspaper has sought to justify its reporting by relying on comments from a leaked email, which emanated from employees of a third party to the negotiations to secure gas supplies from Burrup Fertilisers.

The newspaper was entitled to pursue the line that Mr Logan had been involved in the price negotiation for gas supplies from Burrup Fertilisers based on the leaked email, but fairness demanded that the newspaper give Mr Logan an opportunity to comment on this assertion. Even though Mr Logan’s press secretary was contacted, the only questions put were whether Mr Logan contacted Burrup Fertilisers to secure a gas supply and the cost of the gas supply. The newspaper was told that Mr Logan ‘had no involvement in the cost of gas’.

Given the resulting lack of balance in the original article, the Council finds that the newspaper was unfair to Mr Logan.

Mr Logan made attempts to have the newspaper set the record straight. Following a briefing by Mr Logan, the newspaper further treated Mr Logan unfairly by transcribing his admissions ‘that people could jump to the conclusion that the Government had paid too much for the emergency gas and that he had played a role in the negotiations’ into admissions of guilt. A sentence in the 23 February article, which began with the words ‘Mr Logan’s admissions followed three days of denials of reports ...’, conveyed to a reasonable reader the impression that Mr Logan was admitting involvement in the price negotiations with Burrup Fertilisers.

In response to complaints about the newspaper’s failure to correct the articles, the newspaper eventually published a letter from Mr Logan, but deleted one paragraph criticising the newspaper for not correcting its errors. The letter was published on 22 March 2008. The newspaper said that the delay in the publication of this letter was occasioned by Mr Logan’s press secretary sending the letter by post to The Australian’s Sydney office, without informing anyone at The Australian in either Perth or Sydney.

In the Council’s view, the newspaper failed properly to acknowledge its error in accusing Mr Logan of an involvement in the price negotiations for gas supplies from Burrup Fertilisers and on this aspect as well the Council upholds the complaint.

No show without Punch

Adjudication No. 1401 (August 2008)

The Press Council has upheld a complaint by Don Punch over a 26 March 2008 article in the Busselton-Dunsborough Mail, titled *Buswell wants jetty files*.

The article arises from concerns raised by Vasse MLA Troy Buswell, the Leader of the WA Opposition, over delays in the Freedom of Information process in releasing documents, held by the South West Development Commission, relating to the development of Busselton jetty. In writing about Mr Buswell’s concerns, the paper sought no balancing comment from Mr Punch, the commission’s CEO, for its report. On 2 April 2008, the Mail responded to Mr Punch’s request for an apology with a further article on page 4 of the paper.

The Mail has argued that it did not breach any Press Council principles and had provided a balancing follow-up article, in keeping with the paper’s policy, when it cannot obtain comment for inclusion in the original report.

While having sympathy with the newspaper’s belief, ultimately proved correct, that any response from Mr Punch would amount to a “no comment”, there was still an onus on the newspaper to seek a balancing comment from him. There is no evidence of balance in the first article and the second article does little to provide appropriate balance.

All their ducks in a row

Adjudication No. 1402 (August 2008)

The Australian Press Council has dismissed a complaint that The Courier, Mount Barker, SA, published a photograph without the permission of its owner, Kevin Williams, a local birdwatcher.

The photograph was published on 14 May 2008, to illustrate an article titled *Council confounded by bird problem*, which detailed how a flock of native water fowl was thwarting the local council’s attempt to grow duckweed over its effluent ponds to control odour and improve wastewater treatment. The Eurasian coots were eating the duckweed faster than the Mount Barker Council could grow it.

After failing in a variety of attempts to discourage the coots, the council brought in contractors to scare them into flight by firing starter pistol and shotgun blanks and then harassing them with falcons and eagles.

Adjudications	
	1400
	1401
	1402

... the newspaper failed properly to acknowledge its error in accusing Mr Logan of an involvement in the price negotiations for gas supplies from Burrup Fertilisers ...

While having sympathy with the newspaper’s belief, ultimately proved correct, that any response from Mr Punch would amount to a “no comment”, there was still an onus on the newspaper to seek a balancing comment from him.

Adjudications
1402
1403

The editor added that he believed he had satisfied Mr Williams' concerns about unwanted repercussions by printing the photo of the gunman to illustrate the council's latest strategy in bird control, with a caption stating he was armed with blanks

Mr Williams claimed this action was inappropriate, and resulted in all the water fowl in the wetlands being distressed. After finding the body of a shot coot, Mr Williams e-mailed two photos to The Courier - one of the dead bird and another of a man holding a shotgun at the water's edge.

He said he provided the photos on the understanding that the newspaper could use the photo of the dead bird, but not of the man holding the gun. He said this was to prevent unwanted repercussions should anyone draw the inference that the man with the gun had shot the bird, and to protect the man's privacy.

Mr Williams also alleged that the newspaper led him to believe it would print a story he wrote that condemned the Mount Barker Council's bird control tactics and accused it of compromising wildlife protection laws. He said the use of his photo without his consent, and the accompanying article written by a staff reporter, promoted the council's agenda and covered up what was really happening at the lagoons.

The Courier's editor said Mr Williams' instruction to his reporter was that the picture of the man with the gun could not be used "if" the picture of the dead coot was also used. The editor added that he believed he had satisfied Mr Williams' concerns about unwanted repercussions by printing the photo of the gunman to illustrate the council's latest strategy in bird control, with a caption stating he was armed with blanks.

The Press Council finds that The Courier's article was informative and well-balanced in that it carried the views of the Mount Barker Council, Mr Williams and the Department of Environment and Heritage. There is no way of knowing whether Mr Williams' recollection of the proviso about the picture or the reporter's is the more accurate.

All parties had their say

Adjudication No. 1403 (September 2008)

The Australian Press Council has dismissed a complaint from Dr Daud Batchelor over material published in The Australian on April 22 and 23, 2008 and in the two weeks following concerning Griffith University receiving funding from the Government of Saudi Arabia.

The complainant argued that the reporting and commentary on it had no reason to state that the funding provided to the university might influence the University in promoting hardline Islam, particularly within their Islamic Research Unit, because the funding had been provided on a "no strings attached" basis. He further asserted that it was not unusual for Islamic educational institutions to be funded by Muslim benefactors and governments. He also claimed there was no secrecy about the funding as he asserted the articles implied.

The newspaper said its coverage of the issue was fair, accurate and balanced and that it was in the public interest. It cited as evidence for this the fact that the University subsequently announced that it would no longer chase any further Saudi funding.

The Council believes that the coverage of the matter was in the public interest. The April 22 and 23 articles quoted a university lecturer and a judge respectively. The articles did not claim that the donation was a secret, however they pointed out that the University had offered to keep it anonymous.

The University and the complainant were given sufficient opportunity to state their position. The University was extensively quoted in the April 22 article. The University did not return phone calls to the newspaper prior to the publication of the April 23 article.

In addition, the newspaper published an article, and an opinion piece from the University's Vice Chancellor, on April 24 in which the University's case was extensively put.

The complainant organised a letter to the editor on behalf of a number of Islamic organisations. An edited version of the letter was published on April 28.

Over the ensuing two weeks there were a number of follow-up articles and numerous letters to the editor, containing a variety of views including a number supporting the views of the complainant.

In dealing with allegations of biased or unfair coverage in such a series of investigative articles, the Council considers whether all parties are treated fairly. In this case, the Council is concerned that the

pejorative language used in the articles, and some of the headlines, indicates that the newspaper’s view on the Griffith University funding influenced the reporting of the news. Nonetheless, the funding debate was fully covered by the newspaper, allowing all parties to respond to claims and, as a result, overall, it was fair and balanced.

Adjudications
1403
1404
1405

Confronting graphic reasonable

Adjudication No. 1404 (September 2008)

The Press Council has dismissed a complaint against The Australian over the publication on May 20 of a colour photograph of a burning immigrant during the violence in Johannesburg. A smaller version of the image was also published, in black and white, on May 26.

Mr Lucas complained that publication of the “shocking” photograph breached the principles in that it caused offence and was not justified by the public interest.

The Australian responded that the first photograph formed part of a long series of articles about the situation in South Africa and Zimbabwe and illustrated the on-going tragedy in those countries in a responsible way. The second photograph accompanied a story about the burning man himself.

The Press Council agrees that the image is confronting but its publication was reasonable in the circumstances.

The Press Council agrees that the image is confronting but its publication was reasonable in the circumstances.

Statistics don’t add up

Adjudication No. 1405 (September 2008)

The Council has upheld a complaint by John Carter, a member of the Australian Beef Association (ABA), over a May 1 article published in the Queensland Country Life.

The article headed *Woolies’ big beef on prices* reported details of ABA’s submission to the Australian Competition and Consumer Commission inquiry into grocery prices.

In its submission ABA quoted data from the United States Department of Agriculture to argue Australian consumers were being overcharged for beef at supermarkets in comparison with US shoppers.

The article then reported that “On face value the USDA table sounds like a ‘credible and relevant source’ ...but even a cursory examination of the actual supermarket environment in the US shows the figures are a long way from reality”. It then detailed the results of an internet search of some US supermarkets and retail data collected independently from 100 beef outlets across Australia.

The article also contained a response to the ABA submission by Woolworths and said that ACCC head Graham Samuel had “criticised ABA’s lack of substantive evidence” in support of claims made against supermarket groups.

Mr Carter disputed that Mr Samuel’s comments during the inquiry amounted to criticism.

In its response the newspaper produced a transcript which showed Mr Samuel questioning whether Mr Carter’s organisation had done a study of gross and earnings before interest and tax of margins of US and Australian beef retailers.

However both parties told the Council that they believed that Mr Samuel’s comments were open to differing interpretations.

The paper also defended its use of internet-sourced statistics and said other data was from a Meat and Livestock Australia survey.

Mr Carter also complained that the article quoted a beef producer, David Byard, as a director of the ABA, which he is not. While the paper corrected this error, its inclusion of the Byard comments in the article also presented the ABA in a negative way.

Publications should take care when reporting matters highlighting conflicting statistics. The sources for such statistics should be clearly stated so that their authenticity can be valued. In this case, the Council believes that the newspaper should have, at least, provided recognised statistical analysis in support of its criticism of the ABA, and upholds the complaint.

Publications should take care when reporting matters highlighting conflicting statistics. The sources for such statistics should be clearly stated so that their authenticity can be valued.

Adjudications
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The Council has stated on a number of occasions that editors can edit letters from readers for publication, provided that such editing should not change the meaning or tenor of the letter.

The Press Council believes the interpretation of what is an objection on religious grounds is blurred ...

No change of meaning

Adjudication No. 1406 (September 2008)

The Australian Press Council has dismissed a complaint from J R Carr, against The Land, over a letter to the editor published on May 1, 2008.

Mr Carr’s letter related to the benefits of ploughing and he used a real-life example to convey his message. He complained that the editor of The Land altered his letter and sought to have it reprinted in the original format.

The editor of The Land said that the editing changes were made to ensure that Mr Carr’s ‘message was clear and unambiguous to the readers. The editing was intended to be a positive initiative’.

The Council has stated on a number of occasions that editors can edit letters from readers for publication, provided that such editing should not change the meaning or tenor of the letter. Letter writers can, of course, specify that they want their letter published without editing, or not at all, but in doing so they increase the risk of having nothing published.

The Council does not find that the meaning or tenor of Mr Carr’s letter has been altered and therefore the complaint is dismissed.

Contentious Camden coverage cleared

Adjudication No. 1407 (September 2008)

The Press Council has dismissed complaints by Andrew Wannet against the Camden Advertiser over the paper’s coverage of a proposal to build a Muslim school in Camden and the decision by the Camden Council to refuse a planning application.

Mr Wannet is a member of the Camden/Macarthur Residents Group that protested against the proposed school. He complained the paper had not displayed balance and fairness in its reporting on the issue leading up to the council decision and that the coverage of the council’s decision had misrepresented the statistics about the nature of the submissions to council.

The application by the Quranic Society for the proposed school in October, 2007, became a major issue and led to community meetings; more than 3000 submissions to the council; several petitions; and comments by Federal and State politicians. It was extensively covered by the local media including the Camden Advertiser, the Advertiser’s own internet blog section and other internet sites.

Mr Wannet’s complaint about the coverage leading up to the Council decision followed a page 1 report on February 6, 2008, headed *Muslims Respond*, giving the views of the Quranic Society following public concern about the proposal. Mr Wannet complained that the paper did not seek comment from his group on the report and did not print its media release in response.

The Advertiser said it had run many stories and letters about the issue including some from Mr Wannet and other members of the residents group and that Mr Wannet had posted many blog comments under various names on its website and submitted letters to the editor under false names.

A further decision on what is newsworthy is the editorial judgment of the paper and it is under no obligation to print every letter or opinion it receives on an issue.

A further complaint concerned reports on May 28 and June 4, after the council’s decision. In particular, Mr Wannet singled out one section of the May 28 article, headed *The Fury*, that said the vast majority of the original submissions objected to the school on religious grounds and gave excerpts from some of them. The June 4 report headed *World thinks we are racist* said the decision had been covered in many countries and its website had been swamped with comment calling Camden residents “racist” for not welcoming Muslims into the area.

In a comment attached to a letter also published on June 4 complaining about the paper’s coverage, an acting editor’s note said the excerpts represented about 99 per cent of the submissions that were received. She said some objected on planning grounds but the clear majority opposed the school on religious grounds as was pointed out in the article.

Mr Wannet said it was clear to him that the majority of concerns in the submissions were of a planning nature as detailed in a summary by local council officers.

The Press Council believes the interpretation of what is an objection on religious grounds is blurred

as Camden council officers found many of the submissions were based on a number of factors such as religion, planning, traffic, environment or other issues and would overlap into several categories. By selectively choosing some of the most outspoken excerpts based on religious grounds for publication after the council's decision, the Advertiser could be accused of singling out one divisive theme from multiple concerns. In any case, the "99 per cent" comment is clearly an exaggeration. However in the Council's view this one piece of hyperbole is not sufficient to suggest the overall coverage of the debate was unfair.

The Press Council finds the paper gave fair and balanced coverage to all views on a very controversial and divisive subject.

Unbalanced coverage

Adjudication No. 1408 (September 2008)

The Australian Press Council has upheld a complaint from the Hunter Institute of Mental Health and SANE Australia over a June 21 news feature in the Gold Coast Bulletin that examines how the judicial and mental health systems deal with mentally ill killers.

The main article cites a number of cases where killers found to be mentally ill have been released back into the community after short periods of time. It quotes relatives of victims and a policeman who are critical of the systems and believe that justice is not being done.

It cites the case of a man who killed his parents with an axe and was released into the community in eight months.

There are three sidebars with the main feature. Two are articles provided by Mindframe, which provides information on mental illness and its portrayal in the news media. One presents a survey that found 17.7 per cent of the community had mental illness at some time in the preceding 12 months. The other says the mentally ill are no more violent than the general population.

The complainants acknowledge that the issue is of public interest but say the article is inaccurate, provides no balance, sensationalises the issue and maligns people with mental illness.

They also question the objectivity of the author whose 77-year-old cousin was killed after a break-in. Charges against the man arrested for the killing have been suspended pending a decision by mental health authorities.

The newspaper says the article and quotes from the families of victims are accurate.

Though there is news merit in the subject, the Council finds that the presentation is unfair and unbalanced. The unfairness results, in part, from the placing of the author's declaration of personal interest well into the article, rather than at the start. It was also caused by the headlines *The killers among us*, which went too far, and *Invading the top paddock*, which was gratuitous, and by the lack of substantiation for the claim that pleading not guilty on the grounds of mental illness is "growing in popularity".

No gang involvement in death

Adjudication No. 1409 (October 2008)

The Press Council has upheld a complaint that The Australian incorrectly implied that the fatal bashing of a young Sudanese student in Melbourne was at the hands of a Sudanese gang.

The complaint, from a prominent Sudanese community leader, Clement Deng, concerned the death of Liep Gony, 19, who died the day after he was attacked near Noble Park railway station, on September 26, 2007.

The Australian's report, six months later, on March 25, 2008, stated, "Sudanese gang violence escalated last September with the fatal bashing of 19-year-old Liep Gony..."

The wording implies that his death arose from Sudanese gang violence yet, on October 3, 2007, just one week after Gony's death, two Caucasian men were extradited from Adelaide and charged with his murder.

The newspaper then ran another report on April 16, 2008 as well as a feature article the same day, which said in part: "...following a spike in crime among young Sudanese men that escalated last

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The Press Council finds the paper gave fair and balanced coverage to all views on a very controversial and divisive subject.

Though there is news merit in the subject, the Council finds that the presentation is unfair and unbalanced.

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The Australian's reports were generally balanced but reminds publications that offence is magnified when misleading implications occur in their coverage of such sensitive issues.

September with the fatal bashing of 19-year-old refugee Liep Gony...". Once more the suggestion is that Gony's death was caused by violence involving groups of Sudanese men. Neither of the two reports included the obvious clarification that two non-Sudanese men had been charged with Gony's death.

To the extent that the reasonable reader would infer that Sudanese gangs were involved in Gony's death, the complaint is upheld.

Mr Deng said the newspaper's reporting had caused immense grief to the Sudanese community. His general complaint was that the reports were erroneous and contravened the Council's principle that publications should not place any gratuitous emphasis on race or country of origin. He broadly accused The Australian of lacking balance in its coverage of the Sudanese community.

The Australian agreed that the men who were accused of killing Mr Gony were not Sudanese. The paper said, however, that in the highly charged aftermath of Gony's death, Sudanese at a wake were involved in an incident in which a policeman was badly beaten, resulting in a Sudanese youth being sentenced to a year's detention. The paper submitted evidence that Gony's death had occurred during a period of ethnic violence between Pacific Island and Sudanese gangs although Victorian police commented that Sudanese migrants were well down on the list of law breakers.

The paper provided material published over many months to argue that it had been overwhelmingly sympathetic to the plight of Sudanese refugees. However, the feature article of April 16 conveys the unmistakable impression that Sudanese refugees are responsible for a disproportionate amount of crime in Victoria.

The Council concluded that The Australian's reports were generally balanced but reminds publications that offence is magnified when misleading implications occur in their coverage of such sensitive issues.

Not the intended target

Adjudication No. 1410 (October 2008)

The Australian Press Council has dismissed a complaint against The Advertiser, Adelaide over a comment piece headed *Red meat's tick of approval*, which supported human consumption of red meat. It was published on May 17.

The comment, in Tim Lloyd's *Heritage Matters* column, was published three days after a report about a journal article by dietician Suzie Ferrie and animal liberationist and vegan diet advocate Geoff Russell attacking the credibility of the CSIRO Total Wellbeing Diet. That report included a balancing comment from the diet's co-author.

Mr Russell initially complained that Mr Lloyd's comment piece was intended to discredit him and Ms Ferrie by stating "Australian campaigners have fallen into the trap of quoting US-derived figures for the costs to the environment of growing red meat".

In response, the newspaper said that Mr Lloyd was not aware of Mr Russell or his views when he wrote his comment piece, and that his comment was based on material he extracted from the Internet. It noted that the column represented Mr Lloyd's opinion as a respected commentator on matters dealing with heritage. It offered to publish a letter from Mr Russell, an offer he rejected, seeking instead the publication of a 600-word balancing article. The Council notes that The Advertiser's response to Mr Russell's complaint was tardy and, because the Council's processes rely on the speedy resolution of complaints, is critical of the newspaper's delay in responding.

By the time the response was received, Mr Russell had widened his complaint to include the headline, the photo of a grazing animal, and the basis for almost every assertion in Mr Lloyd's comment.

The Council is aware that arguments about the sustainable use of land and resources for food production are complicated and technical, and that opponents are passionate and polarised in their views. In the Council's view, it was neither vital nor possible for Mr Lloyd to discuss all these issues in a brief (350-word) comment piece.

Mr Lloyd's article did not deal with the CSIRO diet, nor did it refer to the news report published three days earlier that had quoted Mr Russell's views. Mr Lloyd did not advocate any increase in red meat intake. He suggested only that people should continue eating red meat if they like it. He also pointed

In the Council's view, it was neither vital nor possible for Mr Lloyd to discuss all these issues in a brief (350-word) comment piece.

out they might switch from red meat to kangaroo or wild goat meat if they are concerned about the influence on the environment of red meat production.

The Council finds that the headline, *Red meat's tick of approval*, fairly represented Mr Lloyd's comment, that the picture of a grazing beast was a reasonable illustration, and that there is no evidence Mr Lloyd intended any criticism of Ms Ferrie and Mr Russell in an article that mentioned neither of them.

Significant public interest

Adjudication No. 1411 (October 2008)

The Australian Press Council has dismissed a complaint by Dr Cynthia Weinstein about a bylined opinion piece that appeared in *The Herald Sun* on April 24, 2008.

The article addressed the practices of Dr Weinstein, a dermatologist and cosmetic laser specialist then appearing before the Medical Practitioners Board on allegations of misconduct. It referred to the journalist's experiences with Dr Weinstein and her patient in the course of filming a TV show on the subject some years earlier.

Dr Weinstein complained that the article was "inflammatory, factually incorrect and unnecessarily derogatory" in its description of her appearance, professional reputation and treatment history.

The paper responded that the article, clearly identified as an opinion piece, was accurate and in the public interest, and that comment on Dr Weinstein's appearance was justified, given her livelihood.

A careful reading of the article and the complaint revealed that some of Dr Weinstein's grounds for complaint were themselves based on an inaccurate reading of the text of the article. As for assertions in the article about treatment history, the Council was unable to determine which version of events was correct.

The Council allows greater licence to opinion pieces than to news reports. It found that the significant public interest of the question of medical practice, expressed in an article clearly identified as opinion, meant that the article overall did not breach the Council's principles.

Res ipsa loquitur

Adjudication No. 1412 (December 2008)

The Press Council has dismissed a complaint against the *Moreland Leader* over the publication of an article on October 7 about the website being constructed by the Moreland Greens for use in the upcoming local government election.

The site was unfinished and was clearly not "live". Journalists who were Internet aware enough would recognise a site under construction. The site made use of a common Internet tool of putting in a dummy Latin text, described in the article as "Latin-style gobbledygook".

The article on the unfinished website, complete with a picture of the site, contained comments from the complainant Seth Unmack, campaign co-ordinator of the Moreland Greens, who made it clear the site was not, as later asserted by the newspaper, released for public consumption.

In a sidebar the newspaper published a "translation", under the heading *WHAT IT SAID*. The "translation" made a number of statements about what would happen should the Greens control Moreland Council. The end of the sidebar said: "The Leader does not guarantee the accuracy of this translation".

On October 13 the *Moreland Leader* published a letter to the editor from the co-convenor of the Moreland Greens, Peter Hodge. Mr Hodge said the sidebar "merely seeks to reinforce tired and broken stereotypes, completely out of touch with the Greens significant profile in the City of Moreland". At the end of the letter the editor noted that the "translation" was published in a "light-hearted spirit and not to be taken seriously".

The Council agrees that readers would be unlikely to take the translation seriously. Nor was the article itself likely to mislead readers. Given the publication of the letter in the next available edition provided any necessary balance, there is no breach of the principles.

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A careful reading of the article and the complaint revealed that some of Dr Weinstein's grounds for complaint were themselves based on an inaccurate reading of the text of the article.

The Council agrees that readers would be unlikely to take the translation seriously. Nor was the article itself likely to mislead readers.

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Given her condition, the woman was not capable of consenting in an informed way to participating in the posed photo session.

The complaint is upheld because the newspaper breached Press Council principles in that it failed to correct any errors once they were brought to its attention.

Incapable of informed consent

Adjudication No. 1413 (December 2008)

The Australian Press Council has upheld a complaint lodged by a family friend of an 18-year-old woman whose photograph, and comments about drinking and behaving like a “ladette”, were published on the front page of The Sunday Age.

The complaint revolved around the issue of informed consent. The Press Council believes this is an important issue for publications to consider, particularly when a story or image involves young people and alcohol.

The young woman was interviewed, and was posed with friends for photographs, while drinking at a Melbourne campus bar. The complainant said the woman was inebriated on the night, and could not have given informed consent for the newspaper to publish her comments and picture. He said the woman’s privacy had been unfairly invaded and the article had portrayed the woman and her friends in an unflattering light.

The newspaper said the editor discussed with the freelance reporter and photographer the issues of consent and privacy of the young women in the article. They stood by their belief that she had knowingly consented to the interview, and she told the paper her name, age, occupation and home suburb.

The Council accepted a statement from the young woman, admitting that she has been drinking heavily before she met with the journalists. Given her condition, the woman was not capable of consenting in an informed way to participating in the posed photo session. For that reason, the coverage, despite the journalists’ belief they had informed consent, was unfair to the woman.

Article off-target and uncorrected

Adjudication No. 1414 (February 2009)

The Press Council has upheld a complaint by Sandra Hodson about an article concerning the life and tragic death, two years earlier, of her son, Jackson Fear, a former Olympic archer.

The article, published in the St George & Sutherland Shire Leader on June 3, 2008, portrayed a highly talented but somewhat troubled young man. However, Ms Hodson was concerned that statements about Mr Fear in the latter stage of his life were not checked and that a very misleading impression was presented. In particular, Ms Hodson was distressed at the statement that “only a few archers and friends attended a small memorial service ... and only a few want to remember today”. She was also concerned with references to his employment and the suggestion that drugs may have been a factor in his decision to take his own life.

This was an article that recreated Jackson Fear’s life, and relied on interviews with a number of people who had known him, particularly in the sport of archery, and on public records. The article contains no comments from his mother, who would have been in an excellent position to confirm the accuracy of what others had said, and put matters into perspective. The paper stated that it wanted to interview her but had been unsuccessful in contacting her. The Press Council believes it should have been more strenuous in its attempts. This ought to have resulted in a realisation that information that had been provided had been incomplete or inaccurate and presented a misleading and indeed hurtful impression, clearly causing Ms Hodson great distress. Soon afterwards, Ms Hodson sought publication of corrections, which the newspaper did not agree to publish.

The complaint is upheld because the newspaper breached Press Council principles in that it failed to correct any errors once they were brought to its attention.

No implication of involvement

Adjudication No. 1415 (February 2009)

The Australian Press Council has dismissed a complaint by federal MP Michael Danby against The Age, Melbourne.

Mr Danby complained that a page 3 article (June 21, 2008) about a police investigation into the alleged disappearance of funds from the Australian American Association “attempted wrongfully to link [him] with the ... missing funds.”

Mr Danby had been a former president and committee member of the association. The article claimed he retained considerable influence over the association. It outlined Mr Danby's relationship with the association's former executive director and links between the association and the ALP. It also described Mr Danby's interest in the police investigation.

Mr Danby said he had shown more concern about the alleged missing funds than anyone else and had lobbied an association committee member to seek legal advice on the financial affairs of the association.

The newspaper said that Mr Danby's link to the association was a matter of public record. It denied that the article stated or implied any link to the alleged fraud. In addition, The Age published promptly a letter from the association's former executive director stating that Mr Danby was no longer involved with the association.

Subsequent to the article, Mr Danby sought to have an apology published. When it was not, he gave a personal explanation in Parliament giving his response to the June 21 article. There was a reference to this speech in an Age gossip column on September 5, which did not refer to the substance of the response. It was after this that Mr Danby lodged the complaint.

In the Council's view there was no implication in the article of involvement by Mr Danby in the alleged fraud.

Variety of views published

Adjudication No. 1416 (March 2009)

The Press Council has dismissed a complaint by Rabih Alkadamani about an opinion article in The Australian on 26 November 2008 dealing with the Israel-Palestine conflict. It was an account by Janet Albrechtsen of her experiences and views following an Israel-sponsored visit to the region.

Ms Albrechtsen spoke of Hamas rocket attacks, and briefly about what she saw as 'intractable hurdles to peace' before focussing on what she called 'a generation of Palestinian children being raised on a full diet of hate education' – partially funded by Western money - that negates the prospects of future peace.

Mr Alkadamani complained that Ms Albrechtsen's article was racist, attributing 'a host of odious ethics' to Palestinian children. He said that it singled out Palestinians for criticism, and lacked fairness and balance by failing to convey the suffering of Palestinians at the hands of Israelis, and that Ms Albrechtsen was remiss in not reporting distortions in Israeli school textbooks.

Mr Alkadamani said that he had provided to The Australian an opinion article repudiating Ms Albrechtsen's views, but this was not published. The Australian said that it had published a 'lively' selection of letters about Ms Albrechtsen's column in the days following its publication.

Mr Alkadamani expressed concern that the person who rejected his article, Rebecca Weisser, the Opinion Editor, had herself been on a sponsored trip to Israel, which resulted in a pro-Israeli feature article in The Australian on November 29. He argued that this reinforced doubts about the newspaper's balance in publishing opinions about the conflict. The Council considers that The Australian should have done more to encourage Mr Alkadamani to resubmit his piece in the form of a letter that could be considered for publication.

Opinion pieces will always be highly contestable elements in controversial debates, especially the Israeli-Palestinian debate. As long as a newspaper publishes a variety of views on such matters, and in a timely way, the requirements of balance and fairness are likely to be met. Newspapers have a heightened responsibility to ensure fairness when publishing opinion articles based on sponsored trips. In the Council's view, the newspaper met this responsibility in this case.

Immediate and wide-ranging steps taken

Adjudication No. 1417 (March 2009)

The Australian Press Council has dismissed complaints from Matthew Joyce and Ron Lesh against The Age arising from publication of an article headed *Israelis are living high on the US expense account* in a comment column by Michael Backman published on Saturday January 16, 2009.

The complainants say that the column contained racial vilification and was anti-Semitic. They argued that The Age has not made a reasonable effort to rectify the harm caused by the publication.

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The newspaper said that Mr Danby's link to the association was a matter of public record. It denied that the article stated or implied any link to the alleged fraud.

Opinion pieces will always be highly contestable elements in controversial debates, especially the Israeli-Palestinian debate. As long as a newspaper publishes a variety of views on such matters, and in a timely way, the requirements of balance and fairness are likely to be met.

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The Council believes that the newspaper has been thorough and taken correct approaches to rectification.

A key point made by Justice Scutt is that the newspaper was wrong in asserting that she accepted a judicial appointment 'from the military-backed regime'. She contends that such an assertion is inaccurate as her appointment was made by the President of Fiji.

The newspaper took immediate and wide-ranging steps following the column's appearance.

On Monday January 19 the paper published several letters critical of the column, its contents and publication. On January 20 the newspaper published an apology for the distress caused and expressed its regret over the publication of the column. The Saturday Age of January 24 published a letter from Mr Backman and a news article reporting his apology for any hurt or distress caused by ill-chosen words, and further letters criticising the article. The newspaper suspended Backman's column and is assessing his value as a commentator.

Despite these admissions and publications Mr Joyce says the newspaper's actions do not expiate the publication of a viewpoint that perpetuates racial hatred. Mr Lesh claims that the publication of the article was "calculated and deliberate".

In its response to the Council The Age vigorously denied this but acknowledged a breakdown in the editing process.

The Council believes that the newspaper has been thorough and taken correct approaches to rectification.

Note: The adjudication has been amended from the original form, and re-issued in this form, after the newspaper pointed out that the Council had not accurately summarised the nature of the wider complaint.

Link claims hyperbolic

Adjudication No. 1418 (March 2009)

The Australian Press Council has dismissed the main burden of a complaint brought by Justice Jocelyne Scutt, a judge of the High Court of Fiji, against The Australian but upheld that part of the complaint relating to claims by the newspaper of "links" with the military regime.

In December 2006 a military coup took place in Fiji. Justice Scutt's appointment occurred during the resulting military regime.

The article in the March 10, 2008 edition (*Judge criticised over Fiji posting*) reported her acceptance in November 2007 of her judicial appointment. It noted that she was among the High Court judges who have been used to fill the gaps in the Court of Appeal in the wake of the resignation of six expatriate judges. It quoted comments critical of Justice Scutt made by the Fiji Women's Rights Movement and two prominent barristers. Additionally, it quoted a spokeswoman for the Australian Foreign Minister as saying that the state of the Fijian Judiciary is a matter of concern, as evidenced by the fact that most expatriate judges, including a number of Australian nationals, have resigned or have refused to renew their contracts 'and are urging the Fijian interim government to return Fiji to democracy and the rule of law'.

The article in the March 15, 2008 edition featured comments from Angelina Heffernan, the executive director of the Pacific Centre for Public Integrity, a body described in the article as 'Fiji's democracy lobby'. The article centred on letters of complaint sent by Ms Heffernan to various legal bodies and authorities in Australia, calling for regulatory procedures 'to deal with the activities of Australian lawyers overseas'. Ms Heffernan was reported as saying that acceptance by members of the Australian legal fraternity of 'illegal appointments in the Fiji judiciary' was 'deeply unfortunate and ethically unconscionable'. Ms Heffernan's complaint, particularly to Victoria's Legal Services Commissioner, was highlighted in the March 28, 2008 edition. It was subsequently dismissed, a fact that The Australian reported.

Justice Scutt complained that the articles were 'highly critical', 'highly defamatory' and 'damaging' and sought a retraction of the published materials and the publication by the newspaper of an apology.

A key point made by Justice Scutt is that the newspaper was wrong in asserting that she accepted a judicial appointment 'from the military-backed regime'. She contends that such an assertion is inaccurate as her appointment was made by the President of Fiji. She asserts that judicial appointments in Fiji 'are not political' as they are made by the President upon the recommendations of a Judicial Services Commission. The newspaper describes this assertion as 'disingenuous' and said that various members of the Judicial Services Commission had been replaced by the military regime since the coup.

The newspaper justifies its focus on Justice Scutt on the ground that the other expatriate appointees lack the public profile of Justice Scutt who is an internationally known feminist and a former anti-discrimination commissioner in Tasmania. There is no doubting that Justice Scutt is a public figure, and that her acceptance of a judicial appointment in a country under the control of a military regime is a newsworthy story of public interest.

Justice Scutt also said that she found it surprising that the articles were written and published at all given that the matter of judicial appointment in Fiji is currently *sub judice*. In the Council’s view, this provides no effective or convincing justification for her complaint.

The Council is critical of what appears to be inadequate attempts by the newspaper to obtain comments from Justice Scutt prior to the publication of the first article. However, once an adequate opportunity was provided to her to address questions surrounding her acceptance of the judicial appointment, she declined to comment. This refusal by Justice Scutt to provide comments based on her belief that, as a judge she was “not able to speak on the matter”, did not preclude the newspaper from continuing to report, and comment on, her appointment.

Nonetheless, the Council concluded that the newspaper went too far in statements such as that the complainant has “links with Fiji’s military rulers” and “is involved with the military regime”, statements which incorrectly imply collaboration with and/or personal connections with members of the military regime. The newspaper offered no evidence to justify these statements.

No adequate redress

Adjudication No. 1419 (March 2009)

The Australian Press Council has upheld a complaint over an article headed ‘*I escaped an Aussie sect*’ in *Woman’s Day* on December 1, 2008, which told a woman’s story about her attempts to leave a church named as the Exclusive Brethren.

Phil McNaughton, a senior member of the Exclusive Brethren, which is also known as the Brethren, said the church had no knowledge of the woman named in the article having any affiliation with the Brethren or having married a member of the Brethren.

Mr McNaughton said the article made a number of false allegations about the activities of the Brethren including performing exorcisms and restricting children from taking medication.

The magazine said the article was written by a very experienced and well-respected journalist and the woman and another ex-member of the same church had confirmed on a number of occasions that they were ex-members of the Exclusive Brethren. The magazine said it considered that any enquiries made to the Exclusive Brethren were not likely to be fruitful given the secretive nature of the church. The Brethren said contact numbers were available on its website and spokespeople had been quoted in other publications.

After the publication of the article the magazine sought clarification and was told by the woman that the group she had belonged to was “a breakaway” from the Exclusive Brethren.

Whether or not the woman was a member of the Exclusive Brethren, *Woman’s Day* failed to take reasonable steps to check the accuracy of the woman’s claims about the Exclusive Brethren, failed to pursue fairness and balance, and failed to make any offer of amends.

Digital alteration distorts

Adjudication No. 1420 (May 2009)

The Press Council has upheld a complaint by Moammar Mashni about a photograph accompanying an article entitled *Aussie war graves in line of fire* that appeared in *The Herald Sun* on February 6, 2009. The report covered recent damage to Allied graves in the Gaza war cemetery. The print version of the article was accompanied by a photo of damaged headstones, which was digitally altered to include the figure of a Palestinian soldier carrying a grenade launcher. The online version of the story did not contain the soldier’s image.

Mr Mashni, representing Australians for Palestine, argues that the report and photo create an impression that the Palestinians were responsible for the damage to the graves, which he says is unsubstantiated, and that the notation that the photo was digitally altered was not clear enough. He states that this is “a

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Nonetheless, the Council concluded that the newspaper went too far in statements such as that the complainant has “links with Fiji’s military rulers” and “is involved with the military regime” ...

Whether or not the woman was a member of the Exclusive Brethren, *Woman’s Day* failed to take reasonable steps to check the accuracy of the woman’s claims

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However, the use of the superimposed image of a Palestinian soldier bearing a grenade launcher and the unobtrusive reference to digital alteration may leave the reader with the impression that Palestinian soldiers were responsible for the damage, a fact not proved at the time of publication.

deliberate attempt by the paper to distort the Israeli/Palestine conflict”.

The Herald Sun responded that the article was accurate, fair and balanced, citing “clashes between Israeli and Hamas militants” rather than apportioning blame, and quoting a number of sources, including the General Palestinian Delegation to Australia. It asserts that the photograph was clearly marked “Digitally altered image”. On February 27, 2009 the paper ran a follow up article entitled *Israelis blamed in grave row*, which reported new facts that had emerged about who was responsible for the damage to the graves.

The Press Council acknowledges that the articles satisfied its principles of fairness and balance. However, the use of the superimposed image of a Palestinian soldier bearing a grenade launcher and the unobtrusive reference to digital alteration may leave the reader with the impression that Palestinian soldiers were responsible for the damage, a fact not proved at the time of publication.

Locator did not require details

Adjudication No. 1421 (May 2009)

The Australian Press Council has dismissed a complaint by Moammar Mashni against The Herald Sun over the use of a map that accompanied a travel article in the newspaper’s *extrago* section on November 7, 2008.

Mr Mashni had claimed the map, which was used to identify the whereabouts of the tourism destination Wadi Rum, in Jordan, was inaccurate and insensitive.

The map, a small, simplified version of a section of the Middle East, picked out Jordan and neighbouring countries Syria and Israel.

Mr Mashni, who is a representative of Australians for Palestine, argued that it should have also featured the Occupied Palestinian Territories. He sought a correction.

The newspaper said the map was not comprehensive, nor intended to be a political map of the region. Rather it was a ‘locator’ map, helping readers identify Jordan, and relate to the desert region of Wadi Rum, the subject of the accompanying article.

The Council agreed that the map was a simplified locator aid of the sort regularly found accompanying such articles and, as such, did not require further detail.

Original article inaccurate and unbalanced

Adjudication No. 1422 (May 2009)

The Australian Press Council has upheld a complaint by the parents of a schoolboy against two reports and an editorial about alleged bullying at Sydney’s Moriah College published in the Australian Jewish News (AJN) on November 28, 2008.

The newspaper reported that a male student of Moriah’s middle school had been kicked in the head and a mobile phone video of the incident had been placed on the internet social network site, Facebook. The article said the video portrayed other students standing by and laughing at the plight of the student being bullied. Two students were suspended.

The school subsequently sent a letter to parents clarifying that the students had been suspended for what it termed “cyber-bullying”.

The AJN in its next edition sought to correct errors of detail in the original article and reported what it called a “partial back down” by the school by its reference to “cyber-bullying” rather than physical bullying. In the same edition, it carried a detailed feature article on bullying in schools.

The parents of one of the suspended boys said the newspaper breached Press Council principles in that the articles were not accurate, errors were not corrected, they were denied a balancing response in the original article, they were misrepresented and that information for the first article was obtained by unfair means.

The newspaper said that it relied in the original article on the school’s acting principal’s statement and believed at the time that the suspension was due to physical bullying.

The newspaper did publish follow-up material at the first opportunity. Nonetheless, the original article was inaccurate in its description of the incident that led to the suspensions, and unbalanced as

a result of the absence of material from the parents, and the follow-up material did not provide adequate balance.

Bullying in all its forms is a serious problem schools across Australia. The AJN raised many important issues in its original article, its editorial and in the article and feature it published a week later, but it failed to meet its obligations to ensure accuracy and balance.

Accurate, albeit snide

Adjudication No. 1423 (May 2009)

The Press Council has dismissed a complaint from the South Australian Attorney-General Michael Atkinson over articles in *The Advertiser*, Adelaide, and its online publication *Adelaide Now*

Mr Atkinson complained about two articles on the same subject. The first appeared in the newspaper's online site *Adelaide Now* on February 12, 2009 under the heading *Rann spin-doctors rush to highlight prosecutor's retraction*. The second, under the heading *Spin doctors pounce on prosecutor's apology*, appeared the next day in *The Advertiser*.

The articles dealt with a retraction by a crown prosecutor of a submission he had made during a case in the South Australian District Court.

A week before, *The Advertiser* reported that the crown prosecutor had submitted, during the opening of the case, that the laws about hit-run driving were ambiguous because they "had been rushed through parliament".

Later in the case, the prosecutor told the judge that he unreservedly withdrew his submission critical of "those who had drafted the provisions".

The prosecutor's comments were distributed to the media gathered by the Attorney-General's press secretary and with a request to run them "if your networks broadcast/printed the comments ... in the case last week can you please ensure that today's events before the court are included in your news tonight ..."

The Attorney-General said the newspaper made much of his press secretary's email and a reader could have been left with the impression that her actions were unusual. Mr Atkinson said that part of the press secretary's job is to provide a "heads-up" to the media about court matters in South Australia and that this service is welcomed by all media.

A further complaint by the Attorney-General was that the use of the email amounted to a breach of the principle that says "news obtained by dishonest or unfair means or the publication of which would involve a breach of confidence" should not be published.

The Council does not agree that the principle was breached. Once the email was sent to the media, its contents were in the public domain.

On the substantive complaint, the Council concludes that the article accurately reported, albeit in a snide way, the fact of the prosecutor's retraction, which was the action sought by the Attorney-General's office.

The Press Council also notes that the response to the complaint by *The Advertiser* was inadequate. It sent one letter to Council in reply to Mr Atkinson's complaint but did not, in any substantive manner, address the matters raised.

Errors and omissions in reports

Adjudication No. 1424 (June 2009)

The Press Council has upheld a complaint from Vivian Pak, a member of the NSW Community Relations Commission (CRC), that a report in *The Sydney Morning Herald* implied that she had sought a remunerative position on the body by contributing financially to a NSW minister's election campaign.

On February 25, 2009 the newspaper wrote that Ms Pak, a political donor to the Minister for Fair Trading, Virginia Judge, had been appointed by former premier, Morris Iemma, to the CRC in 2007.

The report said that Ms Pak and her firm, KP Lawyers, had donated more than \$20,000 to Ms Judge's campaigns over the previous six years, and that her husband, Keith Kwon, the Mayor of Strathfield, had donated \$15,506 to Ms Judge over the previous five years. A second report, the following day,

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On the substantive complaint, the Council concludes that the article accurately reported, albeit in a snide way, the fact of the prosecutor's retraction, which was the action sought by the Attorney-General's office.

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1425

if the report did not imply, as the newspaper asserts, any wrongdoing by Ms Pak, then the unavoidable consequence is that Ms Pak became needlessly tainted by inclusion in the newspaper's investigations regarding Ms Judge

The Press Council acknowledges that the views and commentary expressed in 'Opinion' columns are often free-ranging, provocative, and capable of generating heated debate.

quoted a former Labor mayor alleging that Ms Pak and her husband had contributed a total of \$30,000 to Ms Judge's campaigns.

Both reports were follow-ups by the newspaper to its investigations into suspected political patronage of a corporation which donated \$50,000 to Ms Judge's campaign funds.

Ms Pak said that the first report was unfair in its implied link of her donations to the CRC appointment, and the second report erred in that the Election Funding Authority's records showed that she and her husband, both members of the Labor Party, had donated only \$21,856 since 2002. A further \$10,000 donated by Ms Pak was to the Labor Party, not the minister.

Ms Pak said that the CEO of the CRC, Stepan Kerkyasharian, told her that, in an interview with the newspaper, he had explained that the process of appointing commissioners did not involve Ms Judge. This explanation did not appear in the February 25 article.

The newspaper argued that financial donations to political parties to gain government influence was an ongoing controversy in NSW politics and therefore of justified public interest. It said the report was aimed not at Ms Pak, but at Ms Judge and the Labor government which had appointed to a prestigious community body someone (Ms Pak) who had donated thousands of dollars to the Labor Party.

In this case, if the report did not imply, as the newspaper asserts, any wrongdoing by Ms Pak, then the unavoidable consequence is that Ms Pak became needlessly tainted by inclusion in the newspaper's investigations regarding Ms Judge.

The Council finds that in this respect the first report is unfair to Ms Pak, and that the second report inaccurately reported her and her husband's exact contribution to Ms Judge.

In the context of extensive coverage

Adjudication No. 1425 (June 2009)

The Press Council has dismissed a complaint from Claire deLacey and Steve Chamberlain over an 'Opinion' article by columnist Miranda Devine which appeared in The Sydney Morning Herald on February 12, 2009, and in the newspaper's on-line edition in both the 'Opinion' section and the 'Environment' section.

The article presented, in strong terms, Ms Devine's view that poor forest management practices resulting from 'the power of green ideology' were a key driver in the scale and ferocity of the Victorian bushfires that devastated a number of communities and caused large scale loss of life.

The complainants asserted that the article had breached a number of Press Council principles. They described the piece, which was entitled Green ideas must take blame for deaths, as a highly derogatory polemic capable of inciting some people "to threaten, or even commit, acts of hatred or violence". They took particular exception to the hyperbolic suggestion that politicians seeking to divert attention from themselves could offer a new target for a lynch mob: "it is not arsonists who should be hanging from lamp-posts but greenies". This, they said, could be seen as an incitement to hatred, if not violence.

In seeking a resolution of the matters raised by the complainants The Sydney Morning Herald acknowledged concerns about some of the language in Ms Devine's column and expressed regret at any offence taken. The newspaper also pointed to its "comprehensive and balanced" coverage of the Victorian fire tragedy in many reports. It also provided space for readers to respond to the Devine article in the form of letters to the editor and through 'Opinion' articles expressing a contrary view. The newspaper undertook a series of meetings with leaders of environmental groups who wished to raise objections to the article.

The newspaper offered the complainants the opportunity to respond to Ms Devine's column through a letter to the editor or in an 'Opinion' article, or by making other approaches to the writer or newspaper. These opportunities were declined by the complainants.

In its defence the newspaper claimed that the hyperbole employed by Ms Devine was part of her "robust, lively and sometimes provocative" writing style. The newspaper said Ms Devine had a long-standing interest in bushfire management issues and further stated that there were no factual errors in the piece.

The Press Council acknowledges that the views and commentary expressed in 'Opinion' columns are often free-ranging, provocative, and capable of generating heated debate.

In this case, the lead paragraphs of the article were dogmatic and confrontational. Ms Devine asserted that "It wasn't climate change" and "It wasn't arsonists" which killed "as many as 300 people"; rather, it was the "power of green ideology" in preventing fuel hazard reduction measures that allowed the build up of ground fuel that powered the disastrous fires. At a time of high emotion and a national outpouring of sorrow the laying of blame at the door of a particular group, in this case "greenies", was incautious and would be offensive to many readers. It's also possible that her claimed facts would turn out to be wrong.

Nonetheless, in the context of The Herald's extensive coverage of the Victorian fires in both news reports and commentary, and the newspaper's actions in redressing concerns with the Devine article, the Council finds that the publication of the article did not breach its principles.

Reasonable steps taken

Adjudication No. 1426 (June 2009)

The Australian Press Council has dismissed a complaint from Dr Marion Manifold of the Port Campbell Community Group Inc. over a front page article with the headline *Show your Faces* and the sub text *Town puts heat on mystery community voice* that appeared in The Standard, Warrnambool, of January 9, 2009.

The piece features a balancing comment from a local resident who pointed out that the group's postal address was in Camperdown. The resident was quoted as saying he would like to know how many full-time Port Campbell residents were members. He also said that the name possibly would be more accurately "Friends of Port Campbell", if the majority of the group's members were not actually residents of the town.

The complainant consistently refused, on the grounds of privacy, to tell the newspaper how many members were in the group and how many of those were residents of Port Campbell.

Given the paper has only ever been able to make reference to Dr Manifold and the Group's President, Donald Swanson, there is obviously genuine public interest on the part of the paper and other members of the local community to ascertain if the membership is significant and truly representative of many in the community.

The Press Council supports the right of people to be informed by the press on matters of public interest so that they may create their own opinions as citizens. The Standard appears to have taken reasonable steps to publish a fair and balanced report on issues related to a local interest group.

"Knockers" and "whingers" silenced

Adjudication No. 1427 (June 2009)

The Australian Press Council has upheld complaints by Robert Norson and P.A. Robb over a series of articles in the Fraser Coast Chronicle concerning the decision by a flying school not to locate at Maryborough airport.

The articles appeared on October 25, November 20, 21 and 26 then almost daily from December 6 to December 19. "Snapshots of Opinion" supporting the school also appeared periodically.

Many of the articles contained material that could be classified as criticism of those who had opposed the school.

Mr Norson and Ms Robb have complained that the references to those opposing the school as "whingers", "knockers", being "small or narrow minded" and a "noisy minority" were published without an attempt to obtain balance from the school's opponents.

In its response the Fraser Coast Chronicle said it believed there was no substance to the complaint. The flying school's decision was a highly controversial issue and the number of articles published in response reflected the mood of the community.

The Press Council recognises that newspapers should report fully controversies within local communities.

While the newspaper did publish two letters from opponents to the flying school on December 23, there is no other reference to them in the publications complained of other than what could be described as "derogatory" comments.

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The complainant consistently refused, on the grounds of privacy, to tell the newspaper how many members were in the group and how many of those were residents of Port Campbell.

... there is no other reference to them in the publications complained of other than what could be described as "derogatory" comments.

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The Press Council has a principle that where individuals or groups are a major focus of news reports or commentary publications should ensure fairness and balance in articles.

In this matter the Council believes the newspaper did not provide this balance and the complaint is upheld.

Lack of familiarity with protocols

Adjudication No. 1428 (June 2009)

The Press Council has upheld a complaint brought by Dr Pat McIntosh against AAP regarding an internet article dated January 17, 2009.

The complainant said that the article was ‘poorly researched’ and that it amounted to ‘either grossly incompetent or mischievous reporting’.

The article reported comments made by the husband of a Sydney woman who had miscarried her baby in Maitland Hospital. Adverse comments against the hospital concerned included a claim of a 30-minute wait before being briefly seen by a junior doctor, who asked the wife if she was pregnant; and that the doctor after telling the wife to come back the next day and see the early pregnancy clinic said that ‘that’s all they could do’. It also reported that the patient’s husband had said that the doctor tapped the wife on the shoulder and told her that ‘Life’s a bitch’.

The complainant said that a wait of 30 minutes ‘is a normal and accepted reasonable waiting time for her degree of medical priority’; that being asked to return the next day to the early pregnancy clinic ‘is commonly reckoned to be best practice for a threatened miscarriage in the first 3 months of pregnancy’; and that comments made by the doctor should be construed as demonstrating appropriate sympathy and concern. The complainant also highlighted other aspects of the article to indicate the report was not based on a knowledge of current hospital practice.

AAP said that it did not offer an opinion nor attempt to provide an analysis of the events and that it was simply reporting ‘one person’s accounts of events and another’s reaction’. The agency also made the argument that it would be unreasonable to expect a general news reporter to be completely familiar with hospital procedures or protocols. AAP said its scrutiny of the standard of care at Maitland Hospital was justified as other similar incidents had been reported.

In the article, there were reported comments by a health service CEO and by the opposition health spokeswoman. It was also reported that the Health Minister could not be reached for comment.

Nonetheless, the article was unfair to the hospital and misleading and, for those reasons, the complaint is upheld.

Legitimate public figure

Adjudication No. 1429 (June 2009)

The Australian Press Council has dismissed a complaint from Zarah Garde-Wilson over an article published in The Herald Sun on January 6, 2009.

The article reported threats by Roberta Williams (the former wife of underworld criminal Carl Williams) that she would “hurt” Garde-Wilson when she next saw her. Garde-Wilson was formerly the lawyer for both Carl and Roberta Williams.

The article included details of the suburb in which Garde-Wilson lives and the make, colour and registration plate details of her motor vehicle.

The complainant argued that the publication of that information was an inappropriate use and disclosure of personal information. She claims that it has endangered her and her family.

The Council believes that the newspaper erred in publishing the address and motor vehicle details. But this matter was settled following a Press Council mediation between the parties.

That left as the remaining area of contention the extent of the seriousness of threats made by Roberta Williams to Garde-Wilson and whether they should have been reported. The newspaper pointed out that the complainant is a public figure who trades on her high public profile. Additionally, the newspaper said that the information it had included in the article was not specific enough to be a significant concern.

The issues raised were clearly matters of public interest and it was not irresponsible of the newspaper to publish the article.

The agency also made the argument that it would be unreasonable to expect a general news reporter to be completely familiar with hospital procedures or protocols.

The issues raised were clearly matters of public interest and it was not irresponsible of the newspaper to publish the article.

Publication Details

Adjudications

Publication details

Of the 33 adjudications issued by the Council, all were printed by the publication concerned. The following table lists the Council's adjudications, together with the date of their printing by the publication. Some were printed in other publications as well and the Council notes those of which it is aware. Each meeting the Complaints Committee looks at the adjudications from the previous meeting and ensures that they have been published "with due prominence" by the publication concerned, as mandated by the Statement of Principles.

ADJ	NAME OF PUBLICATION	DATE ISSUED	DATE PUBLISHED	PAGE
1397	The Sydney Morning Herald	4.8.08	22.8.08	8
1398	The Sydney Morning Herald	4.8.08	10.9.08	8
1399	The Hobart Mercury	4.8.08	9.8.08	19
1400	The Australian	4.8.08	7.8.08	Media 34
1401	The Busselton-Dunsborough Mail	4.8.08	13.8.08	4
1402	The Courier, Mount Barker	4.8.08	13.8.08	12
1403	The Australian	11.9.08	22.9.08	Media 34
1404	The Australian	11.9.08	22.9.08	Media 34
1405	Queensland Country Life	11.9.08	8.9.08	10
1406	The Land	11.9.08	13.11.08	27
1407	The Camden Advertiser	11.9.08	17.9.08	3 and 12
1408	The Gold Coast Bulletin	11.9.08	17.9.08	27
1409	The Australian	24.10.08	3.11.08	Media 34
1410	The Advertiser, Adelaide	24.10.08	5.11.08	29
1411	The Herald Sun	24.10.08	30.10.08	32
1412	The Moreland Leader	5.12.08	22.12.08	3
1413	The Sunday Age	5.12.08	14.12.08	8
1414	The St George & Sutherland Shire Leader	6.2.09	5.3.09	60
1415	The Age	6.2.09	18.2.09	10
1416	The Australian	27.3.09	6.4.09	Media 32
1417	The Age	27.3.09	27.4.09	2
1418	The Australian	27.3.09	3.4.09	Legal 27
1419	Woman's Day	27.3.09	27.3.09	100
	The Australian		6.4.09,	The Diary page 36
1420	The Herald Sun	11.5.09	4.6.09	30
1421	The Herald Sun	11.5.09	23.5.09	18
1422	The Australian Jewish News	11.5.09	22.5.09	10
1423	The Advertiser, Adelaide	11.5.09	6.6.09	54
1424	The Sydney Morning Herald	19.6.09	26.6.09	5
1425	The Sydney Morning Herald	19.6.09	26.6.09	5
1426	The Standard, Warrnambool	19.6.09	25.6.09	2
1427	The Fraser Coast Chronicle	19.6.09	25.6.09	4
1428	Australian Associated Press	19.6.09	26.6.09	website home page
1429	The Herald Sun	19.6.09	10.7.09	26

Adjudications

Complaints and adjudications 1976 - 2009

Complaints
year by year

Year	complaints received	complaints mediated or withdrawn	complaints adjudicated	adjudications issued
1976-7	78	32	23	19
1977-8	135	67	18	17
1978-9	164	67	28	25
1979-80	216	126	30	23
1980-1	233	114	25	19
1981-2	251	97	31	30
1982-3	307	108	40	28
1983-4	310	80	39	37
1984-5	323	47	60	41
1985-6	305	83	97	49
1986-7	298	85	73	49
1987-8	184	65	48	35
1988-9	205	54	45	34
1989-90	233	89	49	40
1990-91	345	134	59	57
1991-2	421	115	85	68
1992-3	429	122	126	79
1993-4	406	165	113	84
1994-5	416	167	86	65
1995-6	413	164	95	71
1996-7	399	164	82	61
1997-8	434	179	76	49
1998-9	410	166	77	58
1999-2000	403	176	66	47
2000-1	413	177	65	42
2001-2	390	184	70	44
2002-3	367	169	51	32
2003-4	417	189	75	40
2004-5	426	205	88	48
2005-6	420	218	61	30
2006-7	421	191	74	40
2007-8	457	200	73	35
2008-9	506	247	68	33
	11,135	4,446 39.9%	2,096 18.8%	1,429

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- Distortion: 1420
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- Headline, false or misleading: 1410
- Imbalance, inadequate coverage: 1399, 1400, 1401, 1403, 1407, 1408, 1412, 1414, 1415, 1416, 1417, 1418, 1419, 1422, 1427
- Inaccuracy, misrepresentation: 1397, 1399, 1400, 1405, 1409, 1410, 1412, 1414, 1418, 1419, 1422, 1424
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- Sexism: 1397
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Complaints and adjudication statistics 2008-2009

Complaints stats

number received
state of origin
made by

Complaints received

	2008/9	2007/8	Total 1988/2008
Carried forward from previous period	47	31	36
Complaints	506	457	7881
Letters	397	337	6665

From complainants in

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
New South Wales	150	37.8	101	30	2297	34.4
Victoria	96	24.2	66	19.6	1545	23.2
Queensland	63	15.9	71	21.1	1157	17.4
Western Australia	30	7.6	36	10.7	555	8.3
South Australia	28	7.1	23	6.8	465	7
Tasmania	6	1.5	15	4.4	257	3.9
ACT	10	2.5	14	4.1	218	3.3
Northern Territory	3	0.7	5	1.5	120	1.8
Overseas	11	2.7	6	1.8	51	0.7
Total	397	100	337	100	6665	100

Made by

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
Individuals	260	65.5	196	58.2	4031	60.4
Professionals	28	7.1	15	4.4	463	6.9
Associations/Organisations	31	7.8	13	3.8	537	8.1
Companies/Businesses	10	2.5	19	5.6	226	3.4
Institutions/Public Bodies	7	1.8	4	1.2	85	1.3
Government Departments/Agencies	4	1	10	3	184	2.8
Local Councils/members	7	1.8	15	4.4	268	4
Religious groups	10	2.5	14	4.1	110	1.7
Aboriginal support groups/legal services	1	0.3	3	0.9	92	1.4
Ethnic Community Groups	8	2	8	2.4	103	1.5
Other lobby groups [^]	11	2.7	19	5.6	30	0.5
Election Candidates/Politicians	10	2.5	14	4.1	229	3.4
Political parties	4	1	4	1.2	76	1.1
Unions	0	-	1	0.3	60	0.9
Solicitors (for clients)*	0	-	0	-	119	1.8
Publications	6	1.5	2	0.6	35	0.5
Anonymous	0	-	0	-	17	0.3
Total	397	100	337	100	6665	100

* Under new guidelines adopted by the Council in 1996, most complaints made by solicitors for clients are now dealt with as if they had been submitted by the client.

[^] This new category was introduced in 2006-7 to distinguish those individuals who represent a community-based campaign groups, including anti-vaccination and pro-immigration campaigners.

Complaints stats
about
type of publication

Complaints about

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
Abuse of press freedom	3	0.6	4	0.9	78	1
Advertising; advertorials	9	1.8	7	1.5	217	2.8
Bad Taste	1	0.2	6	1.3	109	1.4
Bias	53[A]	10.4	18	3.9	395	5
Censorship; suppression of facts	6	1.2	13	2.9	260	3.3
Distortion	15	3	10	2.2	277	3.5
Ethical standards breached	21	4.1	28	6.1	491	6.2
False Reporting	13	2.5	13	2.9	396	5
Freedom of the press threatened	1	0.2	0	-	29	0.4
Headline, false or misleading	16	3.2	29	6.3	299	3.8
Imbalance; inadeq cover (inc no reply)	52	10.3	50	10.9	743	9.4
Inaccuracy; misrepresentation	110[A]	21.7	89	19.5	1135	14.4
Invasion of privacy	20	4	25	5.5	428	5.4
Irresponsibility	9	1.8	14	3.1	293	3.7
Letters: non publication or editing	16	3.2	17	3.7	361	4.6
Offensive cartoons	6	1.2	3	0.7	121	1.5
Offensive coverage	42	8.3	33	7.2	586	7.4
Racism; religious disparagement	43	8.5	34	7.4	468	5.9
Sensationalism	12	2.4	7	1.5	136	1.7
Sexism	13	2.5	8	1.8	134	1.7
Unfair Treatment	43	8.5	47	10.3	832	10.6
Other (unclassifiable)	2	0.4	2	0.4	83	1.1
Total	506	100	457	100	7881	100

Complaints against (type of publication)

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
Metropolitan newspapers	225	44.4	193	42.2	3774	47.8
Regional daily newspapers	58	11.5	47	10.4	1088	13.8
Country newspapers	42	8.3	49	10.7	799	10.1
Suburban newspapers	27	5.3	32	7	602	7.6
National newspapers	91[A]	18	64	14	579	7.3
Magazines (general interest)	10	2	12	2.6	428	5.4
Ethnic community press	4	0.8	4	0.9	263	3.3
Special interest publications	5	1	12	2.6		
On-line news sites^	26	5.1	24	5.2	24	0.3
Rural publications	4	0.8	9	2	26	0.3
Non-specific; other	14	2.8	11	2.4	298	3.8
Total	506	100	457	100	7881	100

* Until 1994/5, the ethnic press and special interest publications were considered as one group for statistical purposes. They are now considered separately.

^ Category added in 2007-2008 to reflect the number of complaints arising solely from publication on members' news sites.

Complaints were disposed of by

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
Refused as inappropriate	120[A]	23.1	72	16.3	1136	14.4
Referred to other organisations	18	3.5	30	6.8	401	5
Withdrawn for legal action	28	5.4	26	5.9	376	4.8
Not followed up	38	7.3	37	8.4	1135	14.4
Withdrawn after correspondence	124	23.8	106	24	1665	21.2
Mediation	123	23.7	94	21.3	1566	19.9
By press release	0	-	0	-	9	0.1
By adjudication	68 ¹	13	73 ²	16.6	1516 ³	19.3
Other action	1	0.2	3	0.7	69	0.9
Total disposed of	520	100	441	100	7870	100
Carried forward to next period	33		47		31	

Complaints stats

how disposed of
adjudications

NOTES FOR 2008-2009: 1. 30 upheld; 3 upheld in part; 35 dismissed; 0 other.

NOTES FOR 2007-2008: 2. 24 upheld; 10 upheld in part; 37 dismissed; 2 other.

NOTES FOR 1988-2008: 3. 427 upheld; 220 upheld in part; 780 dismissed; 28 other

Adjudications

	2008/9	%age 2008/9	2007/8	%age 2007/8	1988/2008	%age 1988/2008
Complaints upheld	13	39.4	11	31.4	264	25.8
Complaints upheld in part	1	3	5	14.3	157	15.3
Upheld in whole or part	14	42.4	16	45.7	421	41.1
Complaints dismissed	19	57.6	18	51.4	580	56.6
Neither upheld nor dismissed	0	-	1	2.9	24	2.3
Number of adjudications	33	100	35	100	1025	100

Note: The Council issued 33 adjudications which dealt with 68 separate complaints as noted immediately above. Some of these adjudications dealt with complaints from more than one party about the same material and, in some cases, one complainant made complaints about two or more newspapers and these were dealt with by the Council in the one adjudication. A third case is where an adjudication dealt with two separate complaints (say, invasion of privacy and offensive coverage) in the same determination.

A. 55 complaints were received from complainants associated with a website, which encouraged complaints about a series of articles in *The Australian* on the question of shared custody among separated/divorced couples. Many of the complaints alleged bias, and the rest inaccuracy. All the complaints were refused.

Jack R Herman
Executive
Secretary

Complaints not adjudicated

On page 24, in discussing adjudications, this report noted a small percentage of complaints, only 13 per cent, progressed through the complaints procedures (published in the Council's information booklet, *Objects, Principles and Complaints Procedure*, available from the office and posted on the Council's website at: <http://www.presscouncil.org.au/pcsite/complaints/process.html>) to the adjudication stage in 2008-2009. This figure can be compared with previous years, in the table on page 44 of this report. Of the remaining complaints, some were refused, some referred to another body and others withdrawn for legal action. Details of the number in each category can be found in the statistics on page 47. 7.3 per cent of complainants did not follow-up a request from the Secretariat for more detail on their complaints. And then there are those complainants who were happy to let their complaint rest after receiving the publication's response to the complaint and those whose complaints were conciliated either by the Council Secretariat or by a Public Member of the Council. 47.5 per cent of all complaints ended in this way - to the satisfaction of all parties.

The complaints process gives to the Executive Secretary a discretion to refuse a complaint in a number of circumstances. In previous annual reports, there has been discussion of some of these. Complainants who feel aggrieved can appeal the decision to the Council's Complaints Committee, which decides whether to accept the matter for processing. In exceptionally rare circumstances, publications can appeal the acceptance of what they see as an unfair complaint.

In one particular case this year, fifty-five complaints were received from complainants associated with a website, which encouraged complaints about a series of articles in *The Australian* on the question of shared custody among separated/divorced couples. Many of the complaints alleged bias, and the rest inaccuracy. Based on his reading of the articles, the Executive Secretary determined that there was no breach of the Council's Principles evidenced in the articles and all were refused.

Conciliated complaints

A number of the complainants mediated successfully by the secretariat or by an independent member of the Council, and the sorts of settlements arrived at, are outlined in each edition of the *APC News*, and these are published on the Council's website.

Changes in Principles and Procedures

Jack R Herman
Executive
Secretary

Review of the Statement of Principles

One of the major topics for the 2008 Planning Day is a review of the current Statement of Principles. The Council's previous major review of the Principles was in 1996. In February 2009, the Council approved revisions of the Council's Statement of Principles and its Complaints Procedure.

The Statement of Principles is the ethical code agreed to by the publishers and the Council. It sets forth the general principles by which the Council deals with complaints from readers about material in newspapers and magazines, and on news websites. Essentially the Council has retained the Statement as a set of ideals expressed in general terms. It has simplified the preamble to the principles and made some alterations to them, the most important of which is the recasting of the first principle. Whereas previously the principle mandated that publications not publish material they could be expected to know is false, they are now enjoined to ensure "accurate, fair and balanced" reports and not to deliberately mislead or misinform readers. The other changes largely involve rewording of the existing principles to make them clearer. The two principles that mandate when there may be an opportunity for response have been placed consecutively as the second and third principles: the revised Principle 2 places a greater emphasis on the prompt correction of errors; the new Principle 3 (which was the previous Principle 8) now concerns those who are the "major focus" of reports and commentary, rather than just those "singled out for criticism. Additionally, the Council has added a note to give its interpretation of "due prominence" as it is used in several principles.

The revised Statement of Principles is published on page 53.

Review of Procedures

The Planning Day also considered the Council complaint's procedures and agreed to several changes and to a simplification of the language used. The new complaints procedure is essentially the same as the previous one, but it has been shortened to improve the transparency of the process. The substantive changes to the procedures include:

- limiting each party to two opportunities to state its case and/or comment on the other party's claims;
- placing a greater emphasis on parties attending the Complaint Committee meeting dealing with their complaint, or being available for a teleconference; and
- tightening the circumstances in which the Council will review adjudications.

With respect to the last point, the "appeals" process, the Council agreed that, in order to remove the need for appeals, adjudications must explicitly link decisions to the relevant Press Council principles. Additionally, it also agreed

- The Council will only review a complaints decision where a party can establish that a demonstrable error of fact, or unfairness of procedure, influenced a decision.
- The current method of dealing with 'appeals', with the Chairman considering them first, be retained.

The changed procedures have been posted to the Council's website (<http://www.presscouncil.org.au/pcsite/complaints/process.html>) and a new information booklet has been printed.

The Guidelines on attendance at the Complaints Committee were also revised and are now on the website (<http://www.presscouncil.org.au/pcsite/complaints/hearing.html>).

Other procedural matters

Complaints from members

Following receipt of a third party complaint lodged by a Council member, the Council determined that Council members are entitled to initiate a complaint about a matter in which they are personally involved, but the Council will not accept for processing third-party complaints from Council members.

At the same time it agreed that any Council member may ask the Executive Secretary to include on

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the Council Agenda for discussion a Matter of Public Importance, where there is a practice or trend within the industry that contravenes, or is likely to contravene, the ethical principles endorsed by the Council. And it said that the Council should address with its Constituent Bodies the problems arising from having Council members deal, on behalf of publications, with complaints and seek from each organisation an undertaking to separate, as far as is practical, the two roles.

Decisions in adjudications

The Council also agreed that decisions on adjudications should be either 'dismiss' or 'uphold', unless there are clear reasons not to do that. It decided that 'considered' (ie neither upheld nor dismissed) is a rarely used category of decision on complaints where Council thinks the nature of the complaint, and the complexities surrounding it, forbid a simple uphold or dismiss decision. 'Part-upheld' should be the decision only when the Council decides that one or more aspects of a complaint should clearly be upheld and the remainder equally definitively dismissed. In such cases the best phrasing might well be, "The Council has upheld the complaint about inaccuracy and dismissed the complaints about ..." or "The Council has dismissed the main thrust of a complaint by ... but upheld that part of the complaint that dealt with invasion of privacy ..."

Guidelines

The Council issues guidelines from time to time. These are, in essence, amplifications on particular issues arising from the Council's Statement of Principles. The guidelines apply the Principles to the practice of reporting and are intended to guide the press on how it should report certain matters. These guidelines are not intended to be prescriptive instructions to the press but act as a series of advisories on the application of the Principles that the Council seeks the co-operation of editors in maintaining. A list of the extant guidelines (and links to them) can be found on the Council's website at <http://www.presscouncil.org.au/psite/activities/gprguide.html>.

Elections Guideline

In March 2009, the Council issued a new reporting guideline:

Complaints to the Australian Press Council about material appearing in newspapers have obliged the Council to consider a number of issues relating to the rights and duties of the print media in reporting election campaigns. Some of the matters dealt with are applicable to other media.

Newspaper bias

In general, the experience of the Council is that all parties in election campaigns tend to complain about bias on the part of the media and frequently about the same newspaper! The Council has received, and dealt with, significant complaints alleging bias. But this is rare. As research commissioned by the Council in 2006-2007 showed, the print media are not generally partisan in their coverage of elections. This is specifically true in regard to news reports.

The Council has said that it upholds the right of a newspaper to have its own political position; to accept certain beliefs and policies and to reject others; and to favour the election of one party and to oppose the election of another. However, the Council has emphasised strongly that newspapers that profess to inform the community about its political and social affairs are under an obligation to present to the public a reasonably comprehensive and accurate account of public issues.

As a result, the Council believes that it essential that a clear distinction be drawn between reporting the facts and stating opinion. A paper's editorial viewpoints and its advocacy of them must be kept separate from its news columns where they purport to present facts and community opinion.

Unfairness and lack of balance

This issue particularises the matters set out above. The claims that are made relate to particular news items that candidates feel unfairly presents their position. They are judged on the same basis as any other complaint about unfairness or imbalance.

It is common for a newspaper to run a feature on candidates and invite them to present their views on topics or outline their policies. It is important that this type of article treat the parties fairly. Generally equal space should be provided to them. If photographs are to be published all should be given the chance to provide a copy and the photographs should be of equivalent quality. A candidate should be sought out to provide comment if that opportunity is being provided to his or her rivals. However, the Council has accepted the argument that where there are a large number of candidates seeking election, a newspaper can be selective in whom it approaches and can limit itself to the candidates that it considers have a chance of success.

The timing of material is another very important issue, especially for non-daily papers. Newspapers need to be

wary about publishing material critical of candidates at a time when there would be no opportunity, before the election, for the candidate to supply a balancing response.

Publication of letters

The selection of letters for publication is an editor's prerogative. But editors need to take particular care during election periods, when attempts to misuse the letters column can be more common. There are two matters that have come to the attention of the Council in relation to which editors should be on guard. One is the writing of letters under a false name. normal newspaper practice should address this issue. The other is the practice apparently used by some political parties of having party members flood papers with letters dealing with a particular topic where the letter has been written by the party itself.

Without suggesting that the practice is inappropriate, care should be taken in sub-editing letters from candidates to avoid allegations that the changes misrepresent the candidate's position. It is much wiser to agree with the candidate the form the letter should take for publication. If agreement is not forthcoming, the paper can decline to publish the letter.

Newspaper policies during elections

Many newspapers have adopted particular positions during election periods, the most common of which, particularly among community newspapers, has been the non-publication of letters from candidates. The council believes that such policies are a matter for the newspaper itself to develop. However, when such policies are taken, it is incumbent on publications to advise their readers, with due prominence, of the existence of the policy and to stick by that policy throughout the election period.

Guideline: Adequate response

In May, it issued a further reporting guideline addressing the questions of adequate response and letters to the editor.

The question of adequate response is a vexed one for the press and for the Press Council. The Statement of Principles detail two sets of circumstances where there is a greater onus on publications to print a response:

Principle 2

Where it is established that a serious inaccuracy has been published, a publication should promptly correct the error, giving the correction due prominence.

Principle 3

Where individuals or groups are a major focus of news reports or commentary, the publication should ensure fairness and balance in the original article. Failing that, it should provide a reasonable and swift opportunity for a balancing response in an appropriate section of the publication.

The Principles are accompanied by Note 2, which notes that the Council interprets "due prominence" as requiring the publication to ensure the retraction, clarification, correction, explanation or apology has the effect, as far as possible, of neutralising any damage arising from the original publication, and that any published adjudication is likely to be seen by those who saw the material on which the complaint was based.

In the light of the adoption of Note 2 to the Principles, the Council sees no need for a detailed guideline on adequate response at this stage. It will generally interpret a publication's actions on the basis of whether the printed response has been prompt and prominent enough to neutralise any damage that may have arisen.

Nonetheless, the Council notes the following issues that may affect the judgment as to what is an adequate response to a serious inaccuracy or a singling out for comment.

- 1 The Council's existing policy is to encourage publications to have a regular place in the publication, or on its website, where corrections, clarifications and apologies are published.
- 2 The Council encourages publications to print follow-up material, whether in the form of articles or letters to the editor, in cases where there is a significant difference of opinion or where an individual or group has been the major focus of a report or a commentary.
- 3 The Council accepts that a published letter to the editor will not always be an adequate response to a published inaccuracy and that many readers will want to see the publication itself correct the inaccuracy. However, in respect of letters to the editor, the Council has said in the past that:
 - a. Editors are not obliged to publish letters on demand. It is their responsibility, guided by fairness, balance and the public interest in the views submitted by correspondents to select and, where necessary, edit letters for publication.
 - b. The editor's prerogative includes the editing of letters for space, grammar or legal reasons, although such editing should not change the meaning or tenor of a letter.
 - c. Where significant changes are made to the letter, the correspondent should be advised of the proposed changes before publication.

Procedures
Informed Consent

Informed Consent

The Australian Press Council has written to newspaper and magazine editors to bring to their attention the issue of informed consent, a matter that has been the subject of a number of adjudications in recent times. While a number of the complaints have involved the mixture of young people and alcohol, the issues are somewhat wider than that.

At this stage the Council has decided against either a Note to the Principles or a guideline statement as a way of dealing with the questions of consent but wanted to bring to editor's attention, and to the attention of your newsrooms, that, when journalists are seeking consent for interviews with subjects, they need to be aware that there are times when the ability of subjects to give informed consent may be impaired.

The recent findings, which may be of interest, include:

No. 1316 (<http://www.presscouncil.org.au/pcsite/adj/1316.htmf>) dealt with the way in which an interview with two young women at Gold Coast schoolies week was handled by a Sunday newspaper, Consent was a peripheral issue.

No 1329 (<http://www.presscouncil.org.au/pcsite/adj/1329.htmf>) involved a Zoo magazine 'confession' about past sexual indiscretions from a young woman interviewed at a nightclub, The complainant said her daughter was drunk, the magazine said not However, in this case, Zoo obtained written consent This is important because the Zoo journalist, no matter ludicrous it may have seemed in the night-life environment, risked losing the story by seeking a written consent, a potentially sobering action if the woman held any doubts, The magazine also produced a taped record of the interview.

No 1375 (<http://www.presscouncil.org.au/pcsite/adj/1375.htmf>) arose from an article about abuse of young women with an Indigenous community that featured interviews with, and images of, the young women, In this case the newspaper had obtained consent from all parties, including the women's older female relations. Questions of privacy still arose but the question of consent was adequately addressed by the newspaper.

No, 1376 (<http://www.presscouncil.org.au/pcsite/adj/1376.htmf>) addressed the question of whether a patient immediately following surgery involving a general anesthetic is in position to give informed consent to an interview.

No 1413 (<http://www.presscouncil.org.au/pcsite/adj/1413.htmf>). the most recent, returned to the issue of young women being interviewed (and photographed) at a nightclub, while drinking, In this case the consent was oral, rather than written, and there was less evidence for the assertion that the young woman was capable of giving informed consent.

The Council has generally based its findings related to consent on the basis that

Those involved in situations of grief or shock, or whose ability to give informed consent is otherwise impaired, should be dealt with with special consideration for the sensibilities of those affected,

The recent cases have moved away from the discussion of intrusion into grief or at times of shock and into the area of impairment arising from drugs, alcohol, age or other causes.

The Council has decided against issuing any guidelines, leaving the question of what is proper informed consent in the hands of editors, where it properly belongs. The Council recognises that this is a classic 'grey area' where the distinction between what is proper informed consent and what is not can often be very difficult to discern. It will, of course, continue to take complaints in this area and judge them as best it can, based on the material provided by the complainant and the newspapers

The current Statement of Principles follows, together with the Privacy Standards for the Print Media and a summary of the Council's Complaints Procedures. The principles are posted on the Council's website at:

<http://www.presscouncil.org.au/pcsite/complaints/sop.html>;

the Standards are at:

http://www.presscouncil.org.au/pcsite/complaints/priv_stand.html; and

the Complaints Procedures are at:

<http://www.presscouncil.org.au/pcsite/complaints/process.html>.

Statement of Principles

To assist the public and the press, the Australian Press Council has laid down the broad principles to which it is committed.

First, the freedom of the press to publish is the freedom, and right, of the people to be informed. These are the justifications for upholding press freedom as an essential feature of a democratic society. This freedom includes the right to publish the news, without fear or favour, and the right to comment fairly and responsibly upon it.

Second, the freedom of the press is important more because of the obligation it entails towards the people than because of the rights it gives to the press. Freedom of the press carries with it an equivalent responsibility to the public. Liberty does not mean licence. Thus, in dealing with complaints, the Council will give first and dominant consideration to what it perceives to be in the public interest.

The Council does not lay down rules by which publications should govern themselves. However, in considering complaints, the Council will have regard for these general principles.

1. Publications should take reasonable steps to ensure reports are accurate, fair and balanced. They should not deliberately mislead or misinform readers either by omission or commission.
2. Where it is established that a serious inaccuracy has been published, a publication should promptly correct the error, giving the correction due prominence.
3. Where individuals or groups are a major focus of news reports or commentary, the publication should ensure fairness and balance in the original article. Failing that, it should provide a reasonable and swift opportunity for a balancing response in an appropriate section of the publication.
4. News and comment should be presented honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy is not to be interpreted as preventing publication of matters of public record or obvious or significant public interest. Rumour and unconfirmed reports should be identified as such.
5. Information obtained by dishonest or unfair means, or the publication of which would involve a breach of confidence, should not be published unless there is an over-riding public interest.
6. Publications are free to advocate their own views and publish the bylined opinions of others, as long as readers can recognise what is fact and what is opinion. Relevant facts should not be misrepresented or suppressed, headlines and captions should fairly reflect the tenor of an article and readers should be advised of any manipulation of images and potential conflicts of interest.
7. Publications have a wide discretion in publishing material, but they should balance the public interest with the sensibilities of their readers, particularly when the material, such as photographs, could reasonably be expected to cause offence.
8. Publications should not place any gratuitous emphasis on the race, religion, nationality, colour, country of origin, gender, sexual orientation, marital status, disability, illness, or age of an individual or group. Where it is relevant and in the public interest, publications may report and express opinions in these areas.
9. Where the Council issues an adjudication, the publication concerned should publish the adjudication, promptly and with due prominence.

Notes on the Principles

- 1 For the purposes of these principles, 'public interest' is defined as involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.
- 2 The Council interprets "due prominence" as requiring the publication to ensure the retraction, clarification, correction, explanation or apology has the effect, as far as possible, of neutralising any damage arising from the original publication, and that any published adjudication is likely to be seen by those who saw the material on which the complaint was based.

Print Media Privacy Standards

Underlying Principles

Principle 3 of the Press Council's Statement of Principles states, with respect to privacy:

Readers of publications are entitled to have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or obvious or significant public interest.

The need to balance respect for privacy with standards that recognise freedom of speech and of the press is recognised by the *Privacy Act* 1988. The *Privacy Act* provides an exemption for acts done or practices engaged in by a media organisation in the course of journalism, if the media organisation is publicly committed to observing standards that deal with privacy in the context of the activities of a media organisation, and those standards have been published in writing either by the organisation or a body representing a class of media organisations.

These Standards deal with privacy in the context of the activities of media organisations. They elaborate on the Press Council's Statement of Principles, and are published by the Press Council for the purposes of the *Privacy Act* exemption.

Application of these Standards

These Standards apply to '*personal information*', which is information or an opinion (including forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information.

These Standards also recognise, as does the *Privacy Act*, that the media have a duty to inform the public on matters of significant public interest. For the purposes of these Standards, '*public interest*' is defined as involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others.

The media organisations, and the relevant publications, which are committed to these Standards are listed in the Schedule found on the Council's website.

1. Collection of personal information

In gathering news, journalists should seek personal information only in the public interest.

In doing so, journalists should not unduly intrude on the privacy of individuals and should show respect for the dignity and sensitivity of people encountered in the course of gathering news.

In accordance with Principle 4 of the Council's Statement of Principles, news obtained by unfair or dishonest means should not be published unless there is an overriding public interest. Generally, journalists should identify themselves as such. However, journalists and photographers may at times need to operate surreptitiously to expose crime, significantly anti-social conduct, public deception or some other matter in the public interest.

Public figures necessarily sacrifice their right to privacy, where public scrutiny is in the public interest. However, public figures do not forfeit their right to privacy altogether. Intrusion into their right to privacy must be related to their public duties or activities.

2. Use and disclosure of personal information

Personal information gathered by journalists and photographers should only be used for the purpose for which it was intended.

A person who supplies personal information should have a reasonable expectation that it will be used for the purpose for which it was collected.

Some personal information, such as addresses or other identifying details, may enable others to intrude on the privacy and safety of individuals who are the subject of news coverage, and their families. To the extent lawful and practicable, a media organisation should only disclose sufficient personal information to identify the persons being reported in the news, so that these risks can be reasonably avoided.

3. Quality of personal information

A media organisation should take reasonable steps to ensure that the personal information it collects is accurate, complete and up-to-date.

4. Security of personal information

A media organisation should take reasonable steps to ensure that the personal information it holds is protected from misuse, loss, or unauthorised access.

5. Anonymity of sources

All persons who provide information to media organisations are entitled to seek anonymity. The identity of confidential sources should not be revealed, and where it is lawful and practicable, a media organisation should ensure that any personal information which it maintains derived from such sources does not identify the source.

6. Correction, fairness and balance

In accordance with Principle 8 of the Council's Statement of Principles, where individuals are singled out for criticism, the publication should ensure fairness and balance in the original article. Failing that, the media organisation should provide a reasonable and swift opportunity for a balancing response in the appropriate section of the publication.

A media organisation should make amends for publishing any personal information that is found to be harmfully inaccurate, in accordance with Principle 2 of the Council's Statement of Principles. The media organisation should also take steps to correct any of its records containing that personal information, so as to avoid a harmful inaccuracy being repeated.

7. Sensitive personal information

In accordance with Principle 7 of the Council's Statement of Principles, media organisations should not place any gratuitous emphasis on the categories of sensitive personal information listed in Principle 7, except where it is relevant and in the public interest to report and express opinions in these areas.

Members of the public caught up in newsworthy events should not be exploited. A victim or bereaved person has the right to refuse or terminate an interview or photographic session at any time.

Unless otherwise restricted by law or court order, open court hearings are matters of public record and can be reported by the press. Such reports need to be fair and balanced. They should not identify relatives or friends of people accused or convicted of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings.

8. Complaints

The Council will receive and deal with complaints from person or persons affected about possible breaches of these Standards in the same way as it receives and deals with complaints about possible breaches of its Statement of Principles. Where the Council issues an adjudication in relation to these Standards, the publication concerned must prominently print the adjudication.

These procedures apply to those media organisations listed in the Schedule on the Council's website.

Complaints Procedure

If you have a complaint about material in a newspaper or other commercial periodical (or the news reporting on a website of a Council member or on a website that recognises the Council's jurisdiction) and that material appears to breach the Council's Principles or Privacy Standards, you should first take it up with the editor, or other senior representative, of the publication concerned.

If the complaint is not resolved to your satisfaction, and it involves the editorial or article sections of a periodical or website (and does not deal with advertising or the commercial operations of the publication), you may refer it to the Australian Press Council. A complaint must be specific, in writing, and accompanied by a cutting, hardcopy print, clear photostat, *pdf* or *html* attachment of the matter complained of, with supporting documents or evidence, if any. Complaints must be lodged within 60 days of initial publication. The Council provides a complaint form for complainants to use.

The Council asks that complainants summarise the main thrust of their complaints in about 300 words, and then supply other supporting material that will assist the Council in understanding all their concerns.

The Council will not hear a complaint subject to legal action or possible legal action, unless the complainant is willing to sign a waiver of the right to such action.

On receipt of the complaint, the Council secretariat will first try to arrange an amicable settlement of the matter. Over 45 per cent of complaints are settled in this way at an early stage of the process.

If such a settlement is not possible, and the complaint is accepted, a formal response from the publication will be sought and sent to the complainant. If not satisfied by the response, the complainant can, with the agreement of the newspaper, enter a conciliation hearing conducted by a Public Member of the Council or can immediately refer the matter to the Press Council for adjudication.

If a matter is sent to the Council, the complainant and publication are encouraged to attend a meeting of the Complaints Committee which makes a recommendation to the Council on the matter. Such attendance can be in person or by teleconference. The Complaints Committee consists of seven members of the Council, with a majority of public members (including the Chairman).

The recently revised and reprinted guidelines on the complaints procedures are available in the form of a booklet and on the Council's website. They include information on the Council's preference that lawyers not be involved and on the very limited situations in which the Council will consider reviewing adjudications. The procedures were rewritten in early 2009 to simplify them and clarify the process.

Address complaints or inquiries to:

**The Executive Secretary
The Australian Press Council
Suite 10.02, 117 York Street
SYDNEY NSW 2000
email: complaints@presscouncil.org.au
fax: (02) 9267 6826**

For information or advice telephone **(02) 9261 1930** [outside Sydney: Free Call **(1800) 025 712**]

Information and advice is also available via the internet. The Council's website is at

<http://www.presscouncil.org.au>

The Council's email addresses are:

info@presscouncil.org.au or complaints@presscouncil.org.au

The booklet, *Objects, Principles and Complaints Procedures*, which also sets out the Privacy Standards for the Print Media, is available free from the office or through the website, where it is posted as a *pdf*.

Other Council activities

Jack R Herman

Administration and activities

Reform of the Press Council

At the end of the reporting year, the Press Council was discussing various reforms. One impetus for the reforms has been the current economic downturn, which has affected publisher budgets. The publishers have sought from the Press Council similar restraints on its budget. This has meant that the Council has had to trim its Budget in order to make its operations more efficient.

At the same time, the Council has been looking at its long-term aims and is considering how it might operate in the future and in what areas it can offer its expertise in the mediation and settlement of complaints about the news media. At this time, only the websites of Council-member newspaper and magazine publishers are subject to such oversight - a service that the Council has offered for most of the last decade. All other news websites are currently not subject to any regulatory or self-regulatory regime.

In the more immediate term, as a result of the need for cuts in the 2009-2010 Budget, the Council has had to plan for some changes, affecting the size of the Council itself, the frequency of its meetings and the size of its professional staff complement.

The Council's size is to be reduced to 15. The proposed set of constitutional changes to reduce the Council to 15 members would result in a Council comprising 5 industry members, an MEAA representative, 6 public members, one journalist member, one editor member and an independent Chair. The change was adopted at the Council's July meeting and would

The Council has also agreed that there will be seven (rather than eight) meetings in 2009-2010 and all meetings will be held in Sydney.

These measures will result in significant savings.

The Council has, in the light of the money available to it, decided that, in 2009-2010, it will not continue with some of its initiatives. There will be no *State of the News Print Media* report nor an Annual Address during the year, and the number of issues of this newsletter will be reduced from four to three.

These changes will see no diminution in the work of the Council, which will continue as it has in the past. A greater emphasis will be placed on the speedy and effective resolution of complaints from readers about material in newspapers and magazines (and on their websites), a move that the publishers have undertaken to support strongly. And the operation of the Council itself, with greater reliance on electronic communications between meetings to develop policy responses, will become more efficient.

Administration

The day-to-day affairs of the Council are handled by the Secretariat. As a result of the Budget cuts, the Council is moving from having a complement of four full-time staff to two full-time and two part-time staff. The role of the Council's administrative assistant will be reduced to three-days-a-week and that of the Policy Officer (largely responsible for the research into, and drafting of, the Council's responses to legislative changes potentially affecting the freedom of the press) also will be move back to three-days-a-week in 2009-2010.

The Secretariat is headed by the Executive Secretary who is responsible to the Council and, between meetings, to the Chairman. The current Executive Secretary is Jack Herman who has been in the position since April 1994. He is assisted by Deborah Kirkman, the Office Manager. Among her many roles, Deb is primarily responsible for the processing of complaints and their conciliation, once they have been accepted for processing. This year Deb again co-ordinated the Council's Case Studies Seminars at universities.

These two positions remain full-time.

As a result of the change to her position from full-time to part-time, Inez Ryan, who has been the Council's Policy Officer since October 2004, retired at the beginning of July. Her duties largely

These changes will see no diminution in the work of the Council, which will continue as it has in the past. A greater emphasis will be placed on the speedy and effective resolution of complaints from readers about material in newspapers and magazines (and on their websites), a move that the publishers have undertaken to support strongly.

Admin and activities

At the time of writing, as it ends its thirty-third year, the Council has formally dealt with over 11,000 complaints, of which 4,446 have been mediated or otherwise settled to the satisfaction of the complainant.

related to doing the legal and legislative research that underpinned the Council submissions to governments and parliaments on a range of proposals for legislative change. Inez was also responsible for the initial drafting many of those submissions, for consultation with the Council and the print media industry on the submissions and for representing the Council at various meetings related to the submissions. The Council has advertised for a replacement, to work on a permanent part-time basis, and Leta Webb will take up the position in early September.

After a brief period of employment, as the Assistant to the Executive Secretary, Melanie Maroun left the Council and was replaced for a brief period by Emma Boreland, who worked for the Council while she looked for a permanent position in the magazine world. In late June Emma secured full-time employment with ACP Magazines. The Council will now continue the role on a permanent part-time basis and, following advertisements, has hired Andrea Hart to fill the role.

The Executive Secretary again acknowledges the contribution made by the Council’s staff to the success of the Council’s operations.

The Council office tries speedily to deal with inquiries from students. It receives many of these a week and makes its Library available to those who can get into the Sydney office. The Council’s Internet site has facilitated easier access to information for many students and it is to this site that most are now directed in the first place.

Complaints about the ethical behaviour of newspapers and magazines continue to keep the office staff busy. At the time of writing, as it ends its thirty-third year, the Council has formally dealt with over 11,000 complaints, of which 4,446 have been mediated or otherwise settled to the satisfaction of the complainant. It has adjudicated nearly 2,100 of the complaints, issuing 1,429 adjudications, of which over 42.4 per cent have upheld the complaint in whole or part. Additionally it has sent out 282 press releases or reporting guidelines, published 32 annual reports and 85 issues of the *APC News*. Additionally, in 2008, it published the 2008 *State of the News Print Media in Australia* report, also posted on-line as a part of the Council’s website, and available for download as a *pdf*.

Complaints times

The Council has made it a priority to speed up the processing of complaints. In 2008-2009, it averaged 28 days between receipt and closing of those files that were dealt with other than by adjudication (compared to 26.8 days the previous year). The means by category were:

Closed by	average
Refused	9.1 days
Referred	2.5 days
Withdrawn/Legal	54.2 days
Not followed up	30.4 days
Withdrawn after correspondence	43.2 days
Mediated	47.8 days

For complaints that went through the process to adjudication by the Council, the average time from receipt to adjudication (remembering that the Council meets every six weeks) was 113.7 days.

The Council maintains a website primarily as an information site, although it also allows for the submission of on-line complaints direct to the Council through a form available on that site. The site is searchable by keyword.

The Internet and the Council’s website

The Council maintains a website (<http://www.presscouncil.org.au>) primarily as an information site, although it also allows for the submission of on-line complaints direct to the Council through a form available on that site. The site is searchable by keyword. *The State of the News Print Media in Australia* reports are posted to the website. The website now manages close to 1,400 separate files, and is linked to the AustLII database, which archives all Press Council adjudications, including early ones not yet posted to the website.

Australian Property Review (propertyreview.com.au) has become the Council’s first purely online member. The Council invites any online news sites to affiliate with the Council, for a nominal annual fee. Affiliation entitles the news site to display the Council’s logo and to assert that it is bound by the ethical codes contained in the Council’s Statement of principles and in the Privacy Standards for the Print Media. It also recognises that the website will cooperate with the processing of complaints and will abide by the obligation that members have to publish with due prominence any adjudications arising from complaints about material they have published.

Council Meetings

The Council held seven Council meetings in Sydney in 2008-2009 and one meeting on the Gold Coast in May 2009. While on the Gold Coast, the Council convened a public forum, co-sponsored by Bond University, on the subject of "Investigative journalism", the May 7 forum featured two high profile journalists, Chris Masters and Sean Dorney, speaking on how journalists get the story despite government obstruction, spin and threats to sources. Chris Masters, the former *Four Corners* reporter, whose reports exposed corruption in Queensland and NSW, examined key components of his craft: research, narrative, sources and spin. He also looked at the obstacles placed in front of investigative journalists in Australia, especially the pervasive use of "spin" and threats to journalists' sources. Sean Dorney spoke on Reporting from the Pacific. The ABC's Pacific correspondent looked at the more immediate physical threats that can arise in reporting on corruption in Pacific Islands governments, and on the current situation in Fiji that led to his recent expulsion.

Additionally, Bob Howarth, former Managing Director of PNG's *Post-Courier* and former Editorial Technology Manager at Queensland Newspapers, now teaching journalism research methods part-time at Bond, and Professor Mark Pearson, Head of Journalism at Bond University, commented on the papers, and in particular on the impact of "spin" in contemporary Queensland.

Other meetings

In late July, the Council's Chairman and Executive Secretary met editors in Melbourne to discuss current trends and emerging threats in Victoria. This was a part of the Council's regular consultation process with editors around Australia. At the meeting were the editors or editors in chief of the *Herald Sun*, the *Sunday Herald Sun*, *MX*, *The Age*, *Leader* newspapers, Fairfax Community newspapers and the *Geelong Advertiser*, or their representative. The consultation looked at the emerging tort of privacy in Australia, especially in the light of the UK *Mosley* decision, the prevalence of suppression orders and the difficulties of papers being aware of interstate orders, the emergence of on-line editions and the changing nature of newsrooms, the alleged reliance on press releases and on "spin", and the alternatives to adversarial handling of complaints.

On August 25, the Council's Executive Secretary, Jack R Herman, addressed a Media Forum at NSW Parliament House, organised by the Australian Partnerships of Religious Organisations, on how to deal with an antithetical or inaccurate media. After a fifteen-minute speech, he was quizzed for about 30 minutes on the Council and other complaints tribunals and how to deal with concerns with the accuracy and fairness of reporting. A wide range of religious organisations was represented.

He also attended, together with the Policy Officer, a public consultation with Frank Brennan's federal Charter of Rights committee in Sydney on St Patrick's Day 2009.

Planning Days 2008

The Council held its fourth triennial Planning Days, on 31 July and 1 August, with 4 sessions:

1. The Statement of principles and any notes on those principles;
2. The Council's role and organisation;
3. The handling of complaints and writing of adjudications; and
4. The publishers' Right to Know campaign and how best the Council could work towards the maintenance of press freedom.

Over the next six months, the Council considered the matters raised and, as a result, redrafted its Statement of Principles and its Complaints Procedures and added guidelines on election reporting and on adequate response (see separate report on changes to principles and procedures on page 49).

The discussion on the Council organisation eventually led to the reduction in the size of the Council (as noted above). It also led to the purchase of better teleconferencing equipment to enable all complainants and newspapers unable to attend the Complaints Committee hearing of a complaint to be present by phone. The Council is still considering how it can seek representation of online, religious and the ethnic community press.

On the handling of complaints, the rewritten procedures place greater emphasis on mediation of complaints, and stress the desirability of all parties attending the complaints Committee hearing. There have also been a series of changes to the way in which adjudications are drafted and to the review process.

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The consultation looked at the emerging tort of privacy in Australia, especially in the light of the UK Mosley decision, the prevalence of suppression orders and the difficulties of papers being aware of interstate orders, the emergence of on-line editions and the changing nature of newsrooms, the alleged reliance on press releases and on "spin", and the alternatives to adversarial handling of complaints.

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On the Right to Know campaign, the Council determined to initiate action towards the introduction of a Bill of Rights in Australia and carried that through submissions to the federal government's consultation group. The Council strongly supported the continued viability of its advocacy role.

Finally, the Council discussed the viability of the Planning Day process and is reviewing how best to continue the on-going long-term review of its procedures and practices.

Jose Ximenes and Rosario Maia are members of Kolkos, the body looking at a possible media law for Timor. The delegation spoke in detail about the development of a press/media council and of the sort of codes of ethics that exist in comparable countries.

Visitors

During the year the Council received a number of visitors, including:

- On 25 August, Alison Abernethy, the CEO of the Advertising Standards Bureau met with the Executive Secretary, about areas of common concerns (advertising, advertorials etc) and about the proposal for a complaints clearing house.
- On November 20, a delegation of journalists and editors from Timor Leste visited the Council. Organised by Alexandra Kennedy of the Asia Pacific Journalism Centre, and funded by AusAid, the delegation was spending a month in Australia, visiting various academic and professional sites. Jose Gabriel da Costa, editor-in-chief, *Semanario* and *Diario Nacional*, Nascimento Provinsial, editor, *Radio Comunidade Los Palos*, Rosario Da Graca Maia, director, *Radio Timor-Leste*, Jose Ximenes, senior editor, *Timor Post*, Gracinda da Cruz Freitas, reporter and news editor, *Radio Comunidade Rakambia*, Filomena Sila, editor, *Radio Comunidade Atoni Lifau*, Maria-Zevonia Fernandes Vieira, editor and reporter, *Kla'ak Magazine*, and Godhino Barros, senior reporter, *Suara Timor-Lorosae*. Garry Cox, executive producer, for SBS World News, and Alex Kennedy accompanied the group. Jose Ximenes and Rosario Maia are members of Kolkos, the body looking at a possible media law for Timor. The delegation spoke in detail about the development of a press/media council and of the sort of codes of ethics that exist in comparable countries. The Council subsequently sent them examples of similar codes and offered what assistance it can towards the development of a self-regulatory mechanism for the Timor media.
- Also on November 20, a Chinese delegation of 18, led by Yang Qingwu, Deputy Director General of Administration of Press and Publication (Copyright) Bureau of Guizhou Province, visited the Council. Their main interest was in book publishing rather than newspaper publishing, in copyright rather than questions about press regulation, and in the way that young writers are encouraged in Australia.
- On January 16, the Council hosted the biennial visit from Pacific Lutheran University of Tacoma, Washington. 18 international journalism students who were missing the Obama Inauguration in order to visit the Press Council. There was a discussion of the commonalities and differences of our newspaper cultures with reference to some Press Council case studies.

Research

The main research activity during the year was the publication of the 2008 *State of the News Print Media in Australia* (see below).

In addition the Council has agreed to be an industry partner on two Australian Research Council (ARC) Linkage Projects.

One, with the University of Sydney, will look at "News Diversity in Convergent Media Markets: Content Sharing, Repurposing and Reuse", which is being submitted by Dr Tim Dwyer, Professor Andrew Kenyon, Associate Professor Anne Dunn and Dr Fiona Martin. The Council's commitment to this project is demonstrated by both cash support and in-kind support, comprising the time (as a proportion of the salaries of the Executive Secretary and Policy Officer, Inez Ryan and through providing access to, and use of, key databases and other data sources.

The second project is being coordinated by the University of South Australia, and also involves academics from the University of Wollongong, Griffith University, Bond University, Queensland University of Technology and the Hunter Area Health Service. Its theme is "Vulnerability and the news media: Investigating print media coverage of groups deemed to be vulnerable in Australian society, and the media's understanding of their status". Again support is in the form of both cash and in-kind support.

Prize and Case Studies

The Council’s initiatives related to tertiary journalism courses will continue in 2009-2010. As in previous years, the Council will be making a series of awards for outstanding scholarship (the Press Council Prize) through the various journalism departments and faculties at Australian tertiary institutions. The Council is endowing a prize worth \$300 this year, either for outstanding achievement in a course directly related to the study of print journalism, particularly in the area of ethics, or for a particular piece of work in that area. The Council will continue to offer the Case Studies seminars to university journalism departments and faculties, and members of the Council from the region concerned will, by and large, present them.

In 2008-2009, prizes to the value of \$300 were offered to, or awarded at:

The University of Queensland, Sunshine Coast University, University of Southern Queensland, Bond University, the Queensland University of Technology, University of Sydney, University of Western Sydney, University of Technology Sydney, Charles Sturt University, Wollongong University, Newcastle University, University of South Australia, Edith Cowan University, Curtin University, the University of Tasmania and the University of Canberra

Publications

The Australian Press Council continued to publish and distribute:

- the *Australian Press Council News*, with articles of interest to the press and reports on the Council’s activities; and
- an Annual Report.

Three issues of the newsletter were published in the reporting year and it will now continue as a thrice yearly publication.

In December 2008, the Council released the *State of the News Print Media in Australia 2008*. In releasing it, the Council noted that there has been a continuing sharp increase in the number of Australian readers accessing newspapers via the internet in 2008, yet weekday circulation in broadsheets is generally holding steady, while there has been only a slight decline in tabloid circulation. The resilience of newspaper circulation, and increased internet access, may be attributable to the continuing excellence of the investigative journalism and in-depth analysis provided by newspapers.

These are amongst the key trends noted in the report. The report is the third annual edition of the Council’s efforts to chart the important trends in the print media, including its circulation and readership, its increasing adoption of the online environment, and the emerging threats to the ability of newspapers responsibly to report matters of public interest and concern. The reports are an initiative of the Council and developed in conjunction with media organisations and independent academic researchers.

The report has been posted online to the Press Council website (http://www.presscouncil.org.au/snpma/snpma2008/index_snpma2008.html). The report is also available in hardcopy from the Council office.

The report notes that, while there have certainly been evolutionary changes within organisations, consequent to moves towards the 24-hour newsroom, and in reporters’ roles, the frequent prophecies of the imminent end of newspapers from the doomsayers have not been accurate for Australia, at least not yet.

Articles in the 2008 edition make clear that convergence of media platforms has transformed newsrooms, requiring multi-skilled staff and reformed training practices, both in tertiary institutions and media organisations, and has led to substantial job losses. But traditional news values persist within established media organisations despite changed newsrooms and new media, even in the face of persistent official spin. Newspapers alone provide the sort of detailed background to, and analysis of, major stories that enable readers to place the matter within a relevant context.

The ability of print media organisations to devote resources to investigative journalism, and thereby set the agenda for the media generally, is exemplified in the report by a detailed analysis of the ways in which two broadsheet newspapers reported the case of Dr Mohamed Haneef. Diligent and persevering investigatory work, led by one outstanding journalist, raised many doubts about the original trajectory of the story. Leads were pursued and the police work questioned in such a way that the prosecution appeared to be unjustified, doing the accused a real injustice. The analysis in the report provides a compelling picture of newspapers determined to devote enough resources to get to the bottom of a major security event and properly analyse it.

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Access to the principals involved in a news story, including CEOs and elected officials, is often well-nigh impossible. All of which leads to an unfortunate trend, as yet anecdotal and unquantified, but alluded to in the report, in which newsroom pressures result in everyday reuse of press releases without adequate checking or analysis.

The report also highlights debates over increased use of outside contributions to newspapers, including a greater reliance on press release material, news agency feeds from affiliated overseas newspapers, blogging and non-journalist sources, including readers and paid sources. The needs of a 24-hour newsroom have led to a greater reliance on such sources. The current claim is that the greater reliance on outside sources has led to a diminution in quality. The report establishes no particular data trend in this area but suggests that it would be a fertile area for further research.

In particular, the growth over the last few years of media management teams (aka “spin doctors”) within all organisations of any size raises the bar for journalists and editors. Access to the principals involved in a news story, including CEOs and elected officials, is often well-nigh impossible. All of which leads to an unfortunate trend, as yet anecdotal and unquantified, but alluded to in the report, in which newsroom pressures result in everyday reuse of press releases without adequate checking or analysis. Checking the reliability of press release information, or of unattributable “spin”, lies at the heart of good journalism.

The report also details how vigorous efforts of the Press Council, and latterly the publishers’ Right to Know campaign, have arrested the trend of several years toward erosion of free speech. A report on the current state of press freedom issues takes up the narrative of the two previous reports and charts the developments, many of them hopeful towards more open government and a greater availability of information. It also highlights that not all the developments are positive and that the move towards a tort of privacy in the absence of any legislated freedom of communications threatens to widen the ability of public figures to stifle debate on importance to readers.

As Council Chairman Ken McKinnon notes in his introduction:

The already tough times for newspapers are about to get tougher as a direct consequence of world-wide economic hardships. Fortunately Australia is distinguished by newspaper management that is inventive and responsive to reader needs. Some see the necessary actions as a survival challenge, whereas others, more confident, see new opportunities. Most of the trends reported in this edition, particularly those that highlight the continuing importance to readers of the quality of journalism, are capable of exploitation in positive ways.

A full list of the available publications follows on page 65.

Press Council publications are now sent by email to those who ask for delivery in that form. If you want the *News* and *Annual Report* sent direct to you (in *pdf* format), please send an email to info@presscouncil.org.au with subject line *News by email* and you will be placed on the direct email list.

The *News* is also provided to the Informit on-line publication site at RMIT for posting, as a part of its service. Informit has also made available back issues of the *News*.

General Press Releases

The Press Council issues press releases from time to time. Some are guideline statements on reporting. There were three releases issued in 2008-2009; they cover a range of matters of relevance to the Council. Over the years the Council has used press releases to issue guidelines on reporting. There were no new guidelines this year. All extant reporting guidelines are posted on the Council’s website.

General Press Releases 2008-2009

FoI changes applauded

General Press Release No 283 (November 2008)

The Australian Press Council congratulates the Rudd government on the Bill for reform of Freedom of Information law introduced into the Senate today. In particular, the Press Council is pleased to see that the Bill abolishes the power of Ministers to issue conclusive certificates that forestall the release of information without the need to explain why.

The Bill fulfils in part the government’s undertakings to amend the laws and practices related to the availability of information. Journalists have become reluctant to use Freedom of Information requests on matters of public concern because of the costs involved, delays in provision, and the large number of exemptions that allow governments to minimise the release of material.

The Council notes Sen. John Faulkner’s statement that further changes to the law will be introduced early next year and it looks forward to consulting with the Minister on those changes.

While today’s legislative reform is a positive step towards open and accountable government, laws alone cannot make government information freely available to the public. In order to achieve openness it is necessary to address the culture that predominates in government departments and which acts to obstruct the release of information even where laws require that it be accessible. The challenge for the government will be to see that the policy of openness embodied in today’s legislation is fully implemented and that the officers who have responsibility for overseeing FOI decisions are truly committed to the philosophy of open government.

2008 News Print Media Report

General Press Release No 284 (December 2008)

There has been a continuing sharp increase in the number of Australian readers accessing newspapers via the internet in 2008, yet weekday circulation in broadsheets is generally holding steady, while there has been only a slight decline in tabloid circulation. The resilience of newspaper circulation, and increased internet access, may be attributable to the continuing excellence of the investigative journalism and in-depth analysis provided by newspapers.

These are amongst the key trends noted in the 2008 *State of the News Print Media in Australia* released today by the Australian Press Council. The report is the third annual edition of the Council’s efforts to chart the important trends in the print media, including its circulation and readership, its increasing adoption of the online environment, and the emerging threats to the ability of newspapers responsibly to report matters of public interest and concern. The reports are an initiative of the Council and developed in conjunction with media organisations and independent academic researchers.

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The report also highlights debates over increased use of outside contributions to newspapers, including a greater reliance on press release material, news agency feeds from affiliated overseas newspapers, blogging and non-journalist sources, including readers and paid sources. The needs of a 24-hour newsroom have led to a greater reliance on such sources. The current claim is that the greater reliance on outside sources has led to a diminution in quality. The report establishes no particular data trend in this area but suggests that it would be a fertile area for further research.

In particular, the growth over the last few years of media management teams (aka “spin doctors”) within all organisations of any size raises the bar for journalists and editors. Access to the principals involved in a news story, including CEOs and elected officials, is often well-nigh impossible. All of which leads to an unfortunate trend, as yet anecdotal and unquantified, but alluded to in the report, in which newsroom pressures result in everyday reuse of press releases without adequate checking or

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Whistleblower protection improved, but ...

General Press Release No 285 (February 2009)

The report on improved whistleblower protection tabled in federal Parliament today is a forward-looking proposal that contains several helpful recommendations, said Professor Ken McKinnon, the Chairman of the Australian Press Council.

“But”, he added, “the quite inadequate recommendation on whistleblowing to the media will ensure that the future situation will be hardly better than it is today.”

The report of a parliamentary committee, chaired by Mark Dreyfus QC, *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector*, has recommended a series of changes that will make it easier for public officials to blow the whistle on corruption, malpractice and chicanery. And it will provide strong protection for those who do so through official channels.

The Press Council’s main concern is that the proposal that limits protection of public interest whistleblowers who go to the media. They are protected only when they have disclosed internally and externally, when “reasonable” time has elapsed, and the matter involves “immediate serious harm to public health and safety”. Such limits will ensure that the bureaucracy can defeat all attempts to disclose information in a protected way. The weasel words ‘reasonable’ and ‘nature of the matter’ in particular tip the scales away from even the most conscientious whistleblowers. “Who will decide what is reasonable?” asked Professor McKinnon.

He added, “Whistleblowers know that their best and quickest chance of rectifying corruption, waste and general governmental incompetence is to go directly to the press. The press has a responsibility to investigate and check the accuracy and fairness of informants before publication. Any failure to do this brings is open to a complaint that the Press Council will adjudicate, and, if necessary, hold the newspaper publicly to account.”

Professor McKinnon is worried that, had the proposed “protection” been in force, it would not have protected those who told journalists Harvey and McManus of a cabinet decision to renege on an election promise to veterans. It would not have protected the individuals who exposed government failure to act on a report on deficiencies in Customs at Sydney Airport. It would not protect public officials who blow the whistle on corruption, where there is no threat to “public health and safety”.

Professor McKinnon concluded, “The Press Council applauds the effort made by the Dreyfus Committee and the many good suggestions for improvement, but without a better media clause, which the Council will continue to lobby for strenuously, regrettably the proposals will not make enough difference to get anywhere near achieving the objective of a free flow of public interest information.”

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Australian Press Council Publications

The Council produces a number of publications. Some more recent publications are available as *pdf* documents on the Council's website (<http://www.presscouncil.org.au>).

Publications available free on request

a. Annual Reports

Back issues of most are available from the Press Council office.

b. APC News

The *News* has been published quarterly 1989-2009 and is now thrice yearly. The *News from 1994* is available on the Council's website.

c. Booklets

There is currently one booklet in print: *No. 10: Aims, Principles and Complaints Procedure*

d. The Twentieth Anniversary Papers

Five booklets published from October-December 1996 to mark the twentieth anniversary of the Council:

1. *The reporting of suicide, particularly youth suicide*. The transcript of an invitation only roundtable discussion involving mental health professionals, carer groups and the media.
2. *Whither the Australian Press Council? The formation, function and future of the Council*. Deborah Kirkman's MA History thesis on the Council.
3. *The Australian Press Council Fellow 1995: Professor John Soloski*. The speeches given by the US defamation law reform expert during his trip to Australia in 1995.
4. *The Australian Press Council survey of complainants*. The complete report, with tables, of the Council's survey of complainants of 1988-9 to 1992-3.
5. *The Australian Press Council Fellow 1996: Professor Claude-Jean Bertrand*. The speeches given by the French expert on media ethics during his trip to Australia in 1996.

e. Occasional papers

1. *To Name or Not to Name*
2. *Ten Year Report 1987-1997*. Prof Flint's report of his 10 year's at the helm of the Council. Published with a speech on the media.
3. *1999 Australian Press Council Fellow*. David Robie's trip report and speeches.

Publications available for a small fee

News Print Media reports

2006 *State of the News Print Media in Australia* report. Online or \$6 (GST inclusive).

2007 *Supplement* is available on-line as a *pdf*.

2008 *State of the News Print Media in Australia* report. Online or \$6 (GST inclusive).

Proceedings of Press Council Seminars

[All prices include GST and postage within Australia; or sea-mail overseas.]

- a. *Freedom of the Press; Role of the Press Council* (Sydney 1986) - \$3
- b. *Australian Media In the 1990s* (Melbourne 1989) - out of print
- c. *Media Ownership; Defamation Laws* (Gold Coast 1989) - \$10
- d. *Race, Press, Freedom of Speech* (Perth 1990) - \$5
- e. *Defamation Law Reform - the Attorneys'-General Proposal* (Sydney 1990) - \$3.50
- f. *Press Ethics: Are There Any?* (Wollongong 1990) - \$3.50
- g. *Investigative Journalism: How Probing?* (Adelaide 1991) - \$5
- h. *The Press and Cultural Sensitivities* (Darwin 1992) - \$5
- i. *Privacy and the Press* (Melbourne 1993) - \$3.50
- j. *The Constitution and Freedom of Speech* (Corowa 1993) - \$3.50
- k. *Public Figures and the Press* (Toowoomba 1994) - \$6.
- l. *The Role and Responsibility of Country Newspapers* (Mount Gambier 1994) - \$4
- m. *Newspapers: A Voice For All?* (Hobart 1995) - \$4
- n. *The Back Page: the Press 'Coverage of Sport* (Ballarat 1995) - \$4
- o. *Government Business and the Media* (Fremantle 1996) - \$4
- p. *The Role of the Press in the Reconciliation Process* (Cairns 1997) - \$4
- q. *The Regional Press, Privacy and the Press Council* (Bathurst 1997) - \$4
- r. *The Reporting of Gambling Issues* - 253 kB in *pdf* - (Melbourne 1998) - \$4
- s. *The Reporting of National Politics* - 380 kB in *pdf* - (Canberra 1998) - \$4
- t. *WAPC Oceania Conference* - 1.9 mB in *pdf* - (Brisbane 1999) - \$10
- u. *What is News?* - 488 kB in *pdf* - (Launceston, 1999) - \$5

Proceedings of a Seminar held jointly with the ACIJ

a. *Commercial Confidentiality v. the Public Right to Know* is available from the ACIJ (PO Box 123, BROADWAY NSW 2007) at \$15 each.

Jack R Herman

The Council

There was little movement in Council membership in the reporting year. The details are noted within each category of membership.

Public members

The Constitution restricts Public Members to three three-year terms. Queensland Public Member Wendy Mead completed her third term and retired at the February 2009 meeting. An interview with Wendy Mead, conducted by Council Office Manager Deb Kirkman was published in the February *News*.

Advertisements for Ms. Mead's replacement were placed in Queensland newspapers. In March 2009, it appointed Melissa Seymour-Dearness, who currently works for the Fraser Coast Regional Council's town planning department. Melissa completed her Bachelor of Laws in 2003 and, until recently, practised as a solicitor at a regional firm in Hervey Bay with a particular interest in criminal defence, industrial relations law and anti-discrimination law. During this time she volunteered as a solicitor with the Taylor Street Legal Centre and is a member of the Management Committee of the Hervey Bay Neighbourhood Centre Inc, which operates a number of community-based programs. At the Fraser Coast Regional Council, she advises council in relation to planning legal issues and manages appeals lodged with the Planning and Environment Court.

Two public members of the Council, Helen Edwards, a Public Member from South Australia, and Katherine Sampson, a Public Member from Victoria, have each been invited to serve a third three-year term.

While the size of the Council has not as yet been finalised, there will need to be some reduction in the number of members of the Council. In the light of this, Helen Edwards offered her resignation, which the Council Chair has accepted with regret. First appointed in October 2002, Ms Edwards was in her final term as a member.

Industry members

The representative of Fairfax Media, Sam North, and his alternate, Gerard Noonan, have both retired from their employment, and consequently resigned from the Council. The Chairman has noted Mr. North's contribution as a member since December 2004. Gerard Noonan has been a member or alternate member of the Council since October 2000.

Peter Kerr, Executive Editor of The Sydney Morning Herald, is Fairfax's new representative. He was previously Commissioning Editor and before that Foreign Editor, and has been a reporter and sub-editor for AAP in Sydney, Canberra and London. Peter Kerr has previously worked for a federal ALP Minister. He has an honours degree in English Literature and History, and has studied the Indonesian language and culture. Fairfax Media has nominated Leonie Lamont, features editor at *The Sydney Morning Herald*, as Peter Kerr's alternative

Amongst the industry members, Peter Owen, the Group Executive Editor of APN Newspapers, took over in February 2009 as the representative of the Regional Daily newspapers for the next eighteen months, and Bruce Morgan, General Manager of the *Ballarat Courier*, will be his alternate.

Editor/Journalist members

Adrian McGregor, an independent journalist member of the Council, has been asked to serve a second three-year term.

Members of the Australian Press Council as at 30 June 2009

Independent Chairman

Chairman:

Professor Ken McKinnon, AO
former Vice Chancellor,
Sydney

Public Members (7 at each meeting):

Professor Hoong Phun Lee (Vice Chair)

Sir John Latham Professor of Law and
Deputy Dean of Law, Monash University,
Melbourne.

Ms Cheryl Attenborough

Public servant
Hobart

Mr John Fleetwood

Manager Employee Relations
Adelaide

Professor Ron Grunstein

Professor of Medicine,
Sydney.

Mr Brenton Holmes

Public servant
Canberra.

Ms Katherine Sampson

Managing Director, Mahlab Recruitment
Melbourne.

Ms Lisa Scaffidi

Lord Mayor
Perth, WA.

Ms Melissa Seymour-Dearness

Planning Legal Officer
Hervey Bay, Qld.

Publishers' Representatives

Mr Phillip Dickson (*AAP*)

Editorial Manager,
AAP,
Sydney.

Mr John Dunnet (*Country Press Australia*)

former Manager
The Courier
Narrabri, NSW.

Ms Roslyn Guy (*The Age*)

Opinion Editor,
The Age,
Melbourne

Mr Peter Jeanes (*WA Newspapers Ltd*)

Editorial Manager
The West Australian
Perth.

Mr Peter Kerr (*Fairfax Media*)

Executive Editor
The Sydney Morning Herald,
Sydney.

Mr Bob Osburn (*Community Newspapers*)

Editor in chief
Cumberland Newspapers
Sydney.

Mr Peter Owen (*Regional Dailiesz*)

APN News and Media
Brisbane.

Mr Campbell Reid (*News Limited*)

Editorial Development Manager,
News Limited,
Sydney.

Mr John Trevorrow (*Herald and Weekly Times*)

Managing Editor,
Herald and Weekly Times Ltd,
Melbourne.

Ms Pam Walkley (*ACP Magazines*)

Editor in chief
Money Magazine,
Sydney.

Council
journalists
Editors
Alternates
Committees
Secretariat

Journalist member - MEAA

Mr Alan Kennedy
Federal President, Journalists' section, MEAA
Sydney.

Independent Journalist Members (2 at each meeting)

Mr Bruce Basket
Freelance journalist/consultant
Melbourne.

Ms Prue Innes
Freelance journalist
Melbourne.

Mr Adrian McGregor
Freelance journalist,
Brisbane.

Panel of Editor Members (1 at each meeting):

Mr Gary Evans
Former Editorial Manager
Queensland Newspapers
Brisbane.

Mr Warren Beeby
Former Group Editorial Manager,
News Limited
Sydney.

Alternate Publisher members

Ms Selina Day (alternate to Mr Dickson)
Editorial Logistics Manager
AAP, Sydney

Ms Sharon Hill (alternate to Mr Reid)
Editorial Staff Manger
Nationwide News
Sydney

Mr Zoltan Kovacs (alternate to Mr Jeanes)
Opinion Editor
The West Australian,
Perth.

Ms Leonie Lamont (alternate to Mr Kerr)
The Sydney Morning Herald,
Sydney.

Mr Bruce Morgan (alternate to Mr Owen)
General Manager
The Courier, Ballarat, Vic.

Mr David Sommerlad, AM (alternate to Mr Dunnet)
Associate Director,
Country Press Australia,
Sydney.

Council Committees

Note: The Chairman and Vice Chairman are *ex officio* members of all committees.

Complaints

The committee is appointed each month by the Chairman, after consultation with the Executive Secretary, from those members who have indicated a willingness to serve on the committee.

Constitutionally, it must have a majority of public and ex-officio members. The current composition is the Chairman, three public members, one representative of the publishers, one journalist member and one editor member.

Policy Development

K McKinnon (Chairman)
H P Lee (Deputy Chairman)
A Kennedy
J Trevorrow
C Reid
P Kerr/R Guy*
C Attenborough/L Scaffidi*
B Holmes/M Seymour-Dearness*
G Evans/ W Beeby*

* one at each meeting

Promotions Committee

L Scaffidi (Convenor)
A McGregor
D Kirkman

The Secretariat

Jack R Herman - Executive Secretary
Deborah Kirkman - Office Manager
Inez Ryan - Policy Officer
Andrea Hart - Assistant to the Executive Secretary

Code of Ethics

Members of the Australian Press Council

1. Members commit to upholding and promoting the Principles of the Council professionally and personally.
2. While appointed to ensure that the views of the Australian press and a wide cross-section of the community are heard, members shall at all times act in the interests of a free press that serves the Australian public responsibly in accordance with the Council's principles.
3. Members will declare any business, professional or personal conflict of interest in a matter before Council, and will absent themselves from discussion.
4. Members will not use their membership of the Council for personal or professional advantage.
5. Members accept the personal commitment necessary to ensure the responsibilities of their position are fully met.

Council meetings 2008-2009

There were 8 Council meetings during the year, seven in Sydney. The Complaints Committee also met eight times, each the day before a Council meeting. Below are dates and venues of Council meetings.

August [inc Planning Days]	30 and 31 July and 1 August 2008	Cronulla
September	10 and 11 September 2008	Sydney
October	22 and 23 October 2008	Sydney
December	3 and 4 December 2008	Sydney
January	4 and 5 February 2009	Sydney
March	27 and 28 March 2009	Sydney
May [inc Public Meeting]	7 and 8 May 2009	Gold Coast
June	17 and 18 June 2009	Sydney

Elected and appointed officers of the Council

Chairmen

The Rt Hon. Sir Frank Kitto, AC, KBE, PC	August 1976 - June 1982
Professor Geoffrey Sawer, AO	July 1982 - April 1984
The Hon. J H Wootten, AC, QC	August 1984 - December 1986
Professor David Flint, AM	January 1987 - October 1997
Professor Dennis Pearce	November 1997 - October 2000
Professor Ken McKinnon	December 2000 -

Vice-Chairmen

Sir Louis Matheson	August 1976 - January 1977
Dorothy Ross, AM, OBE	August 1977 - September 1985
Prof David Flint, AM	October 1985 - January 1987
Dorothy Ross, AM, OBE	February 1987 - June 1997
Lange Powell	July 1997 - March 2004
Professor HP Lee	March 2004 -

Executive Secretaries

Arthur Heinrichs	August 1976 - December 1978
Lyle Cousland	January 1979 - December 1979
Colin McKay	January 1980 - October 1985
Jennifer Treleaven	September 1985 - March 1994
Jack R Herman	April 1994 -

Statement of Financial Position as at 30 June 2009

	2009 \$	2008 \$
ASSETS		
Current assets		
Cash and cash equivalents	337,511	288,328
Trade and other receivables	3,394	9,251
Other assets	7,813	1,476
Total current assets	<u>341,718</u>	<u>299,055</u>
Non-current assets		
Property, plant and equipment	<u>45,077</u>	56,810
Total non-current assets	<u>45,077</u>	<u>56,810</u>
TOTAL ASSETS	<u>386,795</u>	<u>355,865</u>
LIABILITIES		
Current liabilities		
Trade and other payables	18,804	19,911
Short-term provisions	<u>46,203</u>	<u>50,691</u>
Total current liabilities	<u>65,007</u>	<u>70,602</u>
Non-current liabilities		
Other long-term provisions	<u>72,657</u>	65,098
Total non-current liabilities	<u>72,657</u>	<u>65,098</u>
TOTAL LIABILITIES	<u>137,664</u>	<u>135,700</u>
NET ASSETS	<u>249,131</u>	<u>220,165</u>
EQUITY		
Retained earnings	<u>249,132</u>	<u>220,166</u>
TOTAL EQUITY	<u>249,132</u>	<u>220,166</u>

Publishers' Statistics

as at 30 June 2009

The following statistics and information on them have been provided by the publishers of metropolitan newspapers and of other major groups.

Advertiser Newspapers Limited

Newspapers	Frequency	Ownership if not 100%	Circulation
The Advertiser	Mon-Fri		187,908
	Sat		259,481
Adelaide Magazine	Monthly		191,908
SA Weekend	Weekly		259,481
Sunday Mail	Weekly	*50%	307,376
City Messenger	Weekly		27,614
East Torrens Messenger	Weekly		33,589
Courier Messenger	Weekly		62,611
Guardian Messenger	Weekly		70,569
Hills Messenger	Weekly		19,490
Leader Messenger	Weekly		43,453
News Review Messenger	Weekly		93,621
Portside Messenger	Weekly		32,866
Southern Times Messenger	Weekly		58,991
Standard Messenger	Weekly		35,184
Weekly Times Messenger	Weekly		61,980
Adelaide Matters	4 Weekly		85,000

*Remaining 50% held by News Limited

Acquisitions

Nil

Divestitures

Nil

Mergers

Nil

Major Owner

News Corporation

Company Directors

Mr. P.F. Wylie – Chairman

Mr. M.B. Miller – Managing Director

Mr. J.K. Hartigan

Mrs. P. MacLeod

Mr. P.J. Macourt

ACP Magazines Ltd

Magazines	Frequency	Ownership if not 100%	Circulation
Austar	monthly		
Australiasian Dirt Bike	monthly		26,236
Australian Auto Action	Fortnightly		12,500
Australian Geographic	monthly		140,724
Australian Good Food	monthly		73,161
Australian Gourmet Traveller	monthly		74,292
Australian Gourmet Traveller Wine	bi-monthly		22,537
Australian House & Garden	monthly		96,554
Australian Motorcycle News	fortnightly		21,001
APC (Australian Personal Computer)	monthly		34,111
Australian Table	monthly		16,047
Australian Women's Weekly	monthly		493,055
Belle	bi-monthly		30,544
Burke's Backyard	monthly		55,706
Caravan World	monthly		12,861
Cleo	monthly		134,286
Cosmopolitan	monthly	50%	166,208
Deals On Wheels	monthly		22,793
Disney Adventures	monthly	Published under licence	28,458
Disney Girl	monthly	Published under licence	27,098
Disney Princess	monthly	Published under licence	
Dolly	monthly		125,169
Empire	monthly		24,149
Earthmovers & Excavators	monthly		10,386
Farms & Farm Machinery	monthly		12,566
FHM	monthly		51,063
4 X 4 Australia	monthly		18,154
Good Health	monthly		66,115
Grazia	weekly		66,240
Harper's Bazaar	10/year	50%	51,467
Inside Cricket	9/year (season)	50%	
Madison	monthly	50%	90,673
Money	monthly		50,078
Motor	monthly		35,160
Motorcycle Trader	monthly		26,945
NW	weekly		140,283
OK! magazine	weekly		120,219
PC User	monthly		42,011
People	weekly		47,123
Picture	weekly		64,016
Ralph	monthly		68,061
Real Living	monthly		57,205
Rolling Stone	monthly		23,089
Rugby League Week	35/year (season)		20,079
Shop Til You Drop	11/year		80,964
Street Machine	monthly		55,577
Take 5	weekly		246,459
Top Gear	monthly		80,059
Trade-A-Boat	monthly		17,185
Trailer Boat	monthly		13,379
TV Week	weekly		223,643
Unique Cars	monthly		54,377
Wheels	monthly		55,868
Woman's Day	weekly		407,644
Zoo	weekly		112,311

Major Owners

The publisher is ACP Magazines Ltd, 100% owned by PBL Media Pty Ltd.

ACP Management team

Ian Law - CEO PBL Media

Phil Scott - Publishing Director, Men's, Specialist and Custom Titles

Lynette Phillips, Publishing & Sales Director, Women's Lifestyle Titles

Louise Barrett - Director of Sales, Men's, Specialist and Custom Titles

Zara Curtis - Director of sales, Women's Lifestyle Titles

APN News and Media

Publication	Frequency	Circulation
NSW Regional Daily & Community Newspapers		
Tweed Daily News	M – F	4593
Tweed Daily News	SAT	5182
Gold Coast Mail	Weekly	27995
Tweed/Border Mail	Weekly	37989
The Northern Star, Lismore	M – F	14903
The Northern Star, Lismore	SAT	23164
Byron Shire News	Weekly	16815
Richmond River Express Examiner	Weekly	12619
Ballina Shire Advocate	Weekly	16735
Northern Rivers Echo	Weekly	22413
The Rivertown Times	Monthly	2711
Northern Farmer Bulletin	Monthly	17452
The Daily Examiner, Grafton	M – F	5596
The Daily Examiner, Grafton	SAT	6397
Coastal View	Weekly	17043
The Coffs Coast Advocate	M/Tu/Th/F	3293
The Coffs Coast Advocate	W/SAT	31194
Woolgoolga Advertiser	Weekly	7400
Daily Mercury	M – F	16369
Daily Mercury,	SAT	20120
Mackay & Sarina MidWeek	Weekly	31511
Miners MidWeek	Weekly	5044
Whitsunday Times	Weekly	7098
Rural Weekly (Nth CQ edit)	Weekly	16528
The North West Star	M - F	3374
North West Country	Monthly	4250
The Morning Bulletin	M – F	18024
The Morning Bulletin	SAT	24569
Rockhampton & Fitzroy News	Weekly	27349
Capricorn Coast Mirror	Weekly	11440
Rural Weekly (CQ edit)	Weekly	26004
Central Telegraph	Weekly	3587
Blackwater Herald	Weekly	1484
Central Qld News	Wed/Fri	4813
The Observer	M – F	7169
The Observer	SAT	9770
Port Curtis Post	Weekly	14505
NewsMail	M – F	11220
NewsMail	SAT	16190
Guardian	Weekly	27033
Rural Weekly (Wide Bay edit)	Weekly	25506
Isis Town & Country	Weekly	1768
The Kolan Recorder	Monthly	2400
Central & North Burnett Times	Weekly	3180
South Burnett Times	Tues/Fri	6895
Fraser Coast Chronicle, Hervey Bay	M – F	9594
Fraser Coast Chronicle, Hervey Bay	SAT	11294
Hervey Bay Observer	Weds/Fri	21009
The Maryborough Herald	Weekly	11723
The Gympie Times	Tu – F	5611
The Gympie Times	SAT	8670
Cooloola Advertiser	Weekly	11551
Sunshine Coast Daily	M – F	22025
Sunshine Coast Daily	SAT	34964
Sunshine Coast Sunday	Weekly	13697
Maroochy Weekly	Weekly	16101
Caloundra Weekly	Weekly	18269
Nambour Weekly	Weekly	9101
Buderim Weekly	Weekly	14158

APN stats	Buderim Chronicle	Weekly	17047	
	Bribie Weekly	Weekly	11181	
	Island & Mainland News	Weekly	11314	
	Noosa News	Tue/Fri	22325	
	Coolum & North Shore News	Weekly	11753	
	Caboolture News	Weekly	33734	
	Caloundra City News	Fortnightly	30112	
	The Range News	Weekly	14443	
	The Queensland Times, Ipswich	M – F	10961	
	The Queensland Times, Ipswich	SAT	14502	
	The Ipswich Advertiser	Weekly	34475	
	The Satellite	Weekly	49926	
	The Reporter	Weekly	66270	
	Big Rigs (dist. Nationally)	Fortnightly	27334	
	The Chronicle, Toowoomba	M – F	23225	
	The Chronicle, Toowoomba	SAT	31096	
	Toowoomba's Mail	Weekly	35772	
	Rural Weekly (Sth edit)	Weekly	46145	
	Warwick Daily News	M – F	3261	
	Warwick Daily News	SAT	3476	
	Warwick & Southern Downs Weekly	Weekly	10063	
	Dalby Herald	Tue/Fri	2518	
	Northern Downs News	Weekly	6000	
	Gatton, Lockyer & Brisbane Valley Star	Weekly	19560	
	The Stanthorpe Border Post	Tue/Thur	2531	
	Balonne Beacon	Weekly	1456	
	The Western Star	Tue/Fri	2471	
	Western Times	Weekly	1935	
	Chinchilla News & Murilla Advertiser	Weekly	4142	
	Surat Basin News	Quarterly	12500	
	Magazines			
	CityLife Tropical North Qld	Monthly	11024	
	CityLife Townsville	Monthly	11040	
	CityLife Mackay & The Whitsundays	Monthly	11549	
	style – North (joint venture)	Monthly	60000	
	style – South (joint venture)	Monthly	50000	
	style – West (joint venture)	Monthly	50000	
	style – Bayside (joint venture)	Monthly	50000	
	style – Gold Coast (joint venture)	Monthly	50000	
	APN Educational Media			
	Nursing Review	Monthly	18374	
	Campus Review	Fortnightly	3102	
	- Online version	Weekly	5000 (approx)	
	Education Review	8 issues per year	16035	
	Insite	Bi-monthly	9580	
	Smart State Magazine	Annual	15000	
	APN Board of Directors			
	Gavin O'Reilly - Chairman			
Albert E Harris, AC - Deputy Chairman				
Brendan Hopkins - Chief Executive				
Donal Buggy				
Pierce Cody				
Peter M Cosgrove				
Vincent Crowley				
Kevin J Luscombe, AM				
John Maasland				
Cameron O'Reilly				

Cumberland Newspaper Group

Publication	Publication Schedule	Audited Circulation
Blacktown Advocate (Wed)	Weekly	52,021
Canterbury-Bankstown Express	Weekly	84,509
Central (Wed)	Weekly	40,581
Central Coast Express Advocate (Wed/Fri)	Bi-weekly	129,119
Fairfield Advance	Weekly	56,326
Inner West Courier (Tue)	Weekly	76,986
Inner West Courier - Inner City Edition (Thu)^	Weekly	51,751
Inner West Courier - Inner West Edition (Thu)^	Weekly	52,978
Hills Shire Times	Weekly	65,522
Hornsby and Upper North Shore Advocate	Weekly	51,927
Liverpool Leader (Wed)	Weekly	58,599
Macarthur Chronicle	Weekly	77,119
Manly Daily (Tue to Sat)	Daily	92,293
Mosman Daily	Weekly	36,893
Mt Druitt-St Marys Standard	Weekly	44,272
North Shore Times	Bi-weekly	70,947
NORTHSIDE	Weekly	67,886
Northern District Times	Weekly	58,645
NINE TO FIVE	Weekly	40,390
Parramatta Advertiser (Wed)	Weekly	83,253
Penrith Press	Bi-weekly	58,247
Rouse Hill Times (Wed)	Weekly	18,410
Southern Courier	Weekly	47,377
Village Voice – Balmain	Monthly	14,970
Village Voice – Drummoyne	Monthly	10,480
Southern Courier	Weekly	47,377
Wentworth Courier	Weekly	48,146

^ *Inner West Courier Inner City Edition* formerly *The Glebe*
Inner West Courier Inner West Edition formerly *Inner-west Weekly*

Acquisitions

Nil

Divestitures

Nil

Major Owner

Cumberland Newspapers is a division of Nationwide News Pty Ltd, which is a wholly-owned subsidiary of News Limited.

Company Directors

Warren Beeby	Peter Jourdain
Lawrence Brindle	Donald Kennedy
Keith Brodie	Peter Macourt
Islwyn Davies	Stephen Rue
Mark Elgood	Mark Webster
Jeremy Harris	Peter Wylie

Davies Brothers Pty Limited

Newspapers	Frequency	Circulation
Mercury, Hobart	Mon-Fri	46,758
Saturday Mercury	Saturday	61,813
Sunday Tasmanian	Sunday	59,930
Tasmanian Country	Weekly Rural	16,737
The Gazette	Regional Weekly	2,261

Magazines

Various magazines and periodicals published as Agents for The Herald & Weekly Times Pty Ltd, John Fairfax Group, David Syme & Co (The Age), Mirror-Australian-Telegraph Publications.

Major Shareholder

The Herald & Weekly Times Pty Limited

Ultimate Beneficial Owner

News Limited

Company Directors

R. F. Gardner - Chief Executive
 P. J. Gibson – Chief Financial Officer
 P. W. Jourdain – Company Secretary
 K. J. Riddle – Group Management Accountant

Fairfax Media

[In the absence of updated information from Fairfax media, the Council reprints last year's information. While the circulation figures will have changed, the mastheads remain very much the same.]

Publication	Frequency	Ownership	Circulation
NSW and ACT Metropolitan Publishing			
The Sydney Morning Herald		(212,500 weekdays / 364,000 Saturdays)	
The Sun-Herald			(483,220)
The Canberra Times		(34.068 / 59,939 / 36.316 Sundays)	
Fairfax Community Newspapers (NSW), Hunter and Illawarra Regional Publishing			
The Herald –Newcastle			(50,000)
Illawarra Mercury			(28,100)
Central Coast Sun Weekly			
Lakes Mail			
Port Stephens Examiner			
Wollongong Advertiser			
St George & Sutherland Shire Leader			
Cooks River Valley Times			
Auburn Review			
The Campbelltown Macarthur Advertiser			
Camden Advertiser			
Wollondilly Advertiser			
Fairfield City Champion			
Liverpool City Champion			
Bankstown-Canterbury Torch			
Blacktown City Sun			
Parramatta Sun			
Penrith City Star			
St Mary's Star			
Hills News			
South Western Rural			
Northern News			
Sun Guardian			
New South Wales Regional Publishing			
Armidale Express			
Armidale Express Extra			
Armidale: InTune Magazine			
Batemans Bay Post/Moruya Examiner			
Bathurst Western Advocate			
Bathurst Western Times			
Bega District News			
Bellingen Shire Courier Sun			
Blayney Chronicle			
Blue Mountains Gazette			
Blue Mountains Wonderland			
Bombala Times			
Boorowa News			
Border News			
Bowral :Highlands Post			
Bowral: Property Press			
Bowral: Southern Highland News			
Braidwood Tallaganda Times			
Camden Haven Courier			
Canowindra News			
Central Western Daily			
Cessnock Advertiser			
Cobar Age			
Coffs Harbour Independent			

Fairfax stats
(including Rural
Press)

Coleambally: Colypoint Observer
 Colour World
 Cooma Monaro Express/Jindabyne Summit Sun
 Cootamundra Herald
 Country Leader
 Cowra Guardian
 Crookwell Gazette
 Daily Liberal
 Dubbo Daily Liberal
 Dubbo Mailbox Shopper
 Dungog Chronicle
 Eastern Riverina Observer
 Eden Imlay Magnet
 Eurobodalla Shire Independent
 Eurobodalla TV Guide
 Express Extra
 Forbes Advocate
 Forster: Great Lakes Advocate
 Gilgandra Weekly
 Glen Innes Examiner
 Gloucester Advocate
 Goodiwindi Argus
 Goulburn Post
 Goulburn: The Post Weekly
 Great Lakes Advocate
 Grenfell Record
 Griffith: The Area News
 Guyra Argus
 Harden Murrumburrah Express
 Hastings Gazette
 Hawkesbury Courier
 Hawkesbury Gazette
 Henty: Eastern Riverina Chronicle
 Hunter Valley News
 Hunter Valley Town + Country
 Junee: Southern Cross
 Inverell Times
 Kempsey: Macleay Argus
 Kempsey: Macleay Valley Happenings
 Laurieton: Camden Haven Courier
 Leeton: The Irrigator
 Lightning Ridge News
 Lithgow Mercury
 Macksville: Midcoast Observer
 Macleay Argus
 Macleay Valley Happynings
 Mailbox Shopper
 Maitland: Lower Hunter Star
 Maitland Mercury
 Manning Great Lakes Extra
 Manning River Times
 Merimbula News Weekly
 Midcoast Happenings
 Midstate Observer
 Moree: Border News
 Moree Champion
 Moruya Examiner
 Mudgee Guardian
 Mudgee Weekly
 Muswellbrook Chronicle
 Muswellbrook: Hunter Valley News
 Nambucca Guardian News
 Nambucca Heads: Hibiscus Happynings
 Narooma News
 Narromine News
 Newcastle Star
 News of the Area
 Newsweekly

North Coast SeniorLifestyle
 North Coast Town + Country Magazine
 Northern Daily Leader
 Nowra: Shoalhaven + Nowra News
 Nowra: South Coast Register
 Nyngan Observer
 Oberon Review
 Orange Central Western Daily
 Orange Midstate Observer
 Parkes Champion Post
 Port Macquarie Express
 Port Macquarie News
 Port Macquarie: Hastings Happenings
 Queanbeyan Age
 Sapphire Coaster
 Scone Advocate
 Shoalhaven and Nowra News
 Singleton Argus
 Snowy Times
 South Coast Register
 South Coast Senior Lifestyle
 South Coast Weekly
 South East Town + Country
 Southern Weekly Magazine
 Summit Sun
 Sussex Inlet Times
 Tallaganda Times
 Tamworth: Northern Daily Leader
 Tamworth Times
 Taree: Manning Great Lakes Extra
 Taree: Manning River Times
 Tea Gardens/Hawks Nest: NOTA
 Tenterfield Star
 The Australian Senior
 The Magnet
 The Rural
 Thornton: Weekend Hunter Star
 Town & Country
 Ulladulla: Milton Ulladulla Times
 Upper Hunter TV Guide
 Wauchope: Hastings Gazette
 Wagga Wagga: Daily Advertiser
 Wagga Wagga: Weekend Advertiser
 Wagga Wagga: The Rural
 Wagga Wagga: The Riverina Leader
 Walcha News
 Warren Advocate
 Wellington Times
 Western Advocate
 Western Times
 Western Magazine
 Wingham Chronicle
 Yass Tribune
 Young Witness

Fairfax stats
(including Rural
Press)

Victoria Metropolitan and Community Publishing

The Age (208,000 / 301,500)
 The Sunday Age (227,500)

Fairfax Community Network – Victoria

Melbourne Weekly Magazine
 The Melbourne Times
 Melbourne Weekly Bayside
 Emerald Hill Weekly
 Melbourne Weekly Eastern
 Heidelberg & Diamond Valley Weekly
 Northern Weekly

Fairfax stats
(including Rural
Press)

Hume Weekly
(Melbourne's Weekly Magazine) CITY
Knox Journal
Maroondah / Yarra Ranges Journal
The Journal
Monash Journal
Cranbourne Journal
Berwick / Pakenham Journal
Macedon Ranges / Sunbury Telegraph
Werribee Banner / Point Cook Banner
Moreland Community News
Moonee Valley Community News
The Mail /Altona Laverton Mail/ Williamstown Advertiser
Melton / Moorabool Express Telegraph
The Advocate / North-West Advocate
Frankston / Hastings Independent
Mornington and South Peninsula Mail
Chelsea, Mordialloc, Mentone Independent
Holiday Magazine
Holiday Bass Coast & Gippsland

Regional Publishing, Southern and Western

Victoria Publishing

Ararat Advertiser
Ballarat Courier
Ballarat News
Bendigo Advertiser
Bendigo Miner
Colac Extra
Corangamite Extra
Country Mail – Albury/Wodonga
Gippsland Farmer
Gippsland Times
Gippsland Times
Hepburn Shire Advocate
Latrobe Valley Express
Moe & Narracan News
Morwell Press Centre
Stawell Times News
The Border Mail, Albury/Wodonga
The Express – Albury/Wodonga
The Great Southern Tourist News - Victoria
The Moyne Gazette
The Warrnambool Extra
The Warrnambool Standard
Traralgon Journal
Wimmera Mail Times

(14,196)

(12,980)

Tasmania: Launceston Publishing

East Coast & Diary News
Launceston Advertiser
Launceston Examiner
Meander Valley News
Northern Midlands Community News
Sunday Examiner, Tasmania
Tamar Community Times
Tasmanian Independent Publishing
Tasmanian Travelways

(33,609)

(41,434)

Tasmania: Burnie Publishing

Central Coast Times, Burnie
Devonport Times
The Advocate, Burnie
Western Herald, North West Tasmania
South Australia Publishing
Barossa and Light Herald

Eyre Peninsula Tribune, Cleve
 Flinders News, SA
 Murray Valley Standard
 On The Coast, Victor Harbor
 Port Lincoln Times
 Roxby Downs Sun
 The Islander, Kangaroo Island
 The Northern Argus, Clare Valley
 The Recorder, Port Pirie
 The Transcontinental, Port Augusta
 Victor Harbor Times
 West Coast Sentinel, Ceduna
 Whyalla News

Western Australia Publishing

Augusta Margaret River Mail
 Avon Advocate, Northam
 Bunbury Mail
 Busselton-Dunsborough Mail
 Central Districts Advocate, Northam
 Collie Mail
 Donnybrook Bridgetown Mail
 Esperance Express
 Golden Mail, Kalgoorlie
 Harvey Mail
 Mandurah Mail
 Merredin-Wheatbelt Mercury
 Murray Mail
 Senior Post, WA
 The Wagin Argus
 Xpress Magazine, WA

Agricultural Publishing and Queensland Regional Publishing

National

Australasian Flowers
 Australian Cotton Outlook
 Australian Dairyfarmer
 Australian Farm Journal
 Australian Horticulture
 Australian Landcare
 Australian Nursery Manager
 Country Music Capital News
 Dairy Info. Guide
 Directory of Australian Country Music
 Flower Register
 Good Fruit + Vegetables
 Horse Deals
 Hortguide
 Irrigation and Water Resources
 Lotfeeding
 National GrapeGrowers and Vignerons
 Official Guide to Tamworth Country Music Festival
 Turfcraft

New South Wales

Farm Equipment Trader
 Farming Small Areas
 NSW Ag Today
 The Land

(52,624)

Queensland

North Queensland Register
 Queensland Country Life
 Queensland Grains Outlook
 Queensland Smart Farmer

Fairfax stats
 (including Rural
 Press)

Fairfax stats
(including Rural
Press)

South Australia
Smart Farmer
Stock Journal
The Grower

Victoria
Stock and Land

Western Australia
Farm Weekly
Ripe

Field Days and Events
Commonwealth Bank Ag-Quip
Elders FarmFest
Farming Small Areas Expo
Hunks and Spunks
Murrumbidgee Farm Fair
Northern and Southern Beef Weeks
NSW Beef Spectacular
Pro-Ag
Queensland Country Life Beef Week
Star Maker Quest
Tamworth Country Music Festival

Queensland Regional Publishing
d'fine Redland Lifestyle
Goondiwindi Argus
Senior Lifestyle Bayside
Southern Bay News
The Bayside Bulletin
The Northwest Star
The Redlands Directory
The Redland Times

Fairfax Business Media

Australia Publications

The Australian Financial Review (89,329)

The Australian Financial Review – Weekend Edition (92,415)

AFR BOSS
The Australian Financial Review Magazine
AFR Smart Investor
Life&LeisureLuxury
Life & Leisure The Sophisticated Traveller
Asset
BRW
CFO
MIS Australia

Online
afr.com
afrmarketwrap.com
brw.com.au
misaustralia.com
afrsmartinvestor.com.au
afrmagazine.com
afrboss.com
cfoweb.com.au
assetmag.com.au

Fairfax Digital*News*

Smh.com.au
Theage.com.au
Brisbanetimes.com.au
WAtoday.com.au
Sunherald.com.au

Fairfax Digital Regional Network (formerly Yourguide.com.au)

Farmonline.com.au
www.lifeislocal.com.au
www.ruralpress.com
www.agquip.com.au
www.autoguide.com.au
www.businessquickfind.com.au
www.buyersguide.com.au
www.canberratimes.com.au
www.examiner.com.au
www.farmonline.com.au
www.farmprogress.com
www.feedstuffs.com
www.fridaymag.com.au
www.holidaysaway.net
www.jobsguide.com.au
www.lifestyle-farmer.co.nz
www.localdirectory.com.au
www.plantorder.com
www.propertyguide.com.au
www.river949.com.au
www.rpinteractive.com.au
www.ruralbookshop.com.au
www.ruralpropertyguide.com.au
www.ruralpresssales.com
www.tackntogs.com
www.yourguide.com.au

Fairfax Magazines

Good Weekend
Sunday Life
the(sydney)magazine
theage(melbourne)magazine
Travel + Leisure Australia
Television

Style HQ Collection - Custom Publishing

The Chase
Fashion Capital
QueensPlaza

Substantial shareholders

Marinya Media Pty Limited
HBSC Custody nominees (Australia) Limited
National Nominees Limited
JP Morgan Nominees Australia Limited

Board of Directors

Ronald Walker AC CBE, Chairman
Mark Burrows AO, Deputy Chairman
Roger Corbett AM
David Evans
John B. Fairfax

Business and Finance

Businessday.com.au
Mysmallbusiness.com.au
Investsmart.com.au
Tradingroom.com.au
Moneymanager.com.au
Execstyle.com.au

Life Style and Entertainment

Cuisine.com.au
Brisbanetimes.com.au/goodfoodguide
Essentialbaby.com.au
TheVine.com.au

Sport

Rugbyheaven.com.au
Realfooty.com.au
Leaguehq.com.au

Travel / Accommodation

Stayz.com.au

Property

Domain.com.au
Apm.com.au (Australian Property Managers)

Automotive

Drive.com.au
Countrycars.com.au
Autoguide.com.au

Dating

Rsvp.com.au

Employment

Mycareer.com.au
Thebigchair.com.au

Fairfax stats
(including Rural Press)

Leader Newspaper Group

Leader title	Readership	Circulation
Bayside Leader	69,000	40,730
Berwick/Pakenham Cardinia Leader	86,000	66,452
Brimbank Leader	73,000	61,756
Caulfield Glen Eira/Port Phillip Leader	97,000	85,021
Cranbourne Leader	51,000	28,659
Dandenong/Springvale Dandenong Leader	94,000	43,686
Diamond Valley Leader	71,000	45,292
Frankston Standard/Hastings Leader	91,000	72,139
Free Press Leader	16,000	15,084
Heidelberg Leader	40,000	30,202
Hobsons Bay Leader	19,000	35,718
Hume Leader	64,000	44,520
Knox Leader	95,000	62,448
Lilydale & Yarra Valley Leader	55,000	40,139
Manningham Leader	70,000	45,138
Maribyrnong Leader	32,000	30,219
Maroondah Leader	55,000	45,785
Melbourne Leader	42,000	54,940
Melton/Moorabool Leader	60,000	38,463
Moonee Valley Leader	40,000	51,640
Moorabbin Kingston/Moorabbin Glen Eira Leader	63,000	50,875
Mordialloc Chelsea Leader	40,000	37,727
Moreland Leader	70,000	67,158
Mornington Peninsula Leader	56,000	51,258
Northcote Leader	31,000	24,151
Preston Leader	50,000	38,193
Progress Leader	74,000	70,340
Stonnington Leader	52,000	53,413
Sunbury/Macedon Ranges Leader	40,000	29,249
Waverley/Oakleigh Monash Leader	75,000	70,753
Whitehorse Leader	77,000	66,743
Whittlesea Leader	74,000	48,743
Wyndham Leader	35,000	42,730

Major Owner

News Limited

Company Directors

S Bradshaw R C Snelling
PJ Macourt C A Macleod

Source

CAB March 2007

[^]Includes Publisher's claim for Hobsons Bay Leader, Maribyrnong Leader Wyndham Leader

News Corporation

Media Interests

**Circulation at 30.06.2009
(to the nearest thousand)**

Australian National and Metropolitan Dailies

The Australian	Mon-Fri	136,000
The Weekend Australian	Sat	307,000
The Daily Telegraph, Sydney	Mon-Fri	389,000
	Sat	337,000
Mx, Sydney	Mon-Fri	99,000*
Herald Sun, Melbourne	Mon-Fri	527,000
	Sat	515,000
Mx, Melbourne	Mon-Fri	89,000*
The Courier-Mail, Brisbane	Mon-Fri	220,000
	Sat	309,000
Mx, Brisbane	Mon-Fri	43,000*
The Advertiser, Adelaide	Mon-Fri	188,000
	Sat	251,000
The Mercury, Hobart	Mon-Fri	46,000
	Sat	62,000
The NT News, Darwin	Mon-Fri	22,000
	Sat	33,000

Australian Weekly Newspapers

The Sunday Telegraph, Sydney	657,000
Sunday Herald Sun, Melbourne	617,000
The Sunday Times Perth	321,000
Sunday Mail, Adelaide	306,000
The Sunday Mail, Brisbane	552,000
Sunday Tasmanian, Hobart	59,000
Sunday Territorian, Darwin	23,000
The Weekly Times, Melbourne	70,000
Sportsman, Sydney	n/a

Australian Regional newspapers

The Gold Coast Bulletin	Mon-Fri	41,000
	Sat	70,000
The Cairns Post	Mon-Fri	27,000
	Sat	45,000
Townsville Bulletin	Mon-Fri	27,000
	Sat	42,000
Geelong Advertiser	Mon-Fri	26,000
	Sat	45,000
Centralian Advocate, Alice Springs	twice weekly	7,000

Australian Magazines

Alpha	Monthly	93,000
Australian Country Style	Monthly	54,000
Australian Good Taste	Monthly	134,000
Delicious	Monthly	130,000
Donna Hay	Bi-Monthly	83,000
Gardening Australia	Monthly	95,000
GQ	Bi-Monthly	n/a
InsideOut	Bi-monthly	50,000
Notebook	Monthly	73,000
Super Food Ideas	Monthly	271,000
Vogue Australia	Monthly	51,000
Vogue Entertaining & Travel	Bi-Monthly	30,000
Vogue Living	Bi-Monthly	44,000

News Ltd stats

Other Australian magazines

Australian Golf Digest
 Overlander 4WD
 Two Wheels
 Modern Boating
 Scooter
 Modern Fishing
 Truckin Life
 Tattoo
 Live to Ride
 Chopper
 Big League
 Lifestyle Pools

Overseas Publications

The Sun, London		3,028,000
The Times, London		591,000
The Sunday Times, London		1,210,000
News of the World, London		3,018,000
New York Post		558,000
Wall Street Journal		2,082,000
Fiji Times*	Mon-Fri	20,000
	Sat	40,000
Fiji Sunday Times*		17,000
Post Courier, PNG*		24,000

* not wholly owned

Australian acquisitions

Nil

Australian divestitures

Nil

Note on other publications

Some News Limited companies report separately in this report: Advertiser Newspapers (including Messenger Newspapers); Cumberland Newspapers; Davies Brothers; Leader Newspapers; North Queensland Newspapers; Queensland Press; and Quest Community Newspapers. News Limited also holds a 50.1% stake in Perth's Community Newspapers, which report under West Australian Newspapers.

News Corporation is incorporated in Delaware, United States, with a primary listing on the New York Stock Exchange.

Company Directors

Rupert Murdoch
 José María Aznar
 Natalie Bancroft
 Peter L Barnes
 Peter Chernin
 Kenneth E. Cowley
 David F. DeVoe
 Viet Dinh
 Sir Roderick I. Eddington
 Mark Hurd
 Andrew S.B. Knight
 James R Murdoch
 Lachlan K. Murdoch
 Thomas J. Perkins
 Arthur M. Siskind

North Queensland Newspaper Company Pty Limited

Newspapers	Frequency	Circulation
The Townsville Bulletin	Mon-Sat	29,707
	Mon-Fri	27,263
	Sat.	41,929
The Sun*	Weekly, Wed	50,730
Bowen Independent	Wed, Fri	3,261
The Observer	Thursday	1,491
The Advocate	Wed, Fri	4,141
The Northern Miner	Tues, Fri	2,871
The Herbert River Express	Thurs, Sat	2,792
Innisfail Advocate	Wed, Sat	3,479

* free weekly

New Publication

Nil

Acquisitions

Nil

Ceased Publication

Nil

Divestitures

The Tablelander – responsibility for this publication has been transferred to *The Cairns Post*

Owner

Nationwide News Pty Limited (100%) - ultimate holding company The News Corporation Limited.

Queensland Press Limited

Newspapers	Frequency	Ownership if not 100%	Circulation
The Courier-Mail	Mon-Fri		219,811*
	Sat		308,747*
The Sunday Mail	Sunday		557,845*
Mx	Mon-Fri		42,819*
Gold Coast Bulletin	Mon-Fri		40,649*
	Sat		70,348*
The Cairns Post	Mon-Fri		26,915*
	Sat		44,572*
Brisbane News	Weekly		119,990**
Gold Coast Sun	Weekly		167,239**
Cairns Sun	Weekly		53,673**
Port Douglas & Mossman Gazette	Weekly		4,750**
Tablelands Advertiser	Weekly		18,729**

* Audit Bureau of Circulations June 2009

** Circulations Audit Board

Acquisitions

Nil

Divestitures

Nil

Major Owners

News Corporation

Company Directors

L G Brindle

J Harris

J K Hartigan

K H McDonald OBE

Quest Community Newspapers

Newspaper Title	Frequency	Circulation 2007
Albert & Logan News	Bi-weekly (Wed (Fri)	73,440* 76,880*
Caboolture Shire Herald	Weekly (Tuesday)	41,865
City News	Weekly (Thursday)	49,748
City North News	Weekly (Thursday)	29,154
City South News	Weekly (Thursday)	30,398*
Ipswich News	Weekly (Thursday)	41,178
Logan West Leader	Weekly (Wednesday)	31,273
Northern Times 85,177*	Weekly (Friday)	
Northside Chronicle	Weekly (Wednesday)	62,681
North-West News	Weekly (Wednesday)	42,352*
Pine Rivers Press	Weekly (Wednesday)	35,760*
Redcliffe & Bayside Herald	Weekly (Wednesday)	34,580
South-East Advertiser	Weekly (Wednesday)	51,736*
Southern Star	Weekly (Wednesday)	59,937
South-West News (Incorporating Springfield News)	Weekly (Wednesday)	48,942*
The Noosa Journal	Weekly (Thursday)	22,043
weekender	Weekly (Thursday)	60,000*
Westside News	Weekly (Wednesday)	60,703
Wynnum Herald	Weekly (Wednesday)	34,272

* Publisher's Claim

Ceased Publication

Nil

Divestitures

Nil.

Major Owner

Quest Community Newspapers is a division of Nationwide News Pty Ltd, which is a wholly owned subsidiary of News Limited.

West Australian Newspapers Limited

Newspapers	Frequency	Ownership	Circulation
The West Australian	Mon-Fri		196,761
	Sat		343,460
Kalgoorlie Miner	Mon-Sat		5,787
TABform	Mon, Wed, Fri		20,995
Albany Advertiser	Tues/Thurs		6,400/8,500
Albany Extra	Weekly, Sat		18,124
Augusta Margaret River Times	Weekly, Fri		6,715
Broome Advertiser	Weekly, Thurs		6,800
Broome Happenings	Bi-weekly, alt Thurs		7,274
Bunbury Herald	Weekly, Tues		23,341
South Western Times	Weekly, Thurs		13,769
Busselton-Dunsborough Times	Weekly, Thurs		6,985
Geraldton Guardian	Mon, Wed, Fri		7,362
Goldfields Express	Weekly, Thurs		14,600
Kimberley Echo	Weekly, Thurs		
Midwest Times	Weekly, Thurs		20,650
Northern Guardian	Weekly, Wed		4,635
Great Southern Herald	Weekly, Wed		2,600
Harvey Waroona Reporter	Weekly, Tues		7,295
Manjimup Bridgetown Times	Weekly, Wed		3,171
Narrogin Observer	Weekly, Wed		3,061
North-West Telegraph	Weekly, Wed		7,100
Sound Telegraph	Weekly, Wed		43,054
Pilbara News	Weekly, Wed		6,806
Quokka	Weekly, Thurs		52,371
Countryman	Weekly, Thurs		9,127
Community Newspapers			
Advocate	Weekly, Tues	49.9%	
Canning Times	Weekly, Tues	49.9%	34,565
Comment News	Weekly, Tues	49.9%	51,193
Eastern Reporter	Weekly, Tues	49.9%	68,337
Fremantle-Cockburn Gazette	Weekly, Tues	49.9%	47,025
Guardian Express	Weekly, Tues	49.9%	38,108
Hills Gazette	Weekly, Sun	49.9%	41,000
Joondalup-Wanneroo Times	Weekly, Thurs	49.9%	88,976
Mandurah Coastal Times	Weekly, Wed	49.9%	38,204
Melville Times	Weekly, Tues	49.9%	40,138
Midland-Kalamunda Reporter	Weekly, Tues	49.9%	37,669
North Coast Times	Weekly, Tues	49.9%	15,919
Southern Gazette	Weekly, Tues	49.9%	47,713
Stirling Times	Weekly, Tues	49.9%	50,192
Wanneroo-Joondalup Weekender	Weekly, Tues	49.9%	
Weekend Courier	Weekly, Fri	49.9%	42,981
Western Suburbs Weekly	Weekly, Tues	49.9%	47,965

Major Owner

Owned by West Australian Newspapers Holdings Ltd, a public company listed on the ASX with about 30,000 shareholders. Substantial shareholders are Seven Network Limited (23.2%) and Barclays Group (7.25%)

Company Directors

Kerry Stokes AC (Chairman)
 Doug Flynn
 Peter Gammell
 Graeme John AO
 Don Voelte
 Sam Walsh

