

The Parliament of the Commonwealth of Australia

IN THE PUBLIC INTEREST:

Monitoring Australia's media

Report by the Senate Select Committee on
Information Technologies

April 2000

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Terms of Reference

To evaluate the appropriateness, effectiveness and privacy implications of the existing self-regulatory framework in relation to the information and communications industries and, in particular, the adequacy of the complaints regime.

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List of Acronymns

AANA	Australian Association of National Advertisers
ABA	Australian Broadcasting Authority
ABC	Australian Broadcasting Commission
ACA	Australian Communications Authority
ACCC	Australian Competition and Consumer Commission
ACIF	Australian Communications Industry Forum (formerly NIIF – Network Interworking Industry Forum)
AJA	Australian Journalists’ Association (a section of the Media, Entertainment and Arts Alliance)
APC	Australian Press Council
ASB	Advertising Standards Board
CND	Calling Number Display
EU	European Union
FACTS	Federation of Australian Commercial Television Stations
FARB	Federation of Australian Radio Broadcasters
IIA	Internet Industry Association (formerly INTIAA – Internet Industry Association of Australia)
ISP	Internet service provider
MEAA	Media, Entertainment and Arts Alliance
MCC	Media Complaints Commission
NOIE	National Office for the Information Economy
NPPs	National Principles for the Fair Handling of Personal Information
PCC	Press Complaints Commission (UK)
SBS	Special Broadcasting Service Corporation
TIO	Telecommunications Industry Ombudsman
TISSC	Telephone Information Services Standards Council
YMA	Young Media Australia

Executive Summary

Australia's information and communications industries affect the lives of all Australians on a daily basis. The community relies on these industries – that is, the print media, television, radio, telephony and the Internet – to be informed, entertained and to communicate with each other.

The regulation of the information and communications industries must allow for their expansion and development in a competitive market. At the same time, regulation must ensure that these industries operate in a transparent and accountable environment.

Effective regulation involves balancing industry interests and safeguarding the wider interests of the Australian community. One way in which regulation is currently managed, is through codes of practice that have been developed by the industries themselves.

The Committee heard of numerous instances that question the success of the self-regulation by the information and communications industries:

- Breaches in the privacy of individuals. For example, a photograph of former Senator Bob Woods and his wife, which was published in the *Daily Telegraph* in 1996, was labelled by the Australian Press Council as 'a blatant example of the unjustified breach of privacy'. The photograph also appeared on the same day in the *Herald Sun*, the *Courier Mail* and the *Advertiser*. The photograph was subsequently re-published in the *Daily Telegraph* as part of a portfolio that won a merit award in the Nikon-Kodak press photographer awards.
- The display of undesirable images. For example, in 1998 the *Townsville Bulletin* published a photograph of a circus act that showed a woman performer's face contorting as air was sucked from a plastic bag she was wearing. A complaint was lodged alleging that the photograph may encourage children to perform a similar act, with possible fatal consequences. Although the photograph was found to have breached the Australian Press Council's Statement of Principles, it was published a second time.
- The broadcasting of undesirable content. For example, a commercial radio station broadcast from a brothel that included live sexual activity.
- News broadcasts that are influenced by commercial arrangements. For example, the recent 'cash-for-comments' inquiry by the Australian Broadcasting Authority into radio station 2UE Sydney Pty Limited, which found that certain news and current affairs broadcasts promoted the commercial interests of sponsors.

In Chapters 1-5 of this Report, the Committee considers the self-regulation that applies to each of Australia's information and communications industries. In summary, the Committee believes that a number of improvements can be made to self-regulation, including:

- Better and more proactive enforcement of the self-regulatory codes of practice.
- An increased awareness of and ability to complain about breaches of codes of practice by the information and communications industries.
- Increased guidance on the self-regulatory codes of practice that protect an individual's right to privacy.

In Chapter 6, the Committee addresses these challenges. It recommends the establishment of an independent statutory body, the Media Complaints Commission (MCC), which will be a one-stop-shop for all complaints and will assist to enforce standards established by self-regulation.

The current models for self-regulation will continue to operate unchanged. Codes of practice and complaints-handling procedures will continue to be largely developed and administered by information and communications industries. Further, the industry member will in each case continue to be the principal body that will deal with the complaint. However, a Media Complaints Commission Adjudication Committee will provide a last resort for unresolved complaints.

The Committee wishes to thank all those who contributed to the inquiry.

Senator Jeannie Ferris
Chair
April 2000

Recommendations

Recommendation 1

The Committee recommends that an independent statutory body, known as the Media Complaints Commission (MCC), be established to more effectively protect the right to privacy and empower individuals in lodging a complaint against Australia's information and communications industries.

Recommendation 2

The Committee recommends that the MCC provide a single reference point for all complaints, regardless of which information or communications industry is involved. As a one-stop-shop, the MCC will also assist individuals with the complaints process.

Recommendation 3

The Committee recommends that the MCC function as a final adjudicatory body for complaints. In this capacity, it will be able to impose sanctions in addition to those that currently exist.

Recommendation 4

The Committee recommends that, in the MCC's annual report to the Parliament, the MCC show how it has contributed to the better and more proactive enforcement of the self-regulatory codes. It should also include comprehensive data about the complaints that it has recorded throughout the year and the way in which they have been resolved.

Recommendation 5

The Committee recommends that section 148(c)(i) of the *Broadcasting Services Act 1992* be amended so that complaints about a broadcast can be addressed to the Australian Broadcasting Authority 30 days after the original complaint to the broadcasting service operator.