

AUSTRALIA'S RIGHT TO KNOW

Freedom of Speech Conference

24 March 2009

John Hartigan

Thank you Helen and good morning, ladies and gentlemen.

By any measure this is a distinguished gathering. We are here because we care about some of our most basic freedoms.

Freedoms that most Australians take for granted.

Freedoms that most Australians don't know have been seriously eroded over the past quarter of a century of more.

The journey here today has been a long one. In 1976 Prime Minister Malcolm Fraser said:

"If the Australian electorate is to be able to make valid judgements on government policy it should have the greatest access to information possible".

That was six years before Australia introduced freedom of information laws that were designed to uphold our rights to know how we are governed.

In 1980, just two years before FoI was introduced, Justice Mason of the High Court said:

"It is unacceptable in our democratic society that we should be prevented from publishing information about the government if it allows the public to discuss, review and criticise government".

30 years later, we are still waiting for the fulfilment of those ideals.

Freedom of Information has not worked as envisaged. In fact it's become an oxymoron.

Today, perhaps, Senator Faulkner will outline for us a brave new world that will give us renewed confidence that government is willing to be open, transparent and accountable to the people that elected it.

About two years ago today, News Limited called a meeting with Fairfax and the ABC.

We proposed a completely new approach to dealing with the deeply troubling erosion of free speech in Australia.



We felt that the legal and political machinery that controlled freedom of speech in this country had run out of control. And it was time for significant change.

Our plan was simple and we had three or four goals.

We wanted to bring all the media organisations together in an unusual alliance, setting aside our fierce competitiveness to work together as one – individually we had all failed.

We wanted to mount a campaign that would raise public awareness of these issues and get the attention of legislators.

This would be difficult – the issues are dry and legalistic, even journalists like me knew that however important the issues, they were hardly material to excite editors or readers.

And we wanted to bring it all together quickly to take advantage of a federal election year in which we might be much more likely to get heard.

From there, our plan was to work with the federal and state governments on the detail of new policies and, ultimately new legislation.

News, Fairfax and the ABC disagree on many things. That's one of the virtues of a diverse media. But on this one dimension we all agreed it was time for action.

Within days, every other media organisation had joined the cause – all the commercial television and radio networks, pay TV, SBS, APN, West Australian Newspapers, AAP and the MEAA.

This conference today is the next step in our quest.

As you will hear today, there has been significant progress.

FoI reform is now firmly on the agenda federally and in Queensland and NSW.

The federal parliament has recently released a report recommending new ways to protect whistleblowers in the public service.

The federal Attorney General laid out a proposal last week that will improve protections for journalists so that they are less likely to go to jail if they refuse to disclose a source.

All of these initiatives are live agenda items for governments at the moment and are all on our conference agenda today.

Of course, one of the criticisms of what we are doing is that it's all in the name of self interest.

That there's more than a hint of hypocrisy in the media asking for more freedoms when it already abuses those that it has.

My response to that is simple.

If we are successful this campaign won't sell one more newspaper, or add one more ratings point for radio or television.

But what it will do is overturn a long-standing culture in government and the bureaucracy.

A culture that has increasingly and surreptitiously prevented ordinary Australians from getting access to information they need to make informed decisions about the country they live in.

The second thing I'd say about media self interest is that this is not a conference about the rights of the media.

It is through the media that most Australians are kept informed about most of the things that affect them.

And the rights of the media are a reasonable reflection of the rights that individuals can expect to enjoy.

I don't think there is much dispute now that secrecy and censorship of what we are allowed to know has reached troubling levels.

Across Australia there are now more than 350 different secrecy provisions in various pieces of federal and state legislation.

These provisions restrict what the media is able to report and, therefore, what Australians are allowed to know:

- about how we are governed
- how our taxes are spent
- how our courts dispense justice
- and so on.

In some cases, the lack of transparency and accountability by our elected governments is pretty frightening.

Just think of the Australian Wheat Board scandal or the Mohammed Haneef case as examples.

The sorts of concerns raised in these cases are those we would normally associate with the second tier of developed nations or third world countries.

But, on at least two international benchmarks that measure the freedom of the press, Australia ranks poorly – down alongside countries like El Salvador, Panama, Bulgaria and Bolivia.

So, let me state very clearly the position of the Australia media and its coalition Australia's Right to Know.

It is time for significant reforms that will dramatically improve the transparency and accountability of government.

It sounds melodramatic. But it isn't.

Let me give you just a few examples.

Why is it that it is close to impossible to get information that shows: ?

- which schools are the most violent
- which hospitals have the longest waiting lists

- which child care centres aren't up to scratch

Why can't we know the details about contracts between governments and third party contractors?

Why is it an offence in some states for ambulance officers at the scene of an accident to talk to the media?

I am delighted that we have such a distinguished group of presenters and panellists assembled here today.

Their willingness to come and speak to us, to participate in this debate, says a lot about the importance of these issues.

Equally, your attendance here this morning, when we are all under more intense time and budget pressures, is very encouraging.

There are a couple of people I want to single out.

Gerard MacManus and Michael Harvey – where are you guys? - Gerard and Michael were fined \$7000 each and now have criminal records for refusing to disclose the source of a story about a government plan to short change veterans.

Surely, the decision on whether a journalist should be forced to disclose their source should rest with the court being able to decide that it is vital to the public interest.

Paul Lampathakis from The Sunday Times in Perth is also here – Paul? – Paul wrote a story last year that the Carpenter government in WA planned to spend \$16 million advertising its achievements before the last state election.

Not long later, 20 armed police raided the newsroom looking for material that might identify his source.

In Western Australia journalists are hauled before that state's Corruption and Crime Commission and asked to reveal their sources or face criminal sanction.

In WA, a journalist, or anyone else, commits a crime, if they tell anyone, including their spouse or their employer, that they have been interviewed by the Commission.

Similar draconian measures apply in other states.

I draw attention again to these incidents because these are not stories that threaten national security or might endanger lives or somehow prevent someone from getting a fair trial.

Before I close just a few words on privacy because there is a whole session this afternoon.

The Australian Law Reform Commission has proposed a new statutory right of privacy that would allow innocent citizens to sue the media.

I agree absolutely that if there is no legitimate public interest in the private affairs of a private citizen then that information should remain private.

But I don't agree that a self appointed few should dictate what is and isn't in the public interest.

I want to finish by acknowledging that the media is far from perfect.

The freedoms we are asking for carry with them onerous responsibilities.

The media does make mistakes, as some of our newspapers did last week. There will be mistakes in the future too.

But, in my 40 odd years in journalism, I can say with some conviction that mistakes happen because journalists are fallible like everyone else.

But very, very rarely in my experience are these episodes motivated by malice or an arrogant disregard by the media.

What I demand of our editors is a passionate desire to be the best they can be.

I applaud an editor who is prepared to be awake, with sweat dripping from their brow, because they are still worried about the paper they have just put to bed.

Editors who've made a tough call or passed a particularly harsh judgement on someone, as they do every day, should be worrying relentlessly about whether they got it right.

And in my experience, they do.

In the main Australia has a vibrant, diverse, fair and responsible media. It is one reason why we want to be part of this rational, sensible debate about the kind of country we want Australia to be.

And it is one reason why newspapers in Australia are in such relatively good shape while their counterparts in the United States – which lack the courage and conviction that keeps readers coming back - are folding left, right and centre.

I am delighted to be here. I am delighted that there is such public interest in these issues.

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