

AUSTRALIA'S RIGHT TO KNOW

Submission to the National Human Rights Consultation

July 2009

Australia's Right to Know (ARTK) is a coalition of Australia's leading media organisations. Our members are News Limited, Fairfax Media, Free TV, Australian Subscription Television & Radio Association, Commercial Radio Australia (ASTRA), SBS, ABC, Sky News, Australian Associated Press (AAP), APN News and Media, Media Entertainment & Arts Alliance (MEAA) and The West Australian.

ARTK was formed in 2007 to address the troubling state of freedom of speech in Australia particularly focussing on the need to review Commonwealth, State and Territory legislation and practice. To date the coalition has particularly focussed on: freedom of information, protection of whistleblowers and journalists sources, the use by courts of suppression orders, protection of privacy.

ARTK acknowledges there is a spirited community debate over the pros and cons of whether or not the federal Parliament should create a charter enshrining basic human rights. Within ARTK itself, and even within the body of individual members, there are a variety of opinions.

That said, the basic stance reflecting the fundamental principle underpinning the work of our organisation is that if the federal Parliament, or any parliament around Australia, were to consider enacting a charter then it is essential it contain a clause similar to the substance of Article 19 of the Universal Declaration of Human Rights.

Article 19 states: "Everyone has the right to 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."

On occasions, fundamental rights can come into conflict with each other and it is essential therefore, that mechanisms are in place to ensure that a proper balance between rights is maintained. ARTK is particularly concerned that in any conflict, between rights, freedom of expression receives proper weight.

Over the past couple of years there has been considerable debate in Australia regarding whether or not a tort of privacy should be introduced.

In key foreign jurisdictions, including Europe and New Zealand, a right to privacy flows from or forms part of a wider Bills of Rights. Those Bills of Rights give protection to a range of equally important and often competing rights, including freedom of communication.

In the Australian context, the Australian Law Reform Commission has acknowledged that, given Australia does not have a Bill of Rights (or uniform Charters of Rights), additional protection of privacy would be likely to undermine the right to freedom of communication.

ARTK has consistently opposed the introduction of a tort of privacy and would be extremely concerned if Australia introduced such a right without a strong mechanism to ensure the balance between privacy and freedom of communication is robustly maintained.

